

# WE CAN SEE THERE'S A LIGHT AT THE END OF THE TUNNEL NOW

Demonstrating and Ensuring Quality  
Service to Clients

**By Dr Liz Curran**

Curran Consulting: Enhancing Justice and Human Rights

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## Definitions and Abbreviations

### Definitions

**Community Legal Centres:** Independently operated, not-for-profit community organisations that provide legal and related services to the public, focussing on disadvantaged people and people with special needs.

**Community Legal Education:** The provision of information and education to members of the community on an individual or group basis, concerning the law and legal processes and the place of these in the structure of society. The community may be defined geographically, by issue or by specific need. CLE increases the ability of a community to understand and critically assess the impact of the legal system on them and their ability to deal with and use the law and the legal system.<sup>1</sup>

**Early Intervention:** Early Intervention is defined in the National Partnership Agreement as legal services provided by Legal Aid Commissions to assist people to resolve their legal problem before it escalates, such as legal advice, minor assistance and advocacy other than advocacy provided under a grant of legal assistance.

**Holistic Service:** This is where a service looks at the client as a whole to assist with their legal and non-legal issues, wellbeing and empowerment. The service is tailored to assist the person with their specific issues in connection rather than in a fragmented or piecemeal way.

**Legal Aid:** A generic reference to Legal Aid ACT and other Legal Aid Commissions established under statute in each Australian state and territory. It also describes the services these commissions provide.

**Legal aid services:** This is a generic reference incorporating Legal Aid Commissions, community legal centres and Aboriginal and Torres Strait Islander legal services. It is used because it is a phrase well understood as a definition of the legal aid sector in academic contexts.

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<sup>1</sup> CLEWS Working Group, *Guidelines for the Management of Community Legal Education* (National Association of Community Legal Centres, 2009), see [http://www.nacclc.org.au/cb\\_pages/files/13%20National%20CLE%20Guidelines%20%28Oct%202009%29%282%29.pdf](http://www.nacclc.org.au/cb_pages/files/13%20National%20CLE%20Guidelines%20%28Oct%202009%29%282%29.pdf).

**Legal assistance services:** In the National Partnership Agreement this is defined as legal services provided by Legal Aid Commissions, community legal centres, Aboriginal and Torres Strait Islander Legal Services and Family Violence Prevention Services.

**National Partnership Agreement on Legal Assistance Services:** The agreement signed by the Commonwealth and each state and territory government for the funding of Legal Aid Commissions that came into effect on 1 July 2010.

**Prevention:** Preventative legal services are defined in the National Partnership Agreement as legal services provided by Legal Aid Commissions that inform and build individual and community resilience through community legal education, legal information and referral. A broader definition of prevention would include legal aid services and other relevant non-legal services that assist people to resolve their legal problem before it escalates, for example, through referral, information, community legal education or community development, legal advice, minor assistance and advocacy.

## Abbreviations

<b>ACT</b>	Australian Capital Territory
<b>ACTLAF</b>	ACT Legal Assistance Forum
<b>ADR</b>	Alternative Dispute Resolution
<b>ANU</b>	Australian National University
<b>AVO</b>	Apprehended Violence Order
<b>CALD</b>	Culturally and Linguistically Diverse
<b>CLE</b>	Community Legal Education
<b>DV</b>	Domestic Violence
<b>FDR</b>	Family Dispute Resolution
<b>ILO</b>	Indigenous Liaison Officer
<b>LA ACT</b>	Legal Aid ACT
<b>NPA</b>	National Partnership Agreement on Legal Assistance Services

## Executive Summary

This Report details research undertaken by Dr Liz Curran on behalf of Legal Aid ACT. The research looked at Legal Aid ACT and the quality of its legal services to clients.

The study, after it was commissioned, ended up coinciding with indications by the Commonwealth Attorney General's Department that it is to review and measure the outcomes of legal assistance services under a recent National Partnership Agreement (NPA) between the Commonwealth, State and Territory Governments. The research for this report anticipates this review by trying to provide a definition and approach to the measurement of 'successful outcomes' in a legal aid services context, as referred to in the NPA.

Service delivery and humanitarian agencies world-wide are increasingly being asked to report and measure results-based outcomes. Although there has been surprisingly little outcome measurement undertaken internationally or domestically, there is some literature detailing how it might be done. The literature overwhelmingly concludes that results-based outcomes are difficult and challenging areas to measure. Therefore, while the main purpose of this project is to measure and enhance the quality of legal aid services delivered by Legal Aid ACT, this Report has wider importance and broader implications for other agencies. Legal Aid ACT has demonstrated foresight in commissioning this research early, somewhat in anticipation of the need to define outcomes for legal aid services.

It is hoped that this Report will both assist Legal Aid ACT and inform public debate, helping shape realistic accountabilities, policy development and – most importantly – good and effective service delivery on behalf legal aid service sector clients and the wider community.

In the author's view, any attempt to measure legal aid services' impact, outcomes and/or results must take into account the challenges of working with disadvantaged and vulnerable clients. Human services such as legal aid services involve individual lives and impact on these lives in ways that can be beneficial or detrimental. Rather than assuming that the impact of legal aid services is simple, easy to measure and/or predictable in advance, the approach to measurement used in these circumstances must acknowledge the difficult and unpredictable nature of service delivery when complex work is undertaken for disadvantaged and vulnerable clients. This involves listening to, informing, conducting analysis with, responding to, interacting and communicating with a range of people engaged in this complicated work.

Any expectations or funding contingent on criteria beyond the actual role and responsibility, control and power of Legal Aid practitioners needs to be carefully scrutinised so that the

staff, clients and service are not 'set up to fail'. Mowles, Stacey and Griffin<sup>2</sup> make a salutary warning to funders and agencies trying to report and comply with measurement of outcomes and results. They note that managerial methods have been adopted largely uncritically from the private sector and are now ubiquitous across a range of organisations and in expectations from funding bodies. They observe that, when applied to processes of social interaction like human development (or services), such methods have severe shortcomings. These methods overlook or 'fail to understand unanticipated contextual and contingent circumstances unforeseen in the more abstract and de-contextualised planning processes to be such "noise" which needs to be managed away'.<sup>3</sup>

The research for this project used a range of approaches, beginning with a conversation with staff then continued in focus groups with each of the sections of Legal Aid ACT engaged in delivering the services and an interview with a former client. Data gained through the focus groups and an initial conversation with staff informed the development of instruments for use during a two-week 'snapshot' research period from 9 November to 23 November 2011. This 'snapshot' consisted of interviews by the researcher with both clients and lawyers after client/lawyer interviews; an online survey with in-house and private lawyers; surveys with clients at the end of a matter; client feedback by questionnaires/surveys<sup>4</sup>; interviews with stakeholders; and case studies. The overall process of participatory action research adopted for the project involved what could be described as a '360 degree analysis': it engaged clients, those who deliver the services and external stakeholder viewpoints and experiences of the legal system.

The research model was designed after examination of international and domestic research and, more importantly, by discussing the nature of the service – its layers, complexities, contradictions and impediments – with the people on the ground. Warnings from focus group participants and international research about the dangers of using outcome-based measurement when outcomes are outside an agency's control were taken on board. Outcomes were defined accordingly and in consultation at each stage.

The outcome indicators developed were based on those elements identified as essential for an outcome to occur. Multiple research approaches were used to check and verify responses against each other. They were also employed to enable different stages and parts of the service's activities to be examined and measured against quality and outcome indicators. Using this methodology, the research was able to observe different aspects of the service through the eyes of clients, employees, stakeholders and so on in order to assess its relationships and interface with clients, courts, other parties, significant networks and community agencies. This research thus presents a 360 degree perspective of the service from all those involved directly in the service's operations.

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<sup>2</sup> C Mowles, R Stacey and D Griffin, 'What Contribution Can Insights From the Complexity Sciences Make to the Theory and Practice of Development Management?', *Journal of International Development*, vol. 20 (2008), 804-820.

<sup>3</sup> Ibid., 808.

<sup>4</sup> A number of surveys were used during the pilot. To avoid the confusion that began to arise, we decided to call them client feedback questionnaires/surveys.



The research was conducted in two phases. Phase One involved:

- Collation and analysis of previous research on the subject.
- The initial staff conversation.
- Focus groups in each division or practice area of LAACT (with paralegals, receptionists and legal practitioners).
- Feedback from a former client of LAACT.

Phase Two was a two-week 'snapshot' trial between 12 November and 23 November 2011 using the instruments developed in Phase One. The following survey instruments and methodologies were trialled during the 'snapshot' of the two practice areas of LAACT:

- Eight lawyer and eight client interviews conducted by the researcher – interviews were conducted separately, but after the same legal interviews.
- Entries in observation logs made by seven staff members (selected because they were not undertaking other tasks in the research – the survey workload was spread across staff).
- A voluntary client feedback survey/questionnaire of all clients receiving advice in interview from LAACT lawyers.
- A telephone survey of clients on closure of their files.<sup>5</sup>
- Case studies collected from open questions in observation logs, focus groups, client interview with the researcher and the online survey.
- Interviews with the stakeholders identified by the practice areas (as well as the academics from the College of Law, Australian National University (ANU), who alongside law students work in partnership with LAACT in the Youth Law Centre and in the Legal Aid Clinic (advice service).
- An online survey (using SurveyMonkey) of private and in-house lawyers handling legally-assisted cases.
- A feedback session with staff and board members to discuss any tweaking the instruments needed for measurement in the future. For example, a focus group with the practice area being examined would be incorporated into future snapshots. The feedback session informed this report on the research.

LAACT staff's participation, involvement in and commitment to the research was outstanding. While the research increased their already heavy workload, they appreciated the efforts made by the researcher to minimise this intrusion by using the 'snapshot' approach (which does not require ongoing record keeping or recording of data on a daily basis).

The ACT is a small jurisdiction and thus has few resources. It is therefore critical that legal aid services remain focussed on delivering that service. While funders, stakeholders and others are rightly interested in assessing accountability and transparency, measuring these things must not divert essential and scarce resources and services away from the most disadvantaged sections of society (see Background below). Given the limited resources of the legal aid sector, such measures can become cumbersome. For example, at one Victorian community legal service where all staff members were engaged in direct service delivery,

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<sup>5</sup> This was the only unsuccessful instrument: client call back rates were low. Staff attributed this to clients' desire to put their cases behind them and 'move on'.

36% of staff time was being dedicated to measurements and accountabilities.<sup>6</sup> This often occurs because one service has a number of funders (such as Territory/State and Commonwealth Governments), each with their own accountability requirements. It is therefore imperative for those who set accountability criteria to ensure that measurement tasks are efficient and do not prevent or distract staff from providing services to clients.

In this research, Legal Aid ACT wanted to focus primarily on what makes a quality legal service so they can deliver such a service to the community. In the researcher's view, where there is a quality legal service responsive to the needs of the people using the service then efficiency and effectiveness will follow. The decision to find a way to measure outcomes derives from the National Partnership Agreement. The results of this research reveal approaches that are responsive to clients' needs, adaptive, flexible and client centred. This demonstrates that even though the NPA requirements are recent, the actual practices of Legal Aid ACT already embrace these approaches and requirements.

## Defining Outcomes and Outcome Indicators

Outcomes and outcome indicators both indicative of and necessary for quality service provision must be consistent and realistic, taking into consideration the roles and functions of a legal aid commission with a diverse range of policy and legislative settings. In this research, 11 outcomes were defined as follows:

Outcome	Qualities demonstrated by outcome
1. A good client interview.	Holistic, Joined-up, Quality, Problem Identification, Empowerment, Good Practice, Early Intervention, Prevention, Responsiveness, Client Centred, Alternative Dispute Resolution (ADR), Targeting, Expertise.
2. Clients with chaotic lifestyles attend interviews, appointments and court dates.	Early Intervention, Prevention, Empowerment, Client Centred, Holistic, Targeting.
3. As appropriate, sentences are minimised or unsubstantiated charges are dropped.	Rule of Law, Efficiency, Good Practice, Expertise.
4. Clients are better able to plan and organise their legal affairs.	Early Intervention, Prevention, Empowerment, Quality, Good Practice, Client Centred.
5. Improvement in the client's interaction with the legal system.	Early Intervention, Prevention, Empowerment, Client Centred.
6. Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court.	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.

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<sup>6</sup> This Service was the West Heidelberg Community Legal Service where the researcher was Director for two years. A 2010 survey into staff time allocation revealed that 36% of the service's funding was spent on compliances. This was consistent with other community legal services across the North Eastern region of Victoria that conducted a similar survey at the time.

<b>7. Client is better able to understand their legal position and the options open to them.</b>	Early Intervention, Prevention, Empowerment, Good Practice, Quality.
<b>8. A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.
<b>9. Relationships and trust building with other legal and non-legal support agencies enabling client referral and support.</b>	Early Intervention, Prevention, Holistic, Joined-up, Good Practice, Quality.
<b>10. Holding of authority to account.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness.
<b>11. A holistic service delivered to the client through collaboration, networking, community legal education and joined-up services.</b>	Good Practice, Client Centred, Problem Identification, Collaboration, Prevention, Early Intervention, Holistic, Joined-up.

## Research Findings

Legal Aid ACT scored highly and consistently on the outcome indicators across the different measurement tools used (see Appendices). This suggests that the 11 desired outcomes and quality service were present. On many counts, LA ACT scored extremely highly. This was verified by clients and stakeholders. From client interviews:

**As a result of seeing the lawyer today are you better able to plan and organise your affairs?**

Yes (100%)

No (0%)

**Do you feel:**

a. You understand what to do next? (87.5%)

b. You understand what steps you need to take? (100%)

c. You understand what steps the lawyer will/will not take and why? (100%)

d. You understand all the options open to you? (100%)

**Explain:**

Sometimes I have to be told over and over again. It must be annoying for the lawyer and their helpers. When I am stressed I can only take some things in. I appreciate the way they tell me in small bites. I can get overwhelmed if it's too big picture. They give me it in bits so I go step by step. It's how they know I cope.

He explained really clearly everything [sic].

And from stakeholder interviews:

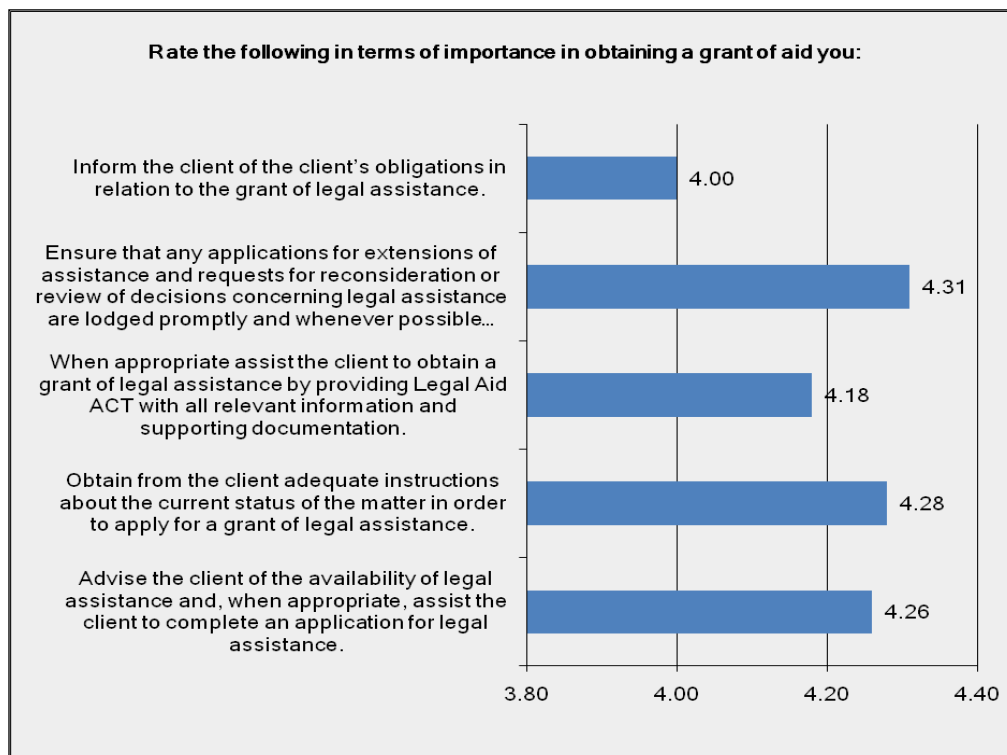
Legal aid's in house lawyers are good to deal with. They bend over backwards to do what they can for their clients. There is often a significant imbalance in what they can do with their resources. It's good to be able to deal with an entity where there are systemic issues.

Value the LAACT in-house team as in all interactions they are honest, have integrity and are hard-working. I can deal with them. We have a mutual respect and understand each others different but important roles in the legal system.

They do the very best for the client and are easy to deal with but also fearless advocates.

The online survey findings recognised that the National Partnership Agreement requirements are new. Accordingly, the online survey (extracted below) of private and in-house lawyers handling legally-assisted cases sought in part to: introduce concepts such as legal and non-legal referral, early intervention and prevention to the private lawyers; introduce the idea that LAACT was looking to measure this into the future; and simultaneously extract some information about the extent to which these approaches were currently used in legal practice. It is recommended that questions in future surveys of the profession be more directly related to how lawyers practice.

One of the online survey questions asked respondents to rank the importance of a series of actions relating to obtaining a grant of legal assistance as: 5, Essential; 4, Very Important; 3, Important; 2, Not Important; or 1, Irrelevant. To illustrate how the SurveyMonkey tool worked, the following example is provided.<sup>7</sup> In response to a series of statements about the lawyer's understanding of the importance of clearly explaining a grant of aid and the rights of a client within the process, LAACT lawyers ranked this as very important.



<sup>7</sup> The full survey results can be viewed and downloaded from LAACT's website at [http://www.legalaidact.org.au/pdf/Legal\\_Aid\\_ACT\\_Quality\\_Legal\\_services.pdf](http://www.legalaidact.org.au/pdf/Legal_Aid_ACT_Quality_Legal_services.pdf).

The case studies presented in this Report (see Case Studies) also highlight some of the outcomes that ‘but for the intervention of Legal Aid ACT’ could have been dire for clients. One outstanding example emerging from the focus group discussion with the civil law team was as follows:

A client was being considered for Electro Convulsive-Shock Therapy (ECT). In ensuring that various issues were raised/explored and to ensure the process followed was fair, LAACT staff interviewed the client and asked the necessary questions to gain consideration of all aspects/ramifications of the proposed route (i.e. the ECT). They indicated that ‘but for LAACT’s intervention’, serious risk to the client’s health could have resulted. Through questioning the client and some health professionals about other aspects of the client’s health, the lawyer learned that the 89 year old had a pace-maker and had been considered for ECT without the anaesthetist being asked if the ECT procedure would be safe for the client. The lawyer highlighted the obligation at law that hospital staff had to take into account relevant health factors (unrelated to the client’s mental health issues) that posed serious risk to the client’s life.

LAACT staff thought the following factors led to this outcome:

- Familiarity with the law and the obligations of authorities under the law to the client.
- Detailed discussion with the client about the client’s issues/concerns regarding the treatment.
- Exploration of other factors which might affect the client’s long-term well being.
- Holistic approach that considered both legal and non-legal issues (e.g. the client’s other health conditions).
- Asking lots of questions, refusing to accept being shrugged off by the authorities and pursuing answers with vigour until satisfied.
- Raising questions and results of enquiries with the authorities.
- Making a convincing argument that incorporated the client’s instructions and the findings of the lawyer’s investigations.
- Gathering the necessary evidence to support concerns and placing it before the authorities to ensure full consideration before decision-making.

This case study demonstrates the following outcomes and outcome indicators:

Outcome	Qualities demonstrated by outcome
<b>A good client interview.</b>	Holistic, Joined-up, Quality, Problem Identification, Empowerment, Good Practice, Early Intervention, Prevention, Responsiveness, Client Centred, Alternative Dispute Resolution (ADR), Targeting, Expertise.
<b>Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client’s story before the court.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.
<b>Holding of authority to account.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness.

This Report reveals the complex and complicated nature of Legal Aid work and Legal Aid clients. It also clearly demonstrates that autonomy, creativity and relationship building are critical in achieving 'successful outcomes'. Successful outcomes must be understood in the context of the realities of clients' lives and must be within the control of the agency given its role and function in society. LAACT's role or function, as defined in this Report, includes upholding the rule of law, advising clients, providing information and education, representing clients, holding others to account, asking the right questions and knowing and applying the law.

Examining the results of this research reveals that LAACT performed well overall – both in relation to all the indicators of a quality service and in relation to the surrogate elements identified as necessary for a 'successful outcome'.

## **Background**

It has recently become a Government condition of funding agreements such as the NPA that community service agencies, including legal aid services, report on success and outcome. In many ways, the NPA requires a shift in operations of legal aid services from a traditional legal service towards a more holistic service. It will therefore take time for the NPA to be embedded in practice. For the initial years of its implementation the focus should be on adopting and integrating practices that enable the key goals of the NPA to be achieved. These include the NPA's stated aims of social inclusion, joined up service, holistic approaches to problem solving and client centred approaches. Any measurement and planned reviews of legal aid services need to take into consideration and more clearly define how these aims translate into practice if the reviews/measurements are going to be realistic, relevant and fair. The NPA's requirements need to be actioned in a way that acknowledges the importance of the quality of legal services ('quality legal services' is not mentioned in the NPA) – as, in this researcher's experience, good quality legal service will lead to effective service and relevant service delivery. Any analysis must be mindful of the legislative settings and the responsibilities on lawyers under legislation, rules of conduct and their ethical obligations. This will be further explained later in this Report.

### **Recent Developments at Legal Aid ACT**

In recent years, LAACT has made many service and administrative improvements, including: the expansion of duty lawyer services; the establishment of the Legal Aid Helpdesk; development of the eGrants online grants management system; the growth of the dispute resolution program; the funding of the Youth Law Centre and Street Law; improved data collection; improved financial management and reporting; the modernisation of ICT and office security systems; the implementation of improved private practitioner panel arrangements; closer collaboration between legal assistance providers through the ACT Legal Assistance Forum; and more active involvement in National Legal Aid and its various working groups.

Legal Aid service levels rise and fall in response to fluctuating demand and other factors over which Legal Aid Commissions have little control. In part, these changes also reflect changes in the law, court processes and the nature of the client group. The types of cases handled in-house have also changed over the years. LAACT takes in-house the more difficult, complex or potentially expensive cases because such cases require quality care and often intensive interventions. For example, family cases frequently involve violence, child neglect and abuse, fear of reprisal, intimidation and isolation, while the serious criminal cases handled in-house are often complicated because the clients suffer multiple disadvantages. Such cases, by their very nature, tend to run longer and require more attention from staff.

LAAC can thus handle fewer cases than if it took the shorter running, more straightforward matters.<sup>8</sup> If Legal Aid Commissions did not take on these complex cases, however, the most vulnerable members of the community – for examples, clients with intellectual disabilities, drug and alcohol addictions and mental illnesses<sup>9</sup> – would be poorly serviced by the legal system (see Summary of Findings Interviews with Stakeholders below).

The budgetary restrictions on Legal Aid Commissions also affects the quantity and level of grants of legal aid that can be made to clients.<sup>10</sup> Over the last few years, the overall cost of grants increased at a greater rate than increases in funding. LAAC and other Legal Aid Commissions have had to restrict grants in order to remain within budget.

## Implications of the New National Partnership Agreement

The NPA requires legal assistance services to:

- increase focus on early intervention and prevention services;
- encourage greater collaboration among legal and other service providers;
- find better ways to help people resolve their legal problems;
- address social exclusion including Indigenous disadvantage;
- adopt a more holistic approach to resolving people's legal problems;
- improve targeting of services to disadvantaged communities and the wider community; and
- support the principles of the Australian Government's Strategic Framework for Access to Justice in the Federal Civil Justice System.<sup>11</sup>

Research needs to be undertaken to ensure that legal aid services are able to meet these new requirements set out in the NPA.

This project aims to find a way for legal aid services to measure 'successful outcomes' (such measurements are requirements under the NPA). However, the project was also designed to meet the broader aims of LAAC to measure and ensure quality service and continuous improvement. LAAC was keen to receive and measure feedback on the quality of the legal aid services it provides. Legal aid services aim to ensure that the services they provide their clients are of a high standard. In the course of this research, many service providers

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<sup>8</sup> M Noone and S Tomsen note that the Australian Law Reform Commission reviewed the merits of in-house lawyers and concluded there were a number of benefits apart from costs. These included that they resolve matters more quickly than referred matters and that there were economies of scale associated with their work. The gaps in legal service delivery have been driven by a reluctance of the private profession to take on legal aid work due to the reduced rate of fees offered by legal aid. See M Noone and A Tomsen, *Lawyers in Conflict: Australian Lawyers and Legal Aid* (New South Wales: The Federation Press, 2006), 197 at 197; Australian Law Reform Commission, *Managing Justice: A Review of the Federal Civil Justice System* (Report No 89) (2000), 343-344, <http://www.austlii.edu.au/au/other/alrc/publications/reports/89/>.

<sup>9</sup> See the Online Lawyer Survey undertaken as part of this research:

[http://www.legalaidact.org.au/pdf/Legal\\_Aid\\_ACT\\_Quality\\_Legal\\_services.pdf](http://www.legalaidact.org.au/pdf/Legal_Aid_ACT_Quality_Legal_services.pdf).

<sup>10</sup> For discussion of increasing funding constraints of Legal Aid, see Senate Legal and Constitutional References Committee, *Legal Aid and Access to Justice* (AGPS, 2004), 4-8; M Noone and A Tomsen, *Lawyers in Conflict: Australian Lawyers and Legal Aid* (New South Wales: The Federation Press, 2006), 197-8.

<sup>11</sup> Strategic Framework for Access to Justice in the Federal Civil Justice System, <http://ag.gov.au/a2>, accessed 5 August 2011.



indicated that because Legal Aid aims to assist disadvantaged and vulnerable people, quality service is imperative to meet the challenges that assisting these client groups present.

In Clause 15, the NPA states its 'objective' is to ensure '[a] national system of legal assistance that is integrated, efficient and cost effective, and focussed on providing services for disadvantaged Australians in accordance with access to justice principles of accessibility, appropriateness, equity, efficiency and effectiveness'. While there is no mention of 'quality of legal services' in these objectives or in the NPA, this forms an integral part of the research being undertaken for LAACT.

Clause 16 identifies what the Commonwealth Government considers to be the 'successful outcomes' of Legal Aid Commissions providing efficient and cost effective legal aid services for disadvantaged Australians in accordance with Commonwealth legal aid service priorities. These are:

- earlier resolution of legal problems for disadvantaged Australians that, when appropriate, avoids the need for litigation;
- more appropriate targeting of legal assistance services to people who experience, or are at risk of experiencing, social exclusion;
- increased collaboration and cooperation between legal assistance providers themselves with other service providers to ensure clients receive 'joined-up' services provision to address legal and other problems; and
- strategic national responses to critical challenges and pressures affecting the legal assistance sector.

The difficulty with the items described as 'outcomes' in the NPA is that many of them are actually indicators of something that could be measured more broadly, i.e. the positive and concrete results that come about due to earlier resolution of legal problems, more appropriate targeting and increased collaboration and cooperation that leads to outcomes for clients/community or the legal system. This research has also tried to identify more precise and exact indicators that, if they are present, indicate that the outcomes are being achieved.

The NPA identifies a number of 'outputs' by which the objectives and outcomes of the Agreement will be achieved.

- a) Legal assistance providers increasing the delivery of preventative, early intervention and dispute resolution services.
- b) Comprehensive legal information services and seamless referral for preventative and early intervention legal assistance services within each State and Territory.
- c) Delivery by State and Territory Legal Aid Commissions of efficient and cost effective legal aid services provided in accordance with Schedules A and B, consistent with the access to justice principles of accessibility, appropriateness, equity, efficiency and effectiveness, including:
  - i. preventative legal services such as community legal education, legal information and referral;
  - ii. early intervention legal services such as minor assistance and advocacy other than advocacy provided under a grant of legal aid; and

- iii. dispute resolution services, duty lawyer services, litigation services and post resolution support services.

None of these 'outputs', which are supposed to guide how successful outcomes are to be achieved, mention the quality of service provision or how effectively the service supports its clients. For example, output (a) describes an increase in services but contains no requirement of good practice and says nothing about the quality or effectiveness of these increased services. Nor do these 'outputs' provide any guidance regarding how to measure the suggested items. The proliferation of a service does not necessarily mean it works or is having the intended effect. If services exist without good practice models in place they may be ineffective, costly and inefficient. In addition, once service provision increases, measuring and evaluating the service becomes more complicated and roll back is made more difficult. It might be better to refine the 'outputs' and indicators that lead to intended results rather than to assume that a mere increase in services is a desirable achievement.

The NPA outputs might lead to identifying the number of activities being undertaken, but they do not measure the quality, effect or likely positive results of those activities. The question therefore remains: are the suggested outputs an accurate and realistic indicator of whether the objectives of the NPA, Commonwealth and Legal Aid Commissions are being achieved? The task could be better crafted to reveal richer and more useful information to legal aid services, their boards, their funders, service staff and the community. This research has tried to ensure that the outputs and indicators used are connected to the desired result/s or outcome/s.

In Clauses 18-20, the NPA states that performance will be evaluated against the broad goals of sector reform which promote a client-centred focus and include:

- comprehensive access to information;
- seamless referral;
- improved coordination and targeting of services between legal assistance providers; and
- the linking of legal assistance services with other services to ensure 'joined up' service delivery.

What constitutes a 'seamless referral', how one knows it has occurred and how is it measured is not clarified by the document. Some of these elements do pertain to the quality of services provided and are relevant to this project's examination of the quality of legal service provision.

Clause 19 states that the evaluation of the performance of Legal Aid Commissions will focus on how service providers increase their delivery of successful service outcomes, how they increase and direct their service delivery towards prevention and early intervention services as well as increasing the efficiency of their operations. How these can be evaluated was a task this research tried to tackle through the instrument questions and the statements put to participants for their response/feedback.

What stands out is that while Legal Aid Commissions are to be measured on their performance of the successful outcome objectives and outputs, the performance criteria currently contained in the NPA are not necessarily a measure of such outcomes. The

literature discussed below highlights the danger of setting indicators/benchmarks that are unrelated to the desired outcome: if they have little relevance, they can make the measurement meaningless and they risk setting agencies up to fail. The suggested indicators and benchmarks for legal aid services in the table under Clause 20 of the NPA focus on numbers and bear little correlation or connection to the actual outcomes to be measured. The indicators and performance benchmarks are ill defined and do not relate directly to the practices needed to achieve an outcome. This research sought to address this problem by defining more precisely what an outcome looks like in the context of the service being provided, by investigating what the legal aid service does to gain an outcome (i.e. the steps taken) and by devising relevant measurements. This was no easy task. As indicated below, social researchers have been trying to ascertain how to measure outcomes and the impact of services on people's lives without relying solely on numerical measurements (which are very limited in what they tell us about the nature and effectiveness of a service).

This Report and the project's research methodology have been informed by the views and experiences of legal aid service workers and their clients, as well as by national and international approaches to quality and outcome measurement. The research has tried to reconcile the aims and objectives of the NPA and the realities of what legal aid services provide (and can provide) with a realistic measurement of matters within a legal aid service's ability to control.

## **Compliance and Reporting Burdens**

LAAC received no additional Commonwealth funding to comply with the increased performance reporting requirements of the NPA. This project developed a methodology for measurement and data collection that is not too onerous for staff: the 'snapshot' approach. Many qualitative approaches were taken to enhance and deepen understanding about the nature of the work undertaken and of the clients. Reporting requirements that are too burdensome and time consuming can divert resources away from providing legal services to the community and achieving the very outcomes to be measured. Although the Commonwealth Government expects agencies to report on success and outcome, there is little concrete research detailing how agencies might go about it. There is considerable literature hypothesising how such reporting might be done and what elements should be present in undertaking such research,<sup>12</sup> but few agencies have taken the plunge and completed such research.<sup>13</sup>

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<sup>12</sup> D Bunham, *Measuring Success: How can we Develop an Evidence Base for Measuring Outcomes* (Lancashire: Lancashire County Council and Community Service, 2011); D Smart, 'Ask the Expert' on *USA National Resource Centre*, 2004, [www.ccfbest.org/outcomemeasurements/issuesandchallenges.htm](http://www.ccfbest.org/outcomemeasurements/issuesandchallenges.htm), accessed 12 August 2011; Australian Research Alliance for Children and Youth and KPMG, *Measuring Outcomes of Community Organisations* (Canberra: the Australian Research Alliance for Children and Youth, 2009), [http://www.aracy.org.au/cmsdocuments/ARACY\\_Measuring\\_outcomes\\_of\\_community\\_orgs\\_ARACY\\_backgroud\\_paper\\_june\\_2009.pdf](http://www.aracy.org.au/cmsdocuments/ARACY_Measuring_outcomes_of_community_orgs_ARACY_backgroud_paper_june_2009.pdf).

<sup>13</sup> Two recent studies in the United Kingdom are useful (though caution is needed as the research is from a different jurisdiction with different service structures, funding regimes and management structures in place). See M Smith and A Patel, *Using Monitoring Data: Examining Community Legal Advice Centres Delivery* (London: Legal Services Commission, 2010) and A Trude and J Gibbs, *Review of Quality Issues in Legal Advice:*

Legal aid services are complex and operate at different levels. Within a legal aid service, different objectives and intentions sit behind each program, so they cannot be measured as a whole without first understanding the details, layers and funding requirements that drive each of the many parts. Public officials unfamiliar with the actual practise of legal aid services have an insufficient understanding of the challenges of assisting the vulnerable and disadvantaged people that, as recent research confirms, make up the legal aid clientele.<sup>14</sup>

While financial information, number of cases opened or closed or numbers of activities undertaken can be important in the social services and humanitarian sector, funders have started to ask services to measure their impact and helpfulness. These funders recognise that financial measures alone do not provide a picture of the impacts of the services on community.<sup>15</sup> This development ensures that services are accountable for the impact they have on clients' lives; it also tracks what service-led interventions mean to the communities they are being funded to serve. In a study of quality legal service delivery in the United Kingdom, Trude and Gibbs<sup>16</sup> found that too much focus on 'cost efficiency' (which is what financial information and activity reporting are trying to glean) can actually lead to a reduction in quality and effectiveness. This should be a salutary warning.

Therefore, before quality of service and outcomes can be measured, it is critical to understand the nature of the service being delivered.<sup>17</sup> The objectives of a criminal law practice within a legal aid service can be very different to those of a family or civil law practice. Any measurement of legal aid services' effectiveness, quality or success must acknowledge and factor in this diversity for the measurement to be relevant, trustworthy and useable. The diverse nature of legal aid services means that, prior to undertaking measurement or definitions of outcomes, a full understanding and investigation of the

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*Measuring and Costing Quality in Asylum Work* (London: Information Centre About Asylum and Refugees, 2010).

<sup>14</sup> A Buck, N Balmer and P Pleasence, 'Social Exclusion and Civil Law: Experience of Civil Justice Problems among Vulnerable Groups', *Journal of Social Policy and Administration* vol. 39, no.3 (2005), 302, 318-20; R Moorhead, M Sefton and G F Douglas, 'The Advice Needs of Lone-parents', *Family Law*, vol. 34 (2004), 667; A Buck, P Pleasence, N Balmer, A O'Grady and H Genn, 'Lone-parents and Civil Law: An Experience of Problems and Advice-seeking Behaviour', *Journal of Social Policy and Administration* vol. 38, no. 3 (2004), 253-69; S Ellison, L Schetzer, J Mullins, J Perry and K Wong, *Access to Justice and Legal Needs: The Legal Needs of Older People* (Sydney: New South Wales Law and Justice Foundation, 2004), <http://www.lawfoundation.net.au/report/older>; C Coumarelos, Z Wei and A Zhou, *Justice Made to Measure: New South Wales Legal Needs Survey in Disadvantaged Areas* (Sydney: New South Wales Law and Justice Foundation, 2006), <http://www.lawfoundation.net.au/report/survey2006>; M Karras, E McCarron, A Gray and S Ardasinski, *On the Edge of Justice: the Legal Needs of People with a Mental Illness in New South Wales* (Sydney: New South Wales Law and Justice Foundation, 2006); S Forell, E McCarron and L Schetzer, *No Home, No Justice? The Legal Needs of Homeless People in New South Wales* (Sydney: New South Wales Law and Justice Foundation, 2005); New South Wales Law and Justice Foundation, New South Wales Law and Justice Foundation, 'Access to Justice and Legal Needs, Stage 1, Public Consultations', 2003 and New South Wales Law and Justice Foundation, 'Qualitative Legal Needs Survey: Bega Valley (Pilot)', New South Wales Law and Justice Foundation 2003, see <https://www.lawfoundation.net.au/publications>.

<sup>15</sup> A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance' (Harvard Business School Working Paper, 2010), 4.

<sup>16</sup> A Trude and J Gibbs, *Review of Quality Issues in Legal Advice: Measuring and Costing Quality in Asylum Work* (London: Information Centre About Asylum and Refugees, 2010).

<sup>17</sup> *Ibid.*, 3.

nature, ambit and function of the service being provided is essential. This involves what might be described as a 'bottom-up', rather than a 'top down', approach. Such an approach involves engaging with the people actually providing the service and those receiving the service: clients, receptionists, support staff, professionals who assist clients, and so on. Without initial and ongoing engagement and investigation, any measure devised will be disconnected and unrealistic.

## **Legal Aid ACT's Objectives and Direction**

Research and measurement tools might also be informed by the service's stated vision, mission, values, objectives and aims, as well as their strategic and operational plan. LAACT's mission is:

[T]o promote a just society in the Australian Capital Territory by:

- ensuring that vulnerable and disadvantaged people receive the legal services they need to assert or defend their rights;
- developing an improved community understanding of the law; and
- seeking to reform laws that adversely affect those we assist.

We achieve this purpose by delivering a range of high quality legal aid services through our staff and professional partners in a caring manner that respects diversity and promotes confidence in the legal system.

LAACT's vision is:

To be a leader in the delivery of legal aid, recognised for the excellence of our services and for the caring, responsive and professional manner in which they are provided.<sup>18</sup>

LAACT's values are stated as follows:

- We are committed to helping disadvantaged people achieve justice.
- We respect people and their diversity.
- We value integrity and ethical conduct.
- We work collaboratively with others to meet people's needs.
- We value and protect our statutory independence.
- We are accountable and encourage innovation.

These factors were taken into consideration when devising the measurement tools for this research.

LAACT delivers a wide range of services to disadvantaged community members. 'Disadvantage' is defined as involving or including the presence of one or more of the following factors:

- drug addiction;
- mental illness;
- language difficulty;
- illiteracy;
- intellectual disability;
- Indigenous person (Aboriginal or Torres Strait Islander);
- refugee/asylum seeker;
- person newly arrived in Australia;
- poor;

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<sup>18</sup> See Annual Report, Legal Aid ACT, 2009-2010.

- intergenerational disadvantage (poor education, low income, poor health, no-one with a job in immediate family, lack of connectedness);
- chronic disease or illness;
- ill health;
- fragmented or non-existent family support;
- age (youth or elderly person);
- gender/gender identity;
- sexuality;
- HIV/Hepatitis/AIDS;
- institutionalisation from a young age;
- repeated imprisonment in adult- youth life cycle;
- unwanted/unloved;
- conflict of cultures;
- domestic violence;
- child abuser;
- child abuse victim; and
- physical disability (mild to severe).

In some cases, legal aid service clients may present a number of these characteristics.<sup>19</sup>

In order to be eligible for ongoing case-work or representation, clients must pass a merits and a means test or have special circumstances (e.g. being underage) in order to qualify. Although there are consistent calls from funders for legal aid services to account for the complexity of their cases, international and domestic research has established beyond doubt that the clients that form legal aid's core business are often disadvantaged on multiple axes and are more likely to have multiple legal problems which can, at times, cluster and cascade.<sup>20</sup> By now, the complexity of the vast majority of legal aid case work and representation should be accepted as given. Moving on from and building on these findings allows us to have a real conversation about the diversity, outcome and quality of legal aid services.

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<sup>19</sup> The complex nature of legal aid service clients is recognised in international research. See A Buck, N Balmer and P Pleasence, 'Social Exclusion and Civil Law: Experience of Civil Justice Problems among Vulnerable Groups', *Journal of Social Policy and Administration* vol. 39, no.3 (2005); R Moorhead, M Sefton and G F Douglas, 'The Advice Needs of Lone-parents', *Family Law* vol. 34 (2004); A Buck, P Pleasence, N Balmer, A O'Grady and H Genn, 'Lone-parents and Civil Law: An Experience of Problems and Advice-seeking Behaviour', *Journal of Social Policy and Administration* vol. 38, no. 3 (2004), 253-269; S Ellison, L Schetzer, J Mullins, J Perry and K Wong, *Access to Justice and Legal Needs: The Legal Needs of Older People* (Sydney: New South Wales Law and Justice Foundation, 2004), <http://www.lawfoundation.net.au/report/older>; C Coumarelos, Z Wei and A Zhou, *Justice Made to Measure: New South Wales Legal Needs Survey in Disadvantaged Areas* (Sydney: New South Wales Law and Justice Foundation, 2006), <http://www.lawfoundation.net.au/report/survey2006>; M Karras, E McCarron, A Gray and S Ardasinski, *On the Edge of Justice: the Legal Needs of People with a Mental Illness in New South Wales* (Sydney: New South Wales Law and Justice Foundation, 2006); S Forell, E McCarron and L Schetzer, *No Home, No Justice? The Legal Needs of Homeless People in New South Wales* (Sydney: New South Wales Law and Justice Foundation, 2005); New South Wales Law and Justice Foundation, 'Access to Justice and Legal Needs, Stage 1, Public Consultations', 2003 and New South Wales Law and Justice Foundation, 'Qualitative Legal Needs Survey: Bega Valley (Pilot)', New South Wales Law and Justice Foundation, 2003, see <https://www.lawfoundation.net.au/publications>.

<sup>20</sup> P Pleasence, N J Balmer, A Buck, A O'Grady and H Genn, 'Multiple Justiciable Problems: Common Clusters and their Social and Demographic Indicators', *Journal of Empirical Legal Studies* vol. 1, no. 2 (2004), 301-29.

Service delivery that reaches out, builds understanding of the workings of the law and a person's place within it can also be an effective way of ensuring greater access to justice for vulnerable and disadvantaged groups. This research has examined the ability of LAACT to work collaboratively with legal and non-legal services and to look at clients holistically. It has also examined the critical role of community legal education in enabling people to assert their legal rights. This is important because '[k]nowledge, capacity, capability and understanding are the key prerequisites to access to justice'<sup>21</sup> and because '[i]f legal aid services are to be effective, they need to reach people who are vulnerable, disempowered, poor or marginalised. This requires a holistic, connected service delivery, relationship building, community development and education'.<sup>22</sup>

This report is detailed and dense. This is because services provided by Legal Aid Commissions are complex, complicated and diverse and in-depth reporting is needed to accurately reflect this.

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<sup>21</sup> L Curran and M Noone, 'The Challenge of Defining Unmet Legal Need', *Journal of Law and Social Policy* vol. 1 (2007), 63-4.

<sup>22</sup> L Curran, *Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to Reach Vulnerable and Disadvantaged People*, (Melbourne: La Trobe University and Victoria Law Foundation, 2007), 4.





## Previous Research on Outcomes and Outcome Indicators

The World Bank<sup>23</sup> examines what they describe as a results-based monitoring and evaluation system (M&E System) in a Handbook for development practitioners. The Handbook recommends a participatory approach involving key stakeholders, because setting goals in isolation from what is being done, what has to be done and those who do it can lead to a 'lack of ownership' on the part of the main internal and external stakeholders.<sup>24</sup> The Handbook recommends that this participatory and consultative process take place at all stages in the identification of goals, objectives, outcomes and the steps necessary to achieve them (i.e. building the indicator system).

The participatory action research methodology adopted by this project is in line with the suggestions and approaches outlined in the World Bank Handbook. As part of this research, staff from each practice area of LAACT participated in focus groups. A Background Paper was provided to each participant beforehand, identifying the key issues and a summary of the research to be discussed: (see Appendix A). The Background Paper was adapted for each area of LAACT. After the focus groups and staff conversation, the indicators of the identified outcomes and elements to reach them were written up by the researcher and circulated amongst key staff, including team leaders, for comment. Many of the questions and instruments for measurement incorporated in the trial survey were informed by both the focus group discussions and international research. The draft instruments for measurement (including questions for the interviews and surveys) were then recirculated to team leaders of each section and comments were sought. The documents were then refined in collaboration with staff and a former client to reflect the suggestions.

Dawn Smart, a consultant on matters to do with achieving outcome<sup>25</sup>, states that an 'outcome' needs to be:

- relevant;
- useful and measurable;
- achievable;
- practical to measure; and
- within your control to influence.

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<sup>23</sup> J Z Kusek and R C Rist, *A Handbook for Development Practitioners: Ten Steps to a Results Based Monitoring and Evaluation System*, (Washington, DC: The International Bank for Reconstruction and Development/The World Bank, 2004).

<sup>24</sup> Ibid., 58.

<sup>25</sup> D Smart, 'Ask the Expert' on USA National Resource Centre, 2004, [www.ccfbest.org/outcomemeasurements/issuesandchallenges.htm](http://www.ccfbest.org/outcomemeasurements/issuesandchallenges.htm), accessed 12 August 2011.

Paul Bullen, a management consultant who has worked extensively with the not for profit sector in Australia<sup>26</sup> observes the following need to be considered as a starting point:

- What are the outcomes we are trying to achieve (and any unintended outcomes)?
- The extent to which we are achieving these outcomes (including showing a cause and effect link between the services provided and the outcomes achieved).

Bullen notes that clients will often have an accurate and reliable picture of a particular service's achievements, allowing them to make better judgments about the value of the service and to make better choices about services. Involving clients in outcome measurement, therefore, means that practitioners will be better able to monitor and reflect on their work because they will have more accurate measures of what has been achieved. It also means that services that want to continuously improve the quality of their service provision will have information about the effectiveness of the services they provide. This information can be used to monitor the effects of improvements/changes to service processes. While general policy objectives of Government, Parliament and the community can be articulated to service providers, it is critical that governments do not set outcomes and indicators that are removed from the actual nature of and context for the delivery of legal aid services. Such measures are unlikely to be realistic, useful or achievable.

Bullen also warns:

- Where it is not possible to prove cause and effect relationships do not use outcome measures to judge your performance. Rather use outcome measures to help you ask good questions.
- Don't just focus on the outcomes to be achieved, have processes in place to identify and document unintended outcomes.<sup>27</sup>

The useful World Bank Handbook also suggests that a careful institutional assessment of the service/agency should occur before any measurement is undertaken in order to ensure that the users (which in this case includes the staff delivering the services and the clients who use the service) have capacity to create, utilise and sustain the system of measurement. The Handbook endorses an approach that is responsive to the needs of its users, determines the resources available to build and sustain the system of measurement and assesses the capacities of those who both use and provide the service. This type of approach, the Handbook states, ensures that the system of measurement is tailored to the right level of complexity and completeness for its purpose.<sup>28</sup>

The World Bank warns against setting indicators without due consideration of desired outcomes: it is the outcome – not the indicators – that will produce the best benefit. For example, it is not advisable to use costing or activity reporting as indicators unless they precisely demonstrate what the organisation is seeking to achieve and whether it has

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<sup>26</sup> Paul Bullen, *Management Alternatives for Human Services*, <http://www.mapl.com.au/evaluation/eval4.htm>, accessed 12 August 2011.

<sup>27</sup> P Bullen, *Management Alternatives for Human Services*, <http://www.mapl.com.au/evaluation/eval4.htm>, accessed 12 August 2011.

<sup>28</sup> J Z Kusek and R C Rist, *A Handbook for Development Practitioners: Ten Steps to a Results Based Monitoring and Evaluation System*, (Washington, DC: The International Bank for Reconstruction and Development/The World Bank, 2004), 45.

achieved it. They may measure time or actions taken but they do not necessarily demonstrate that this time or these actions lead to a quality outcome that aligns with the strategic aims and objectives of the organisation. The World Bank Handbook suggests an approach that first examines the strategic priority and desired outcome, then works out the steps that are likely to achieve those goals. Time recording and activity reporting are not necessarily effective at measuring complexity or the quality of the service. They may be important to record a breakdown of tasks but will not be of much value in describing or understanding the impact on clients or community and the quality of the work done.<sup>29</sup>

Ebrahim and Rangan<sup>30</sup>, in a Harvard Business School working paper, warn funders without an appreciation of the problematic nature of impact or results measurements not to force such measurements on not for profit agencies. They argue that measures need to align with the goals of the organisation and be reasonably within the organisation's sphere of control or influence. They note that 'organizational efforts beyond this scope are a misallocation of scarce resources'.<sup>31</sup> Ebrahim and Rangan note that a key challenge in such measurement lies in the 'thorny issue of causality: impacts are likely to be affected by multiple factors and multiple actors'.<sup>32</sup> They argue that the ability to attribute long term results to interventions is severely limited due to the variety of factors involved.

Ebrahim and Rangan also note that outcomes in policy advocacy and civil rights – both areas that LAACT has as its core work – are harder to measure.<sup>33</sup> 'Making a difference' is hard to define, while making a difference in these spheres can take a long time (in some cases, decades) and can often involve a coalition of actors. Documenting policy/law reform work such as submissions and responses and monitoring whether legislative or administrative changes result often involves other players. Good law reform often involves galvanising and convincing others and takes time.<sup>34</sup> This can be onerous due to the need for detailed records over time for organisations with already few resources.

For successful outcomes to be achieved, it is essential that there is a culture within the organisation which values self-evaluation.<sup>35</sup> Staff commitment and motivation is critical to reaching goals, benchmarking and adaptive learning. Ebrahim and Rangan observe that opportunities for staff to learn, reflect and debrief tend to be under funded and under

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<sup>29</sup> J Z Kusek and R C Rist, *A Handbook for Development Practitioners: Ten Steps to a Results Based Monitoring and Evaluation System*, (Washington, DC: The International Bank for Reconstruction and Development/The World Bank, 2004), 57.

<sup>30</sup> A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance' (Harvard Business School Working Paper, 2010), 4.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid., 4 at 8.

<sup>33</sup> Ibid., 9-32.

<sup>34</sup> L Curran, *Making the Legal System More Responsive to Community: A Report on the Impact of Victorian Community Legal Centre (CLC) Law Reform Initiatives* (Melbourne: La Trobe University and the Reichstein Foundation, 2007).

<sup>35</sup> G Hernández and M Visher, *Creating a Culture of Inquiry: Changing Methods – and Minds – on the Use of Evaluation in Non profit Organizations* (San Francisco: The James Irvine Foundation, 2001).

appreciated by funding bodies, even though such opportunities are key to driving and improving quality of service.<sup>36</sup>

Goldberg and Predeoux<sup>37</sup> conducted empirical research on outcomes and outcome measurement tools and processes. Their research is one of the few such studies internationally in the legal aid services field. Recent research has also been conducted in the United Kingdom.<sup>38</sup> Care must be taken in applying overseas research to an Australian context. The United States of America differs from Australia, particularly in the context of legal service reforms by President Ronald Regan<sup>39</sup>, and the lack of a similar mixed model of service delivery used by Australian Legal Aid Commissions and services such as Legal Aid NSW. The United Kingdom also has a very different service delivery model to Australia. Australia has a 'mixed model' of legal aid service delivery with both salaried and private practitioners delivering legal aid services. In the United Kingdom, many of the services are contracted out and legal aid grants are to private practitioners.

Goldberg and Predeoux make a solid attempt to identify and measure outcomes and their research highlights how difficult this is to do in the legal aid services context. Many of the outcomes they identify coincide with those emerging from the focus groups for this research and this project utilised the following of Goldberg and Predeoux's outcomes:

- whether clients gained knowledge to solve problems;
- whether clients obtained a legal resolution;
- whether clients obtained access to the legal system or an intended benefit of the law; and
- whether clients had their voice heard in the legal system.

As in Goldberg and Predeoux's research, this project also collected case studies of these outcomes based on lawyer feedback.<sup>40</sup>

However, some of the outcomes Goldberg and Predeoux use have problems of attribution: it is difficult to know who to attribute the credit for the outcomes to because of the numbers of people, agencies and other factors that may be involved in an outcome. For example, one of Goldberg and Predeoux's noble outcomes is whether 'clients of legal aid services have an increase in security in achieving and protecting their basic needs and human rights including food, shelter, health care, safety and family relationships' as a result of legal aid services.<sup>41</sup>

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<sup>36</sup> A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance' (Harvard Business School Working Paper, 2010), 13.

<sup>37</sup> J Goldberg and S Predeoux, *Maryland Legal Aid Outcomes Survey 2010: Measuring the Impact of Legal Aid's Services for Older Adults* (Maryland: Maryland Legal Aid, 2009).

<sup>38</sup> M Smith and A Patel, *Using Monitoring Data: Examining Community Legal Advice Centres Delivery* (London: Legal Services Commission, 2010).

<sup>39</sup> These reforms were initiated in the 1980s, but the effects of these reforms are still being felt. See National Legal Aid and Defender Association, 'History of Civil Legal Aid', 2011, [http://www.nlada.org/About/About\\_HistoryCivil](http://www.nlada.org/About/About_HistoryCivil), accessed 6 March 2012.

<sup>40</sup> J Goldberg and S Predeoux, *Maryland Legal Aid Outcomes Survey 2010: Measuring the Impact of Legal Aid's Services for Older Adults* (Maryland: Maryland Legal Aid, 2009).

<sup>41</sup> Ibid, 2.

In conclusion, the international and domestic research suggests that without great care in how outcomes are defined and measured, ill defined outcomes can set a service up to fail, because the deliverable is not within the agency's control and/or relies on factors outside the agency's sphere of influence.



## Research Methodology

The participatory action research methodology for this research into the outcomes, success and delivery of quality services drew heavily on the Legal Aid ACT strategic plan summarised above. It incorporated these important aims and objectives into the outcome indicators and questions utilised in the research to test whether these aims and objectives are being met by LAACT practice. Because research on outcomes and quality in legal assistance services is so new and rare world-wide, it was decided that this research would run as a trial in the first instance. This trial would also elicit useful data and inform some baseline data. The data was gathered as a 'snapshot' between 9 November and 23 November 2011. In this way, the instruments were tested.

This project included a number of research steps or tools. These are outlined in more detail in the following chapters:

### Phase One:

- Research.
- Initial staff conversation.
- Focus groups in each division or practice area of LAACT (with paralegals, receptionists and legal practitioners).
- Feedback from a former client.

### Phase Two, the two-week 'snapshot':

- Eight Lawyer and eight client interviews conducted separately after the same legal interview.
- An observation log involving seven entries by selected staff members (staff were selected on the basis that they were not the staff undertaking other tasks in the research so that the workload was spread across staff).
- Client feedback through a Client Voluntary Feedback Survey/Questionnaire given to all clients receiving advice from lawyers.
- Closing of client file phone survey.
- Case Studies collected from open questions in Logs, Focus Groups and On Line Survey.
- Interviews with the stakeholders identified by the practice areas.
- On Line Survey (using SurveyMonkey) of all Legal Aid Grant lawyers – private and in-house.
- Feedback Session with staff and Board and tweaking of instruments informed by the trial and feedback session.

Based on experience in the trial, the survey instruments were tweaked for inclusion in the final research report to inform further planned snapshot research.

Participatory action research has been described as a reflective process of progressive problem solving led by individuals working as part of a 'community of practice' to improve the way they address issues and solve problems.<sup>42</sup> This kind of research is done by taking action, guided by a professional researcher, with the aim of improving strategies, practices, and knowledge of the environments of practice. The participatory action research approach uses a cyclic or spiral process which alternates between action and critical reflection and, in the later cycles, continuously refines methods, data and interpretation in the light of the understanding developed in the earlier cycles.<sup>43</sup> Staff become designers and stakeholders in the research, with the service providers making comments and suggestions guided by the research as explained to them by the researcher.

This project also trialled a sustainable way to capture and measure data through two-week snapshots every six months, rotating to each practice area of the service. Using this approach, the service is better positioned to explain both what they do and their outcomes to the community, funders and other stakeholders. The approach results in staff having time to reflect and discuss what they do and why. (This also occurred during the research for the trial survey in this project – see Summary Evaluation of the Findings and Conclusions).

As indicators are only relevant when they are measured against an objective, this project used focus group discussions in each area of practice to identify the overarching objective/s of that area of practice before examining outcomes and the indicators which led to outcome achievement. This helped staff understand where they were going, why they were going there and how to know when they had arrived.<sup>44</sup>

One key concern was that the research avoided imposing a further burden on staff in terms of additional record keeping and data entry. That is to say, staff needed to be able to get on with servicing their clients with minimal interruption. The research was therefore led by the researcher but developed a process that can be adapted and run in-house into the future. It was determined that a 'snapshot' approach gathering data over a two week period would minimise any additional reporting burden on staff. The snapshot approach will be rolled out and rotate across different programs every six months. Comparisons can then be made over time and against the base line data gathered.

First, we defined what 'outcomes' are in the context of legal assistance services and which outcomes can be attributable to the functions of a legal aid. The NPA and the Strategic

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<sup>42</sup> B Dick, 'Action Research Tools' on *Action Research, Action Learning*, 1999 (updated 8 May 2011). <http://www.aral.com.au/resources/arphome.html>.

<sup>43</sup> R O'Brien, *An Overview of the Methodological Approach of Action Research*, (Toronto: Faculty of Information Studies, University of Toronto, 1998), <http://www.web.net/~robrien/papers/arfinal.html>; G McCutcheon and B Jung, 'Alternative Perspectives on Action Research', *Theory into Practice* vol. 29, no. 3 (1990), 144-51; B Dick, 'Action Research Tools' on *Action Research, Action Learning*, 1999 (updated 8 May 2011), <http://www.aral.com.au/resources/arphome.html>.

<sup>44</sup> J Z Kusek and R C Rist, *A Handbook for Development Practitioners: Ten Steps to a Results Based Monitoring and Evaluation System*, (Washington, DC: The International Bank for Reconstruction and Development/The World Bank, 2004), 59.



Framework for Access to Justice in the Federal Civil Justice System<sup>45</sup> also informed the development of the definitions. Outcomes were defined as follows:

<b>Outcome</b>	<b>Qualities demonstrated by outcome</b>
<b>1. A good client interview.</b>	Holistic, Joined-up, Quality, Problem Identification, Empowerment, Good Practice, Early Intervention, Prevention, Responsiveness, Client Centred, Alternative Dispute Resolution (ADR), Targeting, Expertise.
<b>2. Clients with chaotic lifestyles attend interviews, appointments and court dates.</b>	Early Intervention, Prevention, Empowerment, Client Centred, Holistic, Targeting.
<b>3. As appropriate, sentences are minimised or unsubstantiated charges are dropped.</b>	Rule of Law, Efficiency, Good Practice, Expertise.
<b>4. Clients are better able to plan and organise their legal affairs.</b>	Early Intervention, Prevention, Empowerment, Quality, Good Practice, Client Centred.
<b>5. Improvement in the client's interaction with the legal system.</b>	Early Intervention, Prevention, Empowerment, Client Centred.
<b>6. Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.
<b>7. Client is better able to understand their legal position and the options open to them.</b>	Early Intervention, Prevention, Empowerment, Good Practice, Quality.
<b>8. A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.
<b>9. Relationships and trust building with other legal and non-legal support agencies enabling client referral and support.</b>	Early Intervention, Prevention, Holistic, Joined-up, Good Practice, Quality.
<b>10. Holding of authority to account.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness.
<b>11. A holistic service delivered to the client through collaboration, networking, community legal education and joined-up services.</b>	Good Practice, Client Centred, Problem Identification, Collaboration, Prevention, Early Intervention, Holistic, Joined-up.

Once the outcomes were defined, a set of 'surrogate' indicators of the elements necessary for these outcomes to occur were identified in consultation with staff and a former client. Domestic and international research on quality legal aid services also informed the elements and what constituted quality. Consideration of the relevant legal professional legislation,

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<sup>45</sup> Strategic Framework for Access to Justice in the Federal Civil Justice System, <http://ag.gov.au/a2>, accessed 5 August 2011

the Draft Australian Solicitors Conduct Rules and practice standards as developed by the profession and the courts were also integrated.

The indicators were then framed into questions and statements for surveys, interviews questionnaires and focus groups in order to measure and benchmark them. Once these questions and statements were finalised, a draft was distributed to the staff team leaders for comment (by them or their team) and the practice sections of LAACT were asked if they would volunteer to take part in the trial. Unexpectedly, two practice areas volunteered – the Family Practice and the Criminal Practice. Rather than choosing between them, it was decided (given their enthusiasm and commitment) that both teams would participate in the trial. This also meant that we had participants representing both Territory and Commonwealth jurisdictions.

## PHASE ONE

### Staff Conversation

The research project design was informed by an initial conversation with staff and by the focus groups conducted with each section of LAACT that provides services direct to clients (i.e. the Civil, Criminal and Family sections of the Legal Practice, Client Services and Knowledge Services, including Community Legal Education).

It was clear from the initial staff conversation (12 August 2011) that LAACT is not an homogeneous service. Each section of LAACT has a specific objective and intent and these can differ markedly between sections. This variation stems from differences in Government policy settings, funding requirements and objectives and the diverse work undertaken by each section. The staff conversation highlighted the dangers involved in imposing a set of outcomes on an agency where they are unrelated to the actual responsibilities of the agency's work and strategic direction.

At the start of the initial staff conversation, the researcher explained the project and the reasons for undertaking this research. Staff then worked in groups to answer the question: 'But for LAACT's intervention what would happen?' A feedback session was incorporated into the staff conversation and during this session, the question was reframed in the positive: 'With the intervention of Legal Aid, what is enabled?'. Answers were written on the white board, then transferred to butcher's paper and placed on the staff lunch room wall so staff could continue to respond to the question. Below is the list of answers to this question:

- Legal Aid is an element of the legal system and is essential to its smoother running, administration and its reform.
- By representing clients children are returned to parents, court processes are expedited.
- Through telephone advice we make 'scary' situations less scary.
- We empower people to know where to go, so they also know what to do next time as well.
- Through information, advice, education and representation we help people handle/walk away from conflict
- We give people a fall back position – we provide a 'base' they can come to and assist them in accessing support services.

- We give 'VOICE to the VOICELESS' – we make sure their story is told to people who would otherwise ignore them or their situation. We ensure people are heard, listened to.
- We maintain the Rule of Law – legal aid is critical to this.
- We refer people to help them have someone to turn to.
- We prevent people from having further problems arise by giving advice and information.
- We help more people to retain their liberty which means:
  - they keep their job
  - have financial security
  - keep the family together
  - clients stay out of debt.
- We keep the legal system flowing by a contribution to the income flow of the private profession. This helps more people have representation before the courts and avoids self-representation which can prolong court time.
- If we weren't here many people would be even further disenfranchised.
- We stop things getting worse – prevent some re-offending (but other factors impact on capacity for us to do this outside our control); defuse conflict; reason with clients; explore different options; highlight the impact of the behaviours on themselves (client) and others and what the implications of that behaviour would/might be.
- We connect people – this prevents social exclusion.

## Focus Groups

During the focus group discussions, participants stressed that legal aid services are provided within the framework of broader policy and legislative settings.<sup>46</sup> For LAACT, these include the LAACT Practice Standards. These set out the responsibilities and obligations of lawyers to clients, responsibilities of clients and staff to LAACT and how to deal with other professionals, deal with children, deal with other parties, brief Counsel, provide duty lawyer services, etc. Under these Practice Standards, both in-house and private legal practitioners handling legally assisted cases are required to observe the following general principles:

- apply the same skill and care to legally assisted cases that they would to a case for a fee paying client;
- ensure that costs are not incurred unnecessarily or unreasonably;
- use their best endeavours at all times to seek ways to narrow the issues in dispute, resolve matters in a timely fashion and avoid litigation if possible; and
- avoid proceedings or adducing evidence that might increase distrust or animosity between the parties without achieving any significant benefit for the client.

This research included five focus groups, each one run with a different section of LAACT – the Criminal Practice, Family Practice, Civil Practice, Client Services and Knowledge Services . A draft definition of ‘outcome’ was provided to start the focus group discussion. This also provided a way of approaching the discussion about what the ‘objective’ of the practice might be. The draft definition of ‘outcome’ used was:

A direct or indirect effect on the person/group of people concerned which is intended, positive and can be primarily attributed to LAACT.

Each focus group was asked for their views on this definition, whether they would like to change or refine it, or if they wished to draft a different definition. The focus groups then identified outcomes that were ‘successful’ or, using their preferred terminology, ‘positive’. Finally, they deconstructed the outcomes by identifying the elements key to achieving each outcome. These elements were later used to inform the design of the indicators and questions used in the instruments for the Trial survey.

Focus groups were also asked to define the overarching objective of their practice section of LAACT. Some focus groups did this at the beginning of the discussion while other focus groups returned to identify and refine of their objective at the end of the discussion. Each group emerged with a different objective. This reflects the different work done across the different sections of LAACT. It reinforces the fact that the work Legal Aid does to assist clients is diverse and can involve quite different aims, policy functions, settings,

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<sup>46</sup> What follows is a summary of what participants said to the researcher during the focus groups. The author has tried where possible to explain what was discussed in the same way and using the same phraseology as was used in the actual focus groups with some reframing to clarify meaning.

requirements (including requirements of government funders under legislation and Court Practice Directions) and client expectations. For example, Criminal Law has advocacy and representing the client as its central tenet. This reflects the fact that the defendant is charged by the State and is often an unwilling participant of the court system. In these cases the stakes are high, with defendants facing loss of liberty, loss of capacity to earn and pecuniary penalties. As indicated in the discussion below, a key function of Legal Aid in criminal matters is to hold people and institutions in positions of authority to account. In Family Law, the stakes are also high; however, the aim and intent behind the practice is quite different. While Legal Aid family law practitioners also represent clients before the courts, only a small number of family law matters tend to go to hearing and these are often the most protracted and intractable matters.<sup>47</sup> In addition to the LAACT Practice Standards, the Family Practice is required to adhere to the Best Practice Guidelines for Lawyers doing Family Law Work, the Guidelines for the Independent Children's Lawyers and the Family Court Chief Justices Guidelines. There is an emphasis in the family law context on trying to repair relationships, consideration of the safety of children, consideration of implications of violence and safety of parties to the proceedings, defusing matters that can escalate tension and animosity. There is also a requirement to extensively utilise family mediation and dispute resolution. These multiple guidelines, emphases and expectations place different expectations on lawyers in the family law practice lawyers to lawyers in the criminal law practice. Since the policy settings and expectations differ between family law practice and criminal prosecutions involving the State, definitions of outcome – and measures of success and outcome – need to reflect this diversity of aim whilst simultaneously being simple and easy to administer for already busy staff.

### **Criminal Practice Focus Group, 8 August 2011**

The Criminal Practice operates in an adversarial setting due to the nature of criminal proceedings and existing criminal legislative frameworks. In the criminal context, issues around a fair trial and defence of the accused are central. The Criminal Practice focus group noted that liberty, rehabilitation and holding authorities to account are important factors for consideration in their section of LAACT.

The focus group pointed out that criminal proceedings are bought by the State against individuals and many decisions to go to trial are made by the Director of Public Prosecutions (DPP). Despite LAACT efforts to reduce expense and time, ensure efficiency and enable clients to avoid imprisonment or the undue stress that delays can cause, the final decision is that of the DPP and not Legal Aid. As these factors are often not within the Criminal Practice's power to determine, homogenous measurements and expectations around reducing recidivism, efficiency and cost reduction are unfair/might set this section up to fail.

The criminal law practice wanted to simplify the draft definition of 'outcome' to make it less cumbersome and more meaningful to clients. They settled on the following definition:

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<sup>47</sup> R Hunter, 'Adversarial Mythologies Policy Assumptions and Research Evidence in Family Law', *Journal of Law and Society* vol. 30, no. 1 (2003), 156-76.

Our service had a direct or indirect good/positive/benefit on the client/ legal system (law reform) or community (CLE).<sup>48</sup>

The group identified an example of a positive outcome. A client was facing 15 charges for a range of offences including escaping legal custody, resisting arrest, common assault and theft. After negotiations with the police about their brief of evidence, LAACT lawyers established that the DPP had insufficient evidence to establish the multiple charges. Bail conditions that should never have been imposed given the circumstances of the case were also removed after these negotiations and because of the intercession of the lawyer.

The preconditions/guidelines for obtaining legal aid mean that many Legal Aid clients will have multiple and complex needs. The Criminal Practice focus group stressed that the vast majority of Legal Aid clients have to pass means, merits or 'special circumstances' tests to get aid. The focus group stated that rather than have to repeatedly demonstrate that their clients had complex need, it could be taken as given that the clients are both disadvantaged and challenging to deal with. The Criminal Practice focus group emphasised that helping these clients requires the ability to make sense out of often chaotic life circumstances. Issues such as aggression, timidity, anger, cynicism, disorder and reticence all needed to be managed by LAACT staff.<sup>49</sup> The group also noted that the most difficult clients are often allocated to the in-house practice. This is to ensure that such clients are linked in with other legal and non-legal support services, as private practitioners do not necessarily have access to or established relationships with such services or do not see linking in with non-legal issues as within their remit as lawyers.

A critical point made by this focus group was that, when defining the key elements of achieving an outcome, consideration needs to be given to the complex nature of LAACT clients and the issues they bring with them to a criminal matter. Staff noted that in the process of achieving a successful outcome, they needed to deal with such client-related issues as lack of paperwork, failure to keep appointments because of chaotic lifestyles, memory loss, inability to articulate their story or events with the necessary precision and diminished intellectual and mental capacity. The group noted that lawyers dealing with the criminal law in-house client required flexibility; the skills to work with a fragmented and often chaotic and disorganised set of issues, facts and circumstances; and the ability to deal with surprises. They stressed that this work is time consuming and that these issues mean it is not a straightforward task to effectively present the client's story to a court. The focus group argued that this is not fully understood or appreciated by the general public or by Legal Aid's funders.

Focus group participants noted that much of the criminal justice system is not within the control of Legal Aid lawyers. Participants discussed cases they had lost and the researcher was concerned by the extent to which staff took such losses as a measure of their lack of 'success'. They did this despite indicating that cases were often lost due to factors outside their control: the defendant had committed the crime and there was little in the defendant's history that could be used to mitigate sentence; the defendant had multiple

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<sup>48</sup> The focus group discussed the subjective nature of concepts and terms such as 'good', 'positive' and 'benefit' but did not reach a resolution.

<sup>49</sup> Similar challenges relating to clients were also raised by the Family Practice focus group (discussed below).

previous convictions; the evidence was already heavily weighted against the defendant; LAACT staff had to work with DPP officers reticent to make a 'judgement call earlier'; or the case was heard by an unpredictable magistrate. The researcher and Criminal Practice focus group agreed that staff should not stake their own value on unwinnable court cases and unrealistic, almost 'superhuman', expectations of themselves. The difficulty, however, is that (as the focus group revealed) staff *are* sometimes able to achieve amazing outcomes when the odds are against them, and this resulted in them raising their own self-expectations. There is significant recent research on levels of stress and mental illness, including depression, in lawyers, which highlights the dangers of this aspect of the legal profession.<sup>50</sup>

The Criminal Practice focus group was troubled by outcome definitions that relied on elements beyond their control. An outcome described as 'a reduction in recidivism' (i.e. clients with similar problems not returning to the service) in the NPA was given as one example of an outcome unsuitable for application to legal aid services. Many factors that lead to a person offending or re-offending lie well beyond the control, or even the influence, of a legal aid service. Criminology research over the past three decades demonstrates that offending and re-offending relates to socio-economic factors, education, exposure to institutionalisation and increasing scope and consequences of sentencing laws – to name only a few influences. All of these things extend beyond the scope of what Legal Aid can hope to influence given the nature of the service it provides.<sup>51</sup> LAACT's work and function is not to prevent people offending. Its primary obligations are to provide legal information, advice and representation to clients who are eligible for legal aid assistance. It conducts community legal education and promotes law reform where appropriate. It usually works with a client only during the relatively short period of time it takes to handle the client's legal problem or during which the client interacts with the legal system. When a client leaves Legal Aid they might continue to exist in an environment that is likely to lead to re-offending. This environment might include the people with whom they associate, a lack of supported accommodation, lack of income, inability to handle aggression, drug and alcohol addiction and numerous other issues. According to the focus group, these are all matters beyond Legal Aid's remit, capacity or funding to control. To use a reduction in recidivism (i.e. a client's non-return to the service on similar charges) as an outcome is therefore unrealistic and unfair because it could set legal aid services up to fail. Participants thought it was critical to note that when clients did re-offend they felt that they needed to seek legal advice earlier. This could prevent problems escalating and lead to cost savings in the legal system.

One NPA performance indicator is 'less than 20% of legal aid grant recipients return seeking a grant of legal aid for the same type of matter within a 24 month period'. As outlined above, this is not a good indicator because what happens to a client when they leave a legal aid service will be beyond the control of the service and so a reduction in recidivism is not an appropriate or realistic performance measure for legal aid services. It was considered

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<sup>50</sup> I Hickie, *The Mental Health of Australian Lawyers: A Challenge for Law Schools and the Profession* (Sydney: Brain and Mind Research Institute, University of Sydney, 2008).

<sup>51</sup> J Payne, *Recidivism in Australia: Findings and Future Research*, (Canberra: Australian Institute of Criminology, 2007), 12 and 15.



unrealistic to expect Legal Aid to be able to prevent clients returning for assistance in similar matters.

One of the key intentions of the NPA is to encourage Legal Aid Commissions to intervene earlier and, if possible, prevent legal problems arising. LAACT achieves these requirements by providing legal advice and information to clients early enough to discourage poor decision-making and by explaining the ramifications of certain actions or consequences so that clients can make informed choices. The recidivism indicator is counter-intuitive to this sort of early intervention. The research gathered by this project found that if clients return to Legal Aid earlier than on previous occasions, litigation is sometimes averted, or the problem is prevented from escalating thereby reducing costs. Staff noted that a client returning to LAACT to seek assistance can be interpreted as a positive. In such cases, the client has had a positive experience with LAACT and trusts them enough to return. They have also learned to seek legal advice when they have a legal problem. Following on from this discussion, the other focus groups were also asked for their views on the outcome regarding reduction in recidivism. Every focus group agreed with the Criminal Practice staff that recidivism is an outcome over which Legal Aid had little control and which is outside the remit of a legal aid service. This discussion reiterated the dangers of using outcomes that are unconnected to and/or divorced from the nature of the service that is being measured.

After discussing these issues, the Criminal Practice focus group began defining possible outcomes that were both positive and within the control of LAACT's Criminal Practice. They concluded that a positive outcome should consider the processes that the lawyer, staff and client go through rather than the end result of a case (i.e. winning or losing). Staff identified some pivotal 'positive outcomes' that might seem insignificant to an outsider. One such outcome was an LAACT lawyer conducting a 'good interview' with a client. This is because everything turns upon this interview: the accuracy of advice given; the understanding of a case's key elements and the application of law to those elements; what course the case will take; how the client responds/reacts in future, based on the advice given in the initial interview and later follow-up interviews or contacts; and the conduct of the court case or negotiations that follow.

Another positive outcome, which might seem insignificant at first, is that clients are assisted in attending appointments or managing their affairs. For example, if a client has a mental illness, drug or alcohol addiction, is homeless or lives a chaotic life with little regard to time or clocks, a positive outcome might be that the client actually attends their Legal Aid appointment or advises LAACT staff of a new mobile phone number. Staff said that, while these habits might seem straightforward for the general population, such simple things not only help a client's case, but can also be significant step forward for a client more generally. They noted that clients who are homeless, mentally ill or have been institutionalised might need to be counselled and trained by staff in how to adapt their behaviour to help their case. One example of this came from the Youth Law Centre. This client was a thirteen year old with a fragmented family history, who had led a chaotic life, had limited schooling and skills and could not manage their affairs. They were homeless and had no other support in their life. Staff had to shepherd the client through the legal process, helping the client change their behaviours and stressing the importance of simple life-management skills in

order to give the client a better chance in the court case. Elements identified as helping to ensure the outcome of a client attending an appointment included:

- If a client is on heavy mental health medication that causes drowsiness in the morning, make their appointments in the afternoon.
- If a client is homeless, advise them where clocks are around town.
- Text or phone the client to remind them of their appointment.
- If a client is homeless, ask them to 'check in' at regular intervals to see if there are developments with their case and to enable follow-up if LAACT is in need of further instructions.
- Maintain an honest and direct relationship with the client that engenders trust and respect.
- Clearly explain to the client the consequences of a failure to attend appointments or court.
- Work in partnership with and in collaboration with family members and support services to support the client to attend appointments and court dates was deemed to often be essential for the outcome.

The focus group noted that such support takes time but will lead to better outcomes for a client.

Other positive outcomes the focus group identified for criminal cases were:

- Jail time is minimised.
- The sentence is within the range of what was expected given prior convictions, the nature of the offence and the client's behaviour.
- A good client interview: the client gives the required instructions and understands the legal advice given.

Again, staff noted that the art of determining indicators for such outcomes, is in finding indicators that are specific to each outcome.

Focus group participants were asked what they thought 'a good client interview' might involve. The results of this discussion were as follows.

- Successfully getting a client to bring in the right paperwork. Spend time preparing the client, calming them down when they are anxious and discouraging a client from taking concerning action without first getting legal advice. It was also argued that these things were critical throughout the course of a case – for example, discouraging a client from contacting a prosecution witness.
- Build a good rapport with the client. This might be determined by the client's responsiveness – for example, head nodding, asking further questions, thanking the staff member.
- Reassure the client – for example, about taking positive steps to help their situation.
- Provide information and advice that is simple and that the client can understand.
- Give good referrals to other services for support and/or non-legal issues. Participants noted that while clients with intellectual disabilities often have access to support services and supported accommodation, there can be problems when a client has an undiagnosed intellectual disability at the time of a court case and is not already linked to these services.

- The client gives the impression that they understand their personal and legal context, the court proceeding, the legal process and/or their position at law.
- The client knows the next step they need to take, what the lawyer's role will be and the next steps the lawyer will take.
- The client values the opinion of the lawyer and, if required, gets in touch with the lawyer after the interview.

Staff proposed another outcome: 'good advice is given'. A number of indicators or elements were suggested to measure such an outcome:

- The client is better able to plan and organise their affairs.
- The client's interaction with the legal system improves – for example, they keep bail conditions and are better at talking to police, the court and other authorities such as corrections officers.
- The client is kept informed using simple, understandable language at all stages of their matter and is advised along the way (as appropriate).
- The client is empowered to make free and informed choices and knows the likely consequences of those choices.

Staff mentioned that client outcomes were often better when the client had family support. Lawyers could often rely on family to reduce client no-shows and ensure that clients were compliant with bail/curfew conditions. However, many Legal Aid clients lack familial support, so support staff and lawyers often have to step in. One criminal lawyer noted that in late October 2011, he was representing a homeless Aboriginal man with significant mental health problems and intellectual disabilities. The lawyer tried to connect the man with supported accommodation services or accommodation of some kind, because the man was 'at risk' of incarceration if he could not find accommodation. Incarceration was of particular concern in this case given the number of Aboriginal men who die in custody, the rates of prison assaults and this client's particular vulnerability. The lawyer had no success telephoning services to get assistance. The lawyer stated he had to 'go the extra mile . . . with these clients who have no chance at navigating the system – if we don't help, sometimes no one else will. I had to drive him to the [accommodation] places, as otherwise they would not have taken him'. If the lawyer had not 'gone the extra mile', it is almost certain that this client would have been locked up and refused bail.

Staff participating in the focus group defined the objective/s of LAACT's Criminal Practice as follows:

- To represent and advocate for clients in the criminal justice system.
- To ensure that a fair trial/court process occurs.
- To enable the circumstances of the client to be understood.
- To hold authorities to account for the way they treat clients and to use lawyers' expertise alongside the laws, protocols, rules and regulation available to achieve this objective. (Authorities include the police, correctional services, court services, judicial officers, Government and the DPP.)
- To ensure that charges against clients are properly framed.
- To put clients in contact with the services they need to support them through the court process. Also to assist clients with supports that might intervene and prevent re-offending and their other legal and social problems.

- To prompt judicial officers to ask critical questions and alert the judicial officer to the law and its application to the client's situation.

Staff noted that partnership- and relationship-building with other services was critically important in ensuring positive outcomes. Key to delivering a quality legal service is knowing which services can support clients (and when and in what ways), knowing the people within these organisations and having constructive and respectful relationships with those people. Staff noted that informal relationships often helped get clients the access they needed, as vital support services and community organisations are often overburdened and have long waiting lists. Sometimes good relationships can help LAACT navigate clients through such barriers and gain the help they need.

Staff came up with the following question to inform the design of the instruments for the trial. It indicates the effectiveness of the client's exchange with their lawyer and can be used as a measure of an outcome:

Did the client better understand the process, were they wiser about their situation and their options when they left LAACT, the elements of the law applicable to them and where they are up to in the process than when they first were put in contact with it?

Focus group participants identified a need for more community legal education (CLE) that responds to the issues clients need to know about, for example, how the legal process operates, what the client's place within this process is, what clients need to do and what the client's rights are within the criminal process. Staff argued that CLE needs to go beyond merely raising awareness within the general population about the services that LAACT offers. They stressed the need for tailored CLE about the criminal process, about legal rights and responsibilities for vulnerable groups and for the workers who support these groups.

Other issues identified by staff during the focus groups were as follows.

- More resources are needed for the support services that provide stability and security to clients and which are essential in enabling people to get on track and minimise their offending.
- Stakeholders (especially Governments) need to be more flexible in their approaches and calls for measurement of services that deal with the often complex and difficult lifestyle issues faced by disadvantaged people and communities. Whilst the focus group accepted a need for accountability and sensible reporting, there needs to be an understanding that too much imprecise reporting can be burdensome. There is a need to be realistic about what is measured. Consideration should be given to the ability of already under-funded and under-resourced agencies engaged in service delivery to have time to increase reporting whilst still being expected to 'get on with the job of providing representation and advice to those in need'. Calls for more and more reporting can be distracting and cause frustration in already demanding and pressured environments.
- An annotated Criminal Practice Manual in ACT Law needs to be produced. There is now a body of laws in the ACT which are different to those in NSW, but there is no up-to-date, comprehensive legal manual to assist practitioners. This makes the job

harder for ACT practitioners than for practitioners in jurisdictions where there are many practice manual offerings.<sup>52</sup>

- There needs to be less time wasting at court, as this can prevent lawyers from doing other work. One lawyer waited 3 hours to see a client in the lock-up. iPads (currently being trialled by LAACT) might allow lawyers to keep on top of other work whilst at court.
- Law reform and court staff awareness raising to enable court staff to list cases in a way that reflects clients' responsibilities – for example, school pick up and child care.

Staff asked that this research account for the unintended positive outcomes of Legal Aid's intervention. One example was the reuniting of family members during a criminal process. Another was the involvement and engagement of a disconnected Aboriginal youth in a circle court process, which uses a problem solving approach. Due to involvement and discussion with service providers (including Legal Aid) and judicial members around a table, the client began to re-engage. In this case, the adversarial approach of a traditional court process would have been likely to alienate the client further.

Staff also noted that Legal Aid did not always operate in isolation to achieve a successful outcome: sometimes it was a team effort, involving other partners, individuals and agencies.

### **Knowledge Services Focus Group, 15 September 2011**

The staff team of Knowledge Services consists of three members – the Communication and Education Manager, a Community Legal Education Officer (CLEO) and an Indigenous Liaison Officer (ILO). This section of LAACT also deals with public relations and media. Because the focus of this research project was CLE rather than media/public relations, participants only briefly touched on the section's media/public relations role. The ILO was absent on the day of the focus group, so a separate meeting occurred with her, which used the Background Paper for Knowledge Services as the reference point for discussion.

This Report will first discuss the focus group, then the separate meeting with the ILO.

The focus group noted that legal information in the public domain was difficult to control, because the media often puts their own slant on it. Participants indicated that a lot of LAACT's media work was reactive and they hoped that this research might provide some positive stories about clients to place in the public realm, enabling media work to be more proactive. The group noted that the story of Legal Aid 'was not out there' and that by being on the 'front foot' Legal Aid may be able to generate more public awareness. Participants

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<sup>52</sup> Further investigations by the researcher revealed that there is a Practice Manual being produced. However, this is a 'work in progress' and not yet comprehensive in all areas of law in the ACT. Peter Sutherland has been working on this with some other contributors. He indicated that getting the time, staff, resources, editorial capacity that the Fitzroy Legal Service Manual has attained has been difficult and so it remains incomplete. There is a link to the existing document at <http://www.softlaw.org.au>.

thought this would help the general community better understand the work of Legal Aid and its critical importance to the community.

Focus Group staff identified Community Legal Education (CLE) as follows:

- An information 'campaign' to promote behaviour change. People would know about Legal Aid and its services and would be directed to or link into LAACT and relevant community legal centres in order to change their behaviour.
- To let people know that Legal Aid is there by providing information pamphlets and brochures and by placing CLE staff at venues such as the Hall Market and identified shopping centres.

CLE is currently delivered in these ways:

- Information brochures and pamphlets about legal aid services and some law topics. This involves arranging for distribution and publication of pamphlets, as well as updating or rewriting them.
- Information sessions/presentations to groups (when invited) such as the Returned Services League (RSL) or high schools. Topics are normally pre-determined in consultation with the group (e.g. the teacher or RSL representative).
- Outreach. This takes the form of appointment bookings at Directions ACT<sup>53</sup>, the Early Morning Centre<sup>54</sup>, the Red Cross and Boomerang<sup>55</sup>.
- Information hubs conducted with other services. These involve a combined appearance with other agencies in a public area such as shopping centres or public housing. The LAACT banner is normally presented to attract people passing by. The idea is to present 'targets of opportunity'.

The Focus group stressed the importance of networking. Networking helps convey the message about what Legal Aid does and how to refer clients to other agencies. The Knowledge Services' approach to networking consists of attending meetings with kindred organisations. More formal associations exist as part of the ACT Legal Assistance Forum (ACTLAF)<sup>56</sup>. ACTLAF has been operating since May 2008 and mainly involves information sharing. ACTLAF has recently strengthened links between member agencies by creating

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<sup>53</sup> Directions ACT is the name of DIRECTIONS ACT Alcohol and Drug Services, a public benevolent institution that provides services to reduce harm caused by alcohol and other drug abuse through the provision of information and education, clean injecting equipment, practical health interventions, counseling, referral, support and detoxification services.

<sup>54</sup> The Early Morning Centre operates in Pilgrim House in Northbourne Avenue, in Canberra's Central Business District. It is managed by Uniting Care (the Uniting Church's national community services arm) and it opens each week day 7.30am. A free light breakfast is offered until 11.30am. Directed primarily at homeless people, or people at risk of homelessness, it also offers a range of support and referral services. The centre provides office facilities, phone, computer and Internet access. There are also shower and laundry facilities, a post office box and secure storage for personal belongings.

<sup>55</sup> The Boomerang Hub is run under the auspices of the YWCA Canberra with significant input from Reclink and other agencies focussing on health and lifestyle improvements. It derives its name from the Boomerang Centre, a residents' common room in public housing at the Currong Flats in Braddon, Canberra. Regular hub attendees include Centrelink, Care Financial Services and other territory government representatives.

<sup>56</sup> ACTLAF comprises all legal aid services in the ACT (Legal Aid ACT, the five community legal centres and the Aboriginal Legal Service). It also includes representatives of the ACT Law Society, the ACT Aboriginal Justice Centre and the ACT Directorate of Justice and Community Safety.

working groups. Collaborative projects undertaken by ACTLAF to date include the preparation of a report for the ACT Attorney General on gaps in Indigenous legal services and the development of a common referral form.

There are, however, some challenges of CLE collaborations and in reaching vulnerable groups of people. Focus group staff indicated that they had presented a session in collaboration with the Migrant Refugee Settlement Service (MRSS). Despite prior agreement that MRSS would provide interpreters, no interpreters were in attendance. This made the session 'futile'. Staff described it as 'a missed opportunity – we had the people in the room'. This is not an uncommon problem for CLE in Australia. The provision of government funding for CLE interpreters is a critical factor in being able to reach vulnerable and socially isolated communities. Culturally and Linguistically Diverse (CALD) people are often isolated and their lack of understanding about Australia's legal system (after having experiencing different legal systems in other parts of the world) can increase their confusion and isolation.<sup>57</sup>

There is some overlap in LAACT's CLE pamphlets with what other services produce, though LAACT tries to avoid duplication. The focus group stated that the pamphlets are designed to get people to telephone LAACT – staff described this as the 'tease factor'. According to staff, these pamphlets only give people 'enough information to know that they should call LAACT'.

The focus group was presented with this definition of outcome:

A direct or indirect effect on the person/group of people concerned which is intended, positive and can be primarily attributed to the LAACT.

They adapted the definition as follows:

A direct or indirect effect on the client, community (CLE) or legal system (law reform) which is intended, a positive process is undergone and can be primarily attributed to LAACT.

The staff agreed with the Criminal Practice focus group that terms such as 'good outcome' and 'benefit' are subjective.

One example of a positive outcome arising from CLE activity involved a stall held at Hall Market. A wills pamphlet was displayed among other publications at the stall. A woman was looking into preparing her will and intended to exclude her family. After a 10-15 minute discussion, the CLE staff member advised the woman to ring the Legal Aid Helpline.

Staff indicated that after presentations, outreach and other activities they are not sure what the impact of their work is on the client: contact is often a once off, although Knowledge Services staff think that sometimes the people follow up with calls to the Legal Aid Helpline, this was because on some occasions during discussions with other Legal Aid staff, Knowledge Service staff became aware that a person they spoke to has contacted LAACT. Staff noted confidentiality is an issue at CLE venues. Staff identified that there is a dependency in their work on other parts of Legal Aid to follow up and vice versa.

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<sup>57</sup> K Fraser, *Out of Africa and Into Court: The Legal Problems of African Refugees* (Melbourne: Footscray Community Legal Centre, 2009).

Focus group staff indicated to the researcher, when asked to identify an outcome of their work, that one main outcome of their work is at Directions ACT where they 'listen to a community members' stories. Many people at this venue have mental health issues'.

In another example identified as a positive outcome, staff spoke to a man at Weston Creek who had to go to court the following day. They directed him to the duty lawyer service and he contacted the service the next day.

Elements that staff identified as critical in these outcomes were as follows:

- Preparation and ground work, including 'cold calling' to be present at a venue.
- That Knowledge Services staff are present at the venue.
- That Knowledge Services staff are regularly in attendance so people know they will be there.
- Connections made to other agencies so Knowledge Services can link in with them.
- Being 'proactive'.
- Proffering a solution by linking the person to LAACT.
- The person is informed by Knowledge Services staff and is then prepared to find out more about their legal issue.
- The person has sought LAACT's help.
- Responses from people at the time such as 'thank you' or 'yes, I will follow up'.

CLE staff have an assessment form to gain audience feedback which they distribute depending on the nature of the group. This assessment form is to be revised.

A separate meeting was held with the Indigenous Liaison Officer who is part of the Knowledge Services team but was unavailable at the time of the focus group. She took a more community development oriented approach to CLE. This involved talking to local communities about the key issues they faced and then trying to engage them in developing a CLE program that would both meet their needs and be presented in a style to which vulnerable and disadvantaged people would relate. This included having CLE conversations around food or activities commonly engaged in by the community and taking the legal information into a setting where vulnerable people congregate and where they feel comfortable.

The ILO was mindful of the need to gain community trust and to inform herself as to what they knew would work best with their community. Sometimes if the ILO did not feel she had the requisite knowledge or skill, she would enlist the expertise of another practitioner at LAACT. She noted that often a family law lawyer would come along to sessions with her.

The ILO noted that vulnerable and disadvantaged people, as well as social and health service organisations themselves, are sometimes not able to identify an issue as legal. The ILO tried to assist non-legal workers in community agencies to be more aware and able to identify what might be a legal issue. This could then open the support workers up to making legal referrals as they are better able to identify a problem as legal in nature and assist clients to gain help. The ILO stressed that Legal Aid staff should not frame a problem as a legal issue



before people understand what a legal issue is and/or is not.<sup>58</sup> The ILO stated that it is often better to ask more general questions like, 'How is it going?' or, 'Do you have any concerns/problems?' Staff can then work to identify which concerns/problems are legal issues – using their judgement as a legal professional with many years of training – rather than leaving it to the community member to work it out. The ILO's statements are consistent with the researcher's previous experience in CLE practice and her own work conducting legal need assessments and rolling out CLE programs based on these assessments. Often clients can identify the issues they have problems with rather than their 'legal needs'. Many of these issues are 'justiciable', i.e. capable of a legal intervention/resolution.

The ILO stressed that culturally sensitive services to Aboriginal and Torres Strait Islander (ATSI) clients require all staff, not just the ILO, to work in ways that are culturally sensitive. In this way, the whole organisation has a better chance of ensuring that they work to alleviate ATSI disadvantage, including incarceration rates and discrimination. Understanding of how Indigenous communities work, communicate and respond and establishing a relationship of trust with community before services are provided is key in Indigenous affairs. In addition, a lack of knowledge by ATSI communities of other services that can help Indigenous people has been identified as a key reason that ATSI people cannot get the help they need. There is also scepticism in some Indigenous communities about using mainstream services. There is significant research and a Senate Report that supports this.<sup>59</sup>

The researcher's own experience in providing services to the Indigenous community for over a decade indicates that such relationship building takes time. A service cannot merely set up an outreach and expect to provide a service in a traditional manner. The long history of Indigenous dispossession, deaths in custody, incarceration rates, targeted policing, removal of children, loss of culture and discrimination mean that many in the Indigenous community are understandably distrustful of mainstream services. For this reason, it often takes considerable time, consultation and discussion around how to deliver services in a culturally sensitive way to the relevant community. In addition, due to displacement policies over time and some community's family/kinship allegiances, conflicts can run deep in many Indigenous communities. Issues of domestic violence also become complex when community members are so accustomed to it they do not understand their rights, when victims and others are reticent about taking action as the perpetrators are family members and the risk of incarceration is a deterrent for women and girls in taking preventative action.

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<sup>58</sup> This was verified in four of the researcher's interviews with clients after their consultations (during the two-week 'snapshot'). On being given a list of other legal issues they might have, these clients expressed surprise that many of the items listed were capable of legal resolution. They indicated they would not have seen a lawyer about these issues or even asked a lawyer about them because they had not identified them as legal issues.

<sup>59</sup> M Willis, *Community Safety in Indigenous Communities: Service Providers' Perceptions* (Canberra: Australian Institute of Criminology, 2010), 26; and Commonwealth of Australia, Senate Legal and Constitutional Affairs Committee, *Inquiry Into Access to Justice*, Chapter 8 (Canberra: AGPS, June, 2004), [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Committees?url=legcon\\_ctte/complete\\_d\\_inquiries/2002-04/legalaidjustice/index.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Committees?url=legcon_ctte/complete_d_inquiries/2002-04/legalaidjustice/index.htm).

Fearing the ramifications of imprisonment for family members means ATSI victims of domestic violence often remain unsafe.<sup>60</sup>

It is critical that Legal Aid practitioners approach these complex issues with sensitivity so that Indigenous people both seek help and are not turned off due to a lack of culturally sensitive approaches in delivery of the service. Awareness of such undercurrents can also assist in delivering services effectively. In addition, the community's connection with and trust of service providers can lead the Indigenous community to increase their willingness to work with agencies.<sup>61</sup>

The ILO stressed that finding out about an ATSI person's background (e.g. a child's cultural plan, if the child is in the care of government) can assist significantly in advocacy. Poor health can greatly affect an ATSI person's ability to hear, understand and take on board legal advice. If pre-existing conditions (e.g. foetal alcohol syndrome) are better understood and acknowledged in approaches to case work, if different techniques are adopted and forensic reports are sought in giving advice to such clients, then the clients are likely to be more responsive. Outcomes in cases such as these might be different than if the issues prevalent in Indigenous communities are ignored. If such cases go to sentencing and court options such as circle courts are considered or triggered then complex issues and better responses can be explored. One way to do this is for the service to keep a record of ATSI clients and advise the ILO before the client comes to the service so the ILO can guide the client through the complex and often difficult to understand system.

The ILO noted that in order to gain more ATSI employees and/or ATSI aware employees, LAACT could consider taking Indigenous trainees or get their paralegals to do ATSI training (such as through the Diploma of Indigenous Advocacy, run by the Department of Education, Employment and Workplace Relations). Staff would then be skilled up to support Indigenous clients.

A study into the education needs of welfare workers supports the ILO's arguments. This study concluded that the most important legal education need was the ability to identify a legal problem.<sup>62</sup> Other studies have noted the same issue for youth workers.<sup>63</sup> Legal aid

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<sup>60</sup> C Cunneen, *Conflict, Politics and Crime: Aboriginal Communities and the Police* (Sydney: Allen and Unwin, 2001), 310.

<sup>61</sup> M Willis, *Community Safety in Indigenous Communities: Service Providers' Perceptions* (Canberra: Australian Institute of Criminology, 2010), 10.

<sup>62</sup> J Deamer and M White, *Community Legal Education for Welfare Workers* (Sydney: NSW Council of Social Services, 1980).

<sup>63</sup> S Scott and C Sage, *Gateways to the Law: An Exploratory Study of How Non-profit Agencies Assist Clients with Legal Problems* (Sydney: Law and Justice Foundation of NSW, 2001). See also A Buck, N Balmer and P Pleasence, 'Social Exclusion and Civil Law: Experience of Civil Justice Problems Among Vulnerable Groups', *Journal of Social Policy and Administration* vol. 39, no.3 (2005), 302, 318-320 and see C Coumarelos, Z Wei and A Zhou, *Justice Made to Measure: New South Wales Legal Needs Survey in Disadvantaged Areas*, (Sydney: New South Wales Law and Justice Foundation, 2006), <http://www.lawfoundation.net.au/report/survey2006>; A Buck, T Tam, and C Fisher, *Putting Money Advice Where the Need is: Evaluating the Potential for Advice provision in the Different Outreach Locations* (London: Legal Services Research Centre, 2007), 1; A Buck and L Curran, 'Delivery of Advice to Marginalised and

services need to assist other workers through CLE in being able to identify what is a legal issue, otherwise clients most in need of legal aid assistance will not be able to receive it.<sup>64</sup> By way of background, the researcher spent two years whilst Director of the West Heidelberg Community Legal Service training health and allied health professionals, social workers, local council workers, youth workers and psychologists in how to identify a legal problem. Prior to this training, most participants thought a legal problem was either a criminal or family law problem. They did not identify the vast array of other problems their clients presented with as capable of a legal resolution. They had not, therefore, considered referring clients to a legal service, even though these problems were prevalent in most of their clients' lives. Until this training of non-legal workers occurred, clients were missing out on legal assistance, because workers could not identify the client's issues as legal. One particular issue was the treatment of people in public housing. Once this training was in place, West Heidelberg Community Legal Service's client demographic changed markedly with significantly more referrals of seriously vulnerable and disadvantaged clients, including people from CALD backgrounds. This intensive work skilled up the non-legal workers who were most likely to interact with disadvantaged people so that these workers would be better able identify legal issues and redirect clients with such problems to legal aid services. The training followed preliminary results of a research study (conducted in early 2008), which identified that while doctors were aware of client problems, they had not identified these problems as legal and they did not know that clients could be referred.<sup>65</sup>

Following consultation with the CEO of LAACT, a further meeting was held with the Knowledge Services team. At this meeting, the researcher identified what she saw as the limitations of LAACT's current CLE program and noted the desirability of adopting a broader approach to CLE which was more consistent with 'good practice models' and the CLE goals in LAACT's Strategic Plan and the NPA.<sup>66</sup> This would involve more collaboration with and targeting of CLE to disadvantaged groups; holistic approaches; and early intervention and prevention. The meeting identified the following as priority areas for the future:

- The need for the CLE program to focus more on education.
- A needs analysis of what issues with a legal dimension were pressing for vulnerable and disadvantaged community members.
- The development of a CLE plan in collaboration with and informed by the involvement of affected community members, drawing on the experience of legal staff in the different practice areas and with appropriate modes of delivery for different community groups.
- Improved targeting of the CLE program.<sup>67</sup>

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Vulnerable People: the Need for Innovative Approaches', *Public Space: The Journal of Law and Social Justice* vol. 3, art. 7 (2009), 1-29.

<sup>64</sup> A Buck, P Pleasence and N J Balmer, 'Education Implications from the English and Welsh Civil and Social Justice Survey', *Annexe to the PLEAS Taskforce Report* (London: PLEAS Taskforce, 2007).

<sup>65</sup> M Noone and K Digney, *'It's Hard to Open up to Strangers': Improving Access to Justice – The Key Features of an Integrated Legal Services Delivery Model* (Melbourne: Legal Services Board and La Trobe University, 2010).

<sup>66</sup> The National Association of Community Legal Service has a new web site which is useful for sharing CLE materials, see [http://www.nacalc.org.au/cb\\_pages/cle\\_made\\_easy.php](http://www.nacalc.org.au/cb_pages/cle_made_easy.php).

<sup>67</sup> For background on what has been accepted by the community legal sector as community legal education see National CLEWS Network, *Guidelines for the Management of Community Legal Education* (2009), [http://www.nacalc.org.au/cb\\_pages/files/13%20National%20CLE%20Guidelines%20\(Oct%202009\)\(2\).pdf](http://www.nacalc.org.au/cb_pages/files/13%20National%20CLE%20Guidelines%20(Oct%202009)(2).pdf).

The 'Guidelines for the Management of Community Legal Education', were also circulated to Knowledge Services staff.

### **Civil Practice Focus Group, 22 August 2011**

The objective identified by the Civil Practice section of LAACT was that their clients: were listened to; heard and understood advice; had the legal process clearly explained to them; discussed suggestions/options; and were better able to take ownership over what happened.

The focus group noted that a key difference between Legal Aid in-house lawyers and private law firms was that private law firms were selective about the work they took on, whereas Legal Aid will provide advice regardless of a person's capacity to pay or the difficulty and complexity of clients/matters.

They identified critical indicators of success as:

- The provision of options/choices.
- The lawyer is honest and direct with clients about their legal position.
- The client is treated as an equal .
- The client has a better idea about how to take steps themselves.
- The lawyer does not judge the client.

In discussing the definition and measurement of outcome, the Civil Practice focus group suggested that the process engaged in is critical as any positive outcome for a client would involve a positive process. Such a positive process would involve:

- The client being heard.
- The client being empowered.
- The client having an experience of the service that was a good one even if the experience of the whole legal system was not always a good one. This reflects the often complex and adversarial nature of the system, treatment by police and other players outside Legal Aid, complex forms and legal technicality clients can struggle with.
- The Legal Aid lawyer's involvement meant others were held to account.
- The lawyer asked the right questions, causing different options to be explored.

In discussing the definition of positive or good outcomes the focus group gave examples of matters before the Mental Health Tribunal. These matters might be considered good or positive outcomes in terms of the lawyer getting the issues explored (a lawyer's role) but might not be considered a good outcome to a client for reasons beyond the lawyer's control. Although the Tribunal might still hold that a client has a mental illness and the client might still be detained (something some would say was a poor outcome), such decisions do not necessarily reflect a failing of Legal Aid. Factors such as the client having a diagnosed medical condition, or having had a series of psychotic episodes where people were harmed, as well as the views of psychiatric experts, can lead to the loss of a case. The group noted that this is why the definition of an outcome must be clearly defined and within the remit of

LAAC. Measures of outcomes based on the loss or win of Tribunal cases are unrealistic, as the case result often relies on elements beyond LAAC's control.

Only matters within the control of Legal Aid lawyers should be measured and considered an outcome. An example might be that, the client's experience of the Tribunal was positively different because a lawyer was present, and:

- the lawyer was able to present the client's concerns or wishes;
- the client was given a voice and opportunity to present their point of view;
- the client had key questions they wanted answered raised by their advocate; and/or
- the client was able to detail the negative experience/side effects of their medication and a conversation with doctors about options ensued.

Some of the positive outcomes that occurred if these elements were present in a Tribunal hearing were:

- the client's medication or dose was varied to reduce side affects;
- the client received leave to have family contact;
- the client had a clearer understanding of why they had to stay in hospital; and
- the client better understood their diagnosis.

The focus group noted that because of the presence, advocacy and questions of the Legal Aid lawyer, issues were canvassed before the Tribunal and the perspective of the client was put forward.

Civil Practice staff identified the nature of their work as

- the provision of advice to clients about their position or the legal process and their rights within it; and
- seeking to resolve people's legal problems.

This can include other areas of law, such as minor criminal advice where there are no charges. Civil Practice staff stressed that they had to be across a wide range of legal issues because their clients often present with multiple and varied unresolved legal issues. They described themselves as 'generalist specialists'.

The main areas of law advised on in the Civil Practice include:

- Centrelink (the Australian Government agency providing income support);
- debt;
- tenancy;
- employment;
- family;
- motor accidents;
- mental illness (Tribunal matters);
- consumer issues;
- bankruptcy;
- victims of crime; and
- immigration.

The Civil Practice currently operates the Legal Aid Helpline, which delivers legal information over the phone to people who call. The Helpline is staffed by paralegals under the supervision of Civil Practice lawyers and is the first port of call for many clients. There is no means test for Helpline assistance. If legal advice is required for matters such as debt,

immigration, employment and victims of crime compensation, follow-up face-to-face interviews with Civil Practice lawyers are arranged. Callers requiring advice in criminal cases are referred to the Criminal Practice for an appointment. A review and potential restructure of the Civil Practice was underway at the time of this research project. This might lead to the organisational relocation of the Helpline in the future.

The Civil Practice focus group noted that they do not do a lot of ongoing casework. They stressed that instead they fill a service gap for people who do not have legal assistance grants and who are in need of minor legal assistance. For specific vulnerable groups, such as those with a mental illness (or alleged mental illness), the lawyers do run casework and representation before the Mental Health Tribunal.

Staff noted that the ability to work in collaboration with other agencies (that, because of their specialisation, are appropriate to work alongside or refer matters to) is key to the Civil Practice's approach. Examples include the Tenants Union and the Welfare Rights and Legal Centre. Staff noted that they sometimes did this sort of 'fusion' work with other agencies because a client might not be able to get a grant of legal aid but might still need support and assistance to resolve their legal issues. LAACT staff's relationships with other agencies was identified as 'critical' in their ability to help and direct people to necessary legal and non-legal support.

When a referral is required, the Civil Practice encourages 'warm referral' to identified relevant services. 'Warm referral' occurs when an LAACT practitioner contacts the other agency directly on behalf of the client to ensure that the client gains assistance and is guided to the service. Research reveals that if people are referred more than three times then they are likely to 'just give up'.<sup>68</sup> This is why recent literature recommends warm referrals. Often clients are referred to a service but then don't gain the assistance that was expected as they fall outside the service's intake policies or because they are turned away due to a long waiting list. For many decades, services have taken little responsibility for what happens after they make a referral and have not ascertained whether the client received the help that was expected. Traditionally, receptionists in community service agencies often saw their role as 'gatekeepers', weeding out the people who their service was not funded to support, rather than facilitating and guiding clients to services that could help. This placed many clients on a 'referral roundabout'.

One lawyer spoken to in the course of this research explained that he and a paralegal had telephoned a range of services to assist a client. After numerous calls, they realised they were being redirected back to services they had already contacted and which could not help. He said, 'it can be a great time waster when you try to make a "warm referral" but no-one else seems to want to help'. If professionals find it difficult to get their clients access to support services, it must be even more difficult for clients experiencing stress and disadvantage. Making warm referrals and building strong relationships were identified as important work of the Civil Practice. Staff interaction with the agencies that they can refer people to is critical if clients are to gain access to those services. With gaps in legal aid for many disadvantaged clients, for those who do not fit within the areas of tightly targeted

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<sup>68</sup> H Genn, *Paths to Justice: What Do People Think about Going to Law?* (Oxford: Hart Publishing, 1999).

legal aid grants and for those who may be poor but not pass the low threshold of the means test, such referrals are a key way in which this service gap is ameliorated. In the United Kingdom, there has been significant research undertaken with people with civil law problems, revealing that:

[O]verall, those who reported longstanding ill-health or disability, lone-parents, those living in the rented housing sector, those living in high density housing, those aged between 25 and 44 years of age, the unemployed and those on very low incomes were found most likely to experience problems<sup>69</sup> . . . [I]t appears therefore, that people who are vulnerable to 'social exclusion' are also particularly vulnerable to justiciable problems<sup>70</sup> . . . [C]ompounding this, vulnerability to justiciable problems is not static, but cumulative. Each time a person experiences a problem the likelihood of experiencing an additional problem increases.<sup>71</sup>

The work of the Civil Practice (and legal aid services in general) is not only to provide information and advice but also to be connected to other agencies. This connection is critical to early intervention and prevention as it helps clients navigate the complex system of services and avoid the escalation of their legal problems. Civil Practice staff indicated that many of their clients have high needs. Other agencies that offer social support can help 'build the pathway of support for the clients so that they can end up where they need to [be] in order for their problem/s to be resolved'. The issue for legal aid practitioners remains that successful outcomes for a client can depend on how well other services are prepared to engage with disadvantaged and vulnerable people and their legal and non-legal issues.

Accordingly, building such relationships and linking clients into legal and non-legal services appears to be a strong indicator of positive outcomes. Such relationships often occur informally – through agencies working together to build trust and through networking.<sup>72</sup> This aspect of community service work is often undervalued, but it can be integral to gaining support for a client in need. When promises are made to a client or to another agency's staff but are not able to be followed through, it can harm the ongoing nature of client/lawyer or inter-agency relationships. Given that such relationships and collaborations can be critical in assisting clients, the importance and value of staff time spent on such endeavours needs to be acknowledged as key in delivering quality service to clients.<sup>73</sup>

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<sup>69</sup> This is the demographic of the majority of legal aid service clients in Australia.

<sup>70</sup> A 'justiciable problem' is defined as a problem that is capable of having a legal solution. Genn conducted early research in the United Kingdom using the term. See H Genn, *Paths to Justice: What Do People Think about Going to Law?* (Oxford: Hart Publishing, 1999).

<sup>71</sup> P Pleasence, A Buck, N J Balmer, R O'Grady, H Genn and M Smith, 'An Integrated Approach to Social Justice' in *Causes of Action: Civil Law and Social Justice* (United Kingdom: Legal Services Commission, 2004), 105-7.

<sup>72</sup> M Noone and K Digney, *'It's Hard to Open up to Strangers': Improving Access to Justice – The Key Features of an Integrated Legal Services Delivery Model* (Melbourne: Legal Services Board and La Trobe University, 2010).

<sup>73</sup> M Noone and K Digney, *'It's Hard to Open up to Strangers': Improving Access to Justice – The Key Features of an Integrated Legal Services Delivery Model* (Melbourne: Legal Services Board and La Trobe University, 2010).

A significant part of the focus group discussion was about working with clients who have a mental illness (or illnesses). In the Civil Practice, staff spend four and a half days per week at the Psychiatric Unit, the Brian Hennessey Rehabilitation Centre and the Older Persons' Mental Health Service. Staff often resolve legal issues that are impacting upon clients in addition to their mental health issues (e.g. fines). Relationships with other professionals are also a key part of this work. Nurses, psychiatrists, hospital staff, court liaison officers, the tribunal liaison officer and the Public Advocate were all identified as key to properly advising the client, sorting out the client's issues and preventing an escalation of problems.

Civil Practice staff defined 'outcome' as:

LA ACT's interaction with the client contributes directly or indirectly to an intended positive experience.

They noted that in many cases they do not know what the final outcome for the client might be. This is because, after receiving telephone information or advice, clients do not always report back to LA ACT about what has happened.

In identifying positive outcomes, staff discussed victims of crime compensation. They discussed a case where the client had 'extreme difficulty' gaining access to adequate compensation for serious injury. One reason for this was that it is hard to get reports that reflect the actual impact of the crime. Psychologists and psychiatrists are often loath to document the full extent of the harm and likely ongoing impact of harm caused to the victim because such statements could affect the patient's psychological recovery and therapeutic treatment. In order to gain the appropriate award/compensation, however, a report needs to 'cover off' on the harm caused. In this particular case, LA ACT managed to secure an award for the client that was above the usual amount awarded. Staff felt the following elements contributed to this outcome:

- Commencing the case with an overall strategy including engagement with the client.
- Having a fallback plan.
- Speaking in plain, simple English and explaining the process in a way the client can understand.
- Keeping the client informed as to where things are up to.
- Extracting as much information from the client as possible under all headings for the claim. This was difficult for both lawyer and client: reliving the crime was traumatic, while gaining information on the impact of the crime would often be degrading and humiliating for the client and require empathy, explanation and skill from the lawyer.
- Conducting legal and social research into both the impact of the crime and the arguments for compensation.
- Advocacy. 'Given the "awful" nature of the crime, paralegals had to advocate on the client's behalf on her the social, health and other legal support she needed to get through the claim process. The crime affected the client deeply and made it hard for her to deal with life, let alone her legal right to her claim'.<sup>74</sup>

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<sup>74</sup> Comment by a Civil Law focus group participant.



- Negotiation. 'As the psychiatric/psychological report did not convey the full impact of the crime on the client, lawyers had to give examples and negotiate with officials to convey this'.<sup>75</sup>
- Interaction and co-operation with other sections of LAACT to get assistance for the client's other problems and to get advice on strategy.

A second successful outcome was identified in relation to a client who had a large debt for school fees of \$11,500. Proceedings had been issued and LAACT negotiated with the other side to (a) reduce the amount owed to \$5,000 and (b) 'drop' the proceedings. In this case, the success/outcome was attributed to the following elements:

- Clear and detailed instructions from the client as to her circumstances, financial position and factors affecting her ability to pay.
- Interaction/collaboration with other areas of LAACT.
- Discussions with a specialist legal centre (the Consumer Law Centre).
- Discussions with LAACT's domestic violence lawyer to further assist the client.
- Researching reasons the school might be prepared to waive part of the debt.
- The mounting of a careful strategy to secure a payment plan reflecting the client's limited capacity to pay.
- Joint advocacy by legal and non-legal support services and by different sections of expertise within LAACT.

Another case identified as having a positive outcome involved a client who was being considered for Electro Convulsive-Shock Therapy (ECT). In ensuring that various issues were raised/explored and to ensure the process followed was fair, LAACT staff interviewed the client and asked the necessary questions to gain consideration of all aspects/ramifications of the proposed route (i.e. the ECT). They indicated that 'but for LAACT's intervention', serious risk to the client's health could have resulted. Through questioning the client and some health professionals about other aspects of the client's health, the lawyer learned that the 89 year old had a pace-maker and had been considered for ECT without the anaesthetist being asked if the ECT procedure would be safe for the client. The lawyer highlighted the obligation at law that hospital staff had to take into account relevant health factors (unrelated to the client's mental health issues) that posed serious risk to the client's life.

LAACT staff thought the following factors led to this outcome:

- Familiarity with the law and the obligations of authorities under the law to the client.
- Detailed discussion with the client about the client's issues/concerns regarding the treatment.
- Exploration of other factors which might affect the client's long-term well being.
- Holistic approach that considered both legal and non-legal issues (e.g. the client's other health conditions).
- Asking lots of questions, refusing to accept being shrugged off by the authorities and pursuing answers with vigour until satisfied.
- Raising questions and results of enquiries with the authorities.

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<sup>75</sup> Comment by a Civil Practice focus group participant.

- Making a convincing argument that incorporated the client's instructions and the findings of the lawyer's investigations.
- Gathering the necessary evidence to support concerns and placing it before the authorities to ensure full consideration before decision-making.

The focus group noted that one significant outcome the Civil Practice could often obtain was enabling a client with communication difficulties to navigate the requirements to gain a grant of legal aid. One participant noted, 'many clients do not have the wherewithal to meet the requirements for a grant to be considered because of the very nature of their disadvantage and the factors which compound and make worse their exclusion'. Staff gave the example of the difficulty some clients have in securing three months of bank statements. Staff noted that they have to advocate internally on behalf of clients in such situations. A focus group participant stated that one former client noted that women in domestic violence situations often do not have access to financial information because all financial dealings have previously been in the control of their husband or partner.

The focus group identified another obstacle to clients seeking legal aid services: many clients thought they would have to pay for the service. It was often only after contacting Legal Aid that clients discover the information and advice services LAACT provides are free. This was identified as a likely deterrent to people seeking help. The focus group suggested that there is a need for targeted work with vulnerable and disadvantaged people explaining that Legal Aid is free.

Staff summed up the focus group discussion by identifying their refined objective:

To assist and provide access to clients (who often have no other options) to get the most appropriate assistance or empower people in how they deal with their legal problems.

Staff noted that the Civil Practice was not directly comparable to other sections of LAACT and that it was atypical of civil law sections in other Legal Aid Commissions. They expressed concern that measures of outcome and success sometimes compared 'apples with oranges', whereas they should understand and reflect the different nature of LAACT's Civil Practice service delivery.

Staff were asked if the Background Paper detailing aspects that clients might look for in a service was relevant to LAACT. The staff endorsed the items and said these could be included in client feedback surveys.

### **Client Services Focus Group, 22 August 2011**

Client Services has a very different function to the Legal Practice sections of LAACT. Its staff are not engaged in legal practice but in the management of grants functions and the Family Dispute Resolution Program. Client Services operates reception services, including telephone and office reception, and is a critical part of people's first contact with LAACT. Most staff in Client Services are connected in some way to the process of receiving, assessing or reviewing grants of legal aid, including communicating with in-house and

private lawyers concerning the parameters of the grant, extending the grant, reviewing the grant and paying invoices.

The focus group discussion revealed that Client Services staff are concerned that using client-centred outcome and success measurements could be problematic for their section. They noted their role was often to 'say no' to clients who failed to meet means test or the merits test for grants of legal aid. Clearly, clients will not be happy with such outcomes. Understandably, clients think their case is very important and deserving of a grant of aid, but they often do not understand LAACT's resource constraints or the broader contexts within which Legal Aid is required to make assessments for grants of aid. Clients must pass a means and a merits test to receive a grant of aid. They must also fall within the guidelines for legal aid that have been set by LAACT and which take government policies and funding priorities into account. The under-funding of legal aid services is well documented and has been the subject of many Parliamentary Inquiries and much literature.<sup>76</sup>

Recently, after amendments to its legislation, LAACT established a new panel system for private lawyers handling legal aid work. Panel members are required to adhere to LAACT's 'Practice Standards' and will eventually be subject to file audits. The new General Panel has only recently been set up and so time is needed for panel members to adjust to the new paradigm before standard/quality control compliance audits are undertaken. This project's research on outcome, success measurement and quality legal services involved a survey of both in-house and private lawyers on the General Panel (see later discussion).

In explaining their work, Client Services staff (apart from the reception staff whose role is mainly in staffing reception and directing correspondence), indicated that they were often not 'the bearer of good news'. They had little direct client contact because they handle and process grants applications and manage the grants. The focus group participants noted that what contact they did have with clients was often with clients who had been refused legal aid grants and wanted to know why, or who wanted to have an initial decision reviewed. Staff noted that reception staff often explain the process of making a legal application to clients. In addition, staff need to keep track of transfers of legal aid, any complaints about the lawyer (for example, a failure to turn up at court), track and reply to client and practitioner correspondence and take file notes.

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<sup>76</sup> Commonwealth of Australia, Senate Legal and Constitutional Affairs Committee, *Inquiry Into Access to Justice*, Chapter 8 (Canberra: AGPS, June, 2004). [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate\\_Committees?url=legcon\\_ctte/completed\\_inquiries/2002-04/legalaidjustice/index.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=legcon_ctte/completed_inquiries/2002-04/legalaidjustice/index.htm); Australian Law Reform Commission, *Review of the Federal Civil Justice System* (Discussion Paper 62) (1999), <http://www.alrc.gov.au/dp-62>; Australian Law Reform Commission, *Managing Justice: A Review of the Federal Civil Justice System* (Report No 89) (2000), <http://www.austlii.edu.au/au/other/alrc/publications/reports/89/>; B Gaze and R Hunter, 'Access to Justice for Discrimination Complainants: Courts and Legal Representation', *University of New South Wales Law Journal* vol. 32, no. 3 (2009), 699; M Kirby, 'Law and Justice in Australia: Room for Improvement', *Queensland University of Technology Law and Justice Journal* vol. 4, no. 2 (2004), 1; M Noone, 'The State of Australian Legal Aid', *Federal Law Review* vol. 37 (2001), 29; R Sackville, 'Access to Justice: Towards an Integrated Approach', *Judicial Review* vol. 10, no.2 (2001), 221; L Schetzer, 'Community Legal Centres: Resilience and Diversity in the Face of a Changing Policy Environment', *Alternative Law Journal* vol. 31 (2003), 159.

Client Services also assesses financial materials in support of applications, processes applications in order to gain an accurate picture of the client's situation/case, examines the merits of a case, keeps the statistics on matters including Family Dispute Resolution matters. Staff noted it was important for them to know about referral points for clients. If a legal aid grant is not to be forthcoming, they thought it was important to give the client some idea of where else they might go to get help.

Focus group participants noted that keeping client information confidential was important, especially given the in-house practice and potential for conflicts of interest. Client Services is located on a different floor to other sections of LAACT and has its own security entrance and separate files.

Staff noted that their role in assessing grants required them to apply policy frameworks that were about tightly targeting grants of aid within guidelines, current funding constraints and budget requirements. They observed that, as they had a role in both refusing and making grants, they could be seen more broadly as having the role of ensuring more access was available to more people. Although individuals seeking grants might not always be happy, staff noted that they applied the guidelines using Commonwealth and Territory Governments' stated priority areas and implementing LAACT Board decisions. Because of this, it could be argued that their work had a positive outcome in distributing aid more widely, even though this might not necessarily be a positive outcome for or by individual clients. Staff noted that these decisions can create tensions with private and in-house practitioners.

When discussing a definition for outcome, staff talked about the outcome being 'fair' rather than 'positive'. They conceded this was due to limited direct client involvement, their need to balance various priorities and to ensure and follow up on the supply of documents required in assessing the eligibility of applications for a grant of aid. Because Client Services has limited client contact, they felt that the phrase 'fair outcome' was better than 'positive outcome' for their specific work. They noted that they could understand why staff in other areas of LAACT preferred the 'positive outcome' terminology as those staff had more direct client service responsibility. Client Services staff said a positive outcome could be that 'a client received a service'.

Participants in the Client Services focus group stated that one issue to monitor in future will be how easily applicants understand the new Application for Legal Assistance form.

Client Services identified the need to manage both client expectations and the expectations of the private practitioners working on client matters. This particularly comes into focus where there are applications for extensions of legal aid grants in care and protection matters. Other issues that Client Services staff noted were that they had to balance keeping in mind the prospects of success in determining whether a grant would be made or extended and managing practitioner expectations of what they would be paid by LAACT.

Staff noted there was some skill involved in matching clients with appropriate practitioners. A level of care is often required from the practitioner to best support and sustain a client with complex problems and needs. Civil Practice staff noted that often they can ascertain

clients who are extremely vulnerable and that they can liaise with the Client Services to identify vulnerable clients. This process reflects the importance of interactions and information flow between various parts of LAACT to ensure client care and quality and appropriateness legal services are matched.

Staff discussed the Client Services Background Paper and agreed with the list of what clients look for in a service. Staff noted once again that their role is often to tell an applicant that assistance has been refused and this might colour their response. They added that other responses might include that the applicant was thankful and found the staff member friendly/approachable.

The paralegals who staff reception from time to time stated that their objective was to deliver or link a client in with other services, to ensure that clients are calmer or more relaxed and that they better understand their position on leaving Legal Aid. They noted that a change in client demeanour from stressed or angry to reassured and clearer on their position would be signs of a positive outcome.

### **Family Practice Focus Group, 23 August 2011**

Lawyers in the Family Practice state they have, on average, 50 files each. Because of the emotionally charged nature of family law and its difficult affidavit requirements, single client files can be quite time intensive. The domestic violence solicitor undertakes a duty lawyer list (which means they are at court processing people who come to court – often without representation) as well as giving advice and doing casework that comes through referral, reception and grants of aid.

Staff noted that success of Alternative Dispute Resolution (ADR) often depends on how adversarial the other party is. Although LAACT tries to resolve issues in this way when appropriate, whether ADR is wise or safe for a client can depend on the approach of the other party's solicitor or the self-represented litigant.

The Family Practice explained their objective as:

[T]o be the best family law practice providing the best possible representation and advice in the family law system.

This approach accords with the *Best Practice Guidelines for Lawyers doing Family Law Work* prepared by the Family Law Council and Family Law Section of the Law Council of Australia.<sup>77</sup>

Unlike criminal law, the focus of family law is on legislative and court directed requirements to protect children, repair relationships, minimise harm, maximise the safety of parties and make maximum use of mediation opportunities. Because of the factors involved in relationship breakdown, these requirements are that practitioners adopt approaches that

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<sup>77</sup> Family Law Council and the Law Council of Australia *Best Practice Guidelines for Lawyers doing Family Law Work*, Second Edition (Sydney: Family Law Council and the Law Council of Australia, 2010), <http://www.familylawsection.org.au/resource/BestPracticeGuidelinesv8FINAL.pdf>.

are quite different to the more adversarial approaches of criminal proceedings. This highlights the points made above about the different objectives and complex legislative and policy settings of each area of practice.

In discussing how to measure outcome, staff argued it could be gauged by their reputation amongst other practitioners in the family law area and in the courts. Based on this input, the initial research design of the project was altered to include interviews with stakeholders.

Participants noted that outcome it is not about a court result, but the things that happen along the way as they work with the client. They identified the following as necessary to being an excellent lawyer:

- A sophisticated understanding of the law and its application.
- Sensitivity to client needs and how to handle them.
- Awareness of 'other'. This is a respectful ability to understand where the client is coming from and to be mindful of the client's experience – which can be different from the experience of the practitioner.
- An understanding of child development practice and need.
- Ability to manage the client's expectations by explaining the law, the process and the role of the lawyer. Being able to calm a client down when they are anxious or distraught and defuse situations that could escalate without intervention. This is often the work of the paralegal staff so the lawyers can concentrate on the legal work. Paralegal staff stated that they spend time: reassuring clients; reinforcing advice given by lawyers; suggesting that clients think about the ramifications of their actions (to try to ensure the safety of individuals); and trying to ensure that clients are better able to deal with the stress of court proceedings and the relationship dynamics that can escalate under pressure or when the other party misleads/manipulates the client. Lawyers stated that paralegals' background work is critical in family law cases. It ensures that clients are on track in often prolonged and emotionally charged situations involving children or violence.
- Ability to read and comprehend expert reports.
- Ability to interact and build relationships with services required for client support such as psychologists, social workers and counsellors.
- Ongoing relevant professional development to keep up-to-date.
- Life experience and common sense.
- Integrity.

The Family Law Pathways Network is useful for sharing knowledge and experience with other professionals. The Network is auspiced by LAACT and was included as a stakeholder for the Trial.

Family law practitioners indicated that while money is a key motivator in private law firms, working for Legal Aid gave them more space for consideration of the client. Although LAACT staff strive to facilitate access to justice, they also noted that efficiency is key to ensuring that LAACT's finite resources can be used to help as many clients as possible. Discussing their complex cases and diverse client needs, Legal Aid staff thought they were in a better position than for-profit practitioners to be able to refer clients to other supports, offer varied legal options that might assist a client and provide a more holistic client care model

of service delivery. LAACT staff noted that they had a locational advantage (i.e. were close to support services or had established relationships with support services that the private firms had not). Closeness to support agencies and an ability and willingness to shepherd vulnerable clients through the legal aid grant application stage were identified as critical differences between in-house and private practitioners. Staff noted that these could lead to improved client outcomes. They observed that in some private firms, clients might get a full service but in others they might not. By 'not getting a full service' the staff meant that private practitioners might take a narrower approach that did not fully take into account, or seek to discover, the client's circumstances or concerns.

The staff discussed how, by virtue of being educated in the law, they felt that their privileged position made it incumbent on them to assist others to know the law, namely clients and the community. As lawyers, they felt that it is professionally incumbent on them to share their knowledge and facilitate access to and understanding of the law.

The focus group noted that family law cases can often involve violence, incest, fear of reprisal, intimidation, isolation and disempowerment or child molestation, neglect and/or abuse. There was considerable discussion around the critical role of empathy in good practice: it was considered essential when dealing with people experiencing a breakdown in relationship or 'breakdown of love'. Staff noted that the practice of family law often meant applying a 'scalpel style solution' to matters involving a relationship. This often caused frustration, anger and disappointment in clients and other parties, leading to the highly charged emotions that make family law a difficult area of practice. Staff referred to the pivotal role of supervised paralegals in defusing situations that could easily escalate without the paralegals acting as a sounding board, reiterating advice or discussing strategies with clients. LAACT's Family Practice aims to not let a client leave an interaction with a staff member feeling any worse than they did when they first contacted Legal Aid.

The Family Practice is structured so that lawyers have the support of paralegals. This is often an efficient way of dealing with highly-charged and emotional family law matters because client anxiety can be addressed earlier. As one staff member explained, this can lead to:

early intervention and prevention where the client could so easily go off track, harm their case or escalate their legal problem and prejudice their case. The stakes are high, a parent can so easily lose their children not because they are a bad parent but because they panic and do something unwise because they are being taunted. When this happens we can intervene reassure and re-affirm the lawyer's advice.

All staff identified a strong commitment to social justice in their approach to their work. They had chosen to work for Legal Aid because of this commitment, knowing that they could be better remunerated elsewhere. Staff also noted that sometimes the content of their cases went well beyond what would be considered tolerable (e.g. cases involving violence or molestation) and that it was critical that good practitioners did not become de-sensitised – every client deserved their situation to be respected. Staff noted that their frames of reference for what is intolerable behaviour are broader because of what they hear and see. They noted that in order to cope and survive, but also to treat each case fairly, it was critical to strike the 'balance between having a thick skin and being tough in dealing with situations but not to be de-sensitised'.

Staff identified debriefing time as critical to their wellbeing. This is because of the complex and emotional aspects of the work and the need to remain sensitive (rather than becoming desensitised), responsive, caring and able to empathise with clients. Debriefing also helped ensure against staff burnout, enabled more experienced practitioners to mentor junior practitioners and paralegals and let staff discuss approaches and ideas for working on cases. The focus group identified this mentoring and team debrief as critical to achieving the objective of their section. They identified the following results of mentoring and team debrief:

- Validation from other practitioners of advice given to clients.
- Explanation of options by more than one senior lawyer.
- Receiving help when they just do not know what to do.
- Learning from each other.
- Tapping into other team members' professional development.
- Developing better strategies.

Staff noted that outcomes of team debriefs for clients included more considered advice and a broader range of options being explored:

The clients end up getting a better service. Staff support each other and provide feedback as to strategies to best handle the client's anxiety and their legal and non-legal situation.

Staff identified debriefing as intrinsic to the mental health of paralegals and lawyers working in such a charged area. They noted that lawyers do not come to practice as empty vessels and that many client issues can trigger past experiences. A collegiate environment was essential to helping practitioners stay professional and provide a truly independent application of the law to their clients' situations. If practitioners are unwell, this can impede the quality of legal service provided to disadvantaged and vulnerable people. If lawyers are burnt out, they can become jaded, irrational, and de-sensitised and this is not in the best interests of clients or client service.

Staff identified that they often have an overwhelming sense of responsibility to clients and felt they had to demonstrate to lawyers outside Legal Aid that clients who are disadvantaged get a high quality of service from LAACT.

The focus group asked that this research capture the unintended positive outcomes of Legal Aid's intervention. This included agreements that not only assisted the client but achieved aims like the ongoing contact of children with their grandparents – particularly in cultures where this is critical.

Staff also noted that Legal Aid was not always on its own in achieving an outcome. Sometimes it was a team effort involving other partner agencies.

Cases within the family law context are different to those in the criminal law context. The focus group discussed one of these differences using the following example. In criminal law, a criminal lawyer can go to court when another staff member is unwell or on leave and 'essentially' request an adjournment. It would be unlikely that a case would proceed in such circumstances where it is only a mention or contest mention. The lawyer would not need to know the case backwards or take the magistrate through case law to get an adjournment. In



most criminal procedures, it is sufficient to merely have the key salient details on the file through a handover note. In family law, however, a practitioner will have more difficulty stepping in to run a case before a court in the event of a colleague's illness or leave. In the family law courts, magistrates are often resistant to adjournments and a judge can insist that a matter be explored in more detail rather than merely granting the request for an adjournment. An expected simple court process can then often change into a more complex one requiring a detailed knowledge of the client, the file and the history of a matter. If the fill-in lawyer is not conversant in the case, this can lead to an immediate outcome that is detrimental to the client. This happened in one LAACT case, when an order was made that a child not be returned to a parent. The fill-in lawyer was not fully conversant in the client's case and did not have time to prepare or to call in other LAACT lawyers who were conversant in the case. This outcome had a long lasting effect on the father (LAACT's client) and, in most likelihood, the child. If the case had been more fully understood and convincingly explained, the outcome would have been different. One focus group participant said:

In family law, often the nuance of a case or the party dynamics and what you know about how a client will behave cannot be conveyed on paper and yet can be critical in being conveyed to a court in order to get the right result which, where children are concerned, could be about where they get placed.

In discussing a definition of outcome and success, the staff identified a number of cases with positive/good outcomes. One case involved the team successfully getting a greater amount of money than would normally be available to the client as a victim of crime. When asked what sorts of activities and factors the team thought led to the outcome, they identified the following:

- A client interview where the client was made to feel comfortable telling a difficult and distressing story and where the key facts and issues of the case were extracted by the lawyer.
- Complete familiarity with the 'ins and outs' of the file. This meant that a convincing argument could be made/developed by the paralegal and lawyer.
- Enough time to prepare the materials, undertake legal research and think about the most effective argument/s.
- Staff knowledge of material not captured on paper – for example, issues around stress of the client and nuances in how to get the best out of a client to make a compelling case.
- Knowing how to deal with a difficult client. This needs patience, directness, firmness and management of the client's expectations.
- Client understanding of the lawyer's role and the limitations of this role.
- Practitioner consistency. Clients' cases are often very important to them (e.g. exposure to violence, contact with children) and clients can get derailed by a lack of consistency of practitioner (i.e. having one practitioner rather than a regular change in personnel). Trust and confidence in their lawyer is key.
- The lawyer's honesty. The fundamental role of the lawyer is to be honest about the client's position in law. Sometimes clients do not like what the lawyer tells them. This may lead to dissatisfaction and the client might attempt to shop around (even within Legal Aid) for the advice they want to hear. In this particular case, the lawyer felt that their honesty and directness about the client's position at law made the

client know what to expect. This may not always be the case, but the lawyer must use their knowledge and skill to give proper advice.

- Awareness of client sensitivities. This includes matching the right lawyer with the client case. Some female clients from CALD backgrounds want a female lawyer. Similarly, some male clients may want a male lawyer in certain situations.
- A relationship with the client that enables them to ask questions and to trust Legal Aid with the information the lawyer needs.

The Family Dispute Resolution (FDR) Manager participated in this focus group. There was some discussion of FDR and family law within the group and a later discussion with the researcher to provide more detail about matters specific to the FDR program not discussed in the group. The FDR Manager indicated that her role is to give clients information about the legal process, the nature of FDR and their options and to assess for FDR appropriateness (e.g. existence of violence or significant power imbalance). In addition, because the other party is often unrepresented, the FDR Manager also needs to provide legal information about the process to the unrepresented party and, if possible, refer them. The FDR Manager has to then arrange the FDR conference and liaise with both private and in-house practitioners. Some self-represented or unrepresented clients can be angry when they make first make contact because they are surprised to receive the letter inviting them to FDR.

The FDR Manager indicated that she also does some community legal education (CLE) and work to build links with other agencies. The Family Practice noted that their effectiveness and work was often connected to the work of other professional disciplines such as psychologists, youth workers, teachers and social workers and that building and maintaining relationships and collaborations was essential.

An example of a successful outcome was some CLE undertaken by the FDR Manager and the Indigenous Liaison Officer (ILO) at a school, engaging with pregnant teenagers. One Aboriginal teenager was asked if she had experienced domestic violence or family law. She responded that she had not. In further discussion, the girl indicated that she was regularly beaten by her boyfriend and that her mother and her mother's partner were in dispute and that her mother was also regularly beaten. This demonstrates that many disadvantaged people are not able to identify a need as legal and require assistance and guidance by professionals about how they might get help. As a result of this CLE and outreach work, the teenage girl was given information about her right not to be harmed or be in fear. LAACT staff helped identify a range of support services that she could be linked into. The girl was not able to visit the nearest Aboriginal service as her mother was already seeking help there and the girl wanted her own issues and privacy to be protected. After a number of follow-ups with the teenager, LAACT staff were able to find a number of services, including Legal Aid, where the girl felt comfortable discussing issues ranging from her exposure to violence, to her poor self-image and her finances. Elements identified as key in this outcome were:

- Ability to build rapport.
- An understanding that not all people know how to identify their issues as legal. There is a need to have an informal chat to enable people to open up and ask questions in plain English rather than presenting legal jargon – then the legal professional can use their skill to identify the social and legal issues.
- The ability to explain things clearly, at a level appropriate to the target group.

- Cultural sensitivity.
- Understanding client context.
- Responsiveness to individual need and circumstances.
- Extensive knowledge of networks and giving appropriate 'warm referrals'.
- Relationships, where a matter for an individual may be pressing/urgent need to be dealt with speedily, even though others may be on waiting lists. This is particularly relevant when the client is vulnerable and may be at risk of not receiving the service if follow up is not immediate.
- Identifying a person's variety of legal and non-legal issues. On further investigation, the girl was due for a court appearance and had financial and debt issues as well as the domestic violence issues initially identified.
- Knowledge of multiple and diverse services that can assist vulnerable people in a range of legal, social, cultural and economic difficulties.

In discussion around approaches to gaining client feedback on LAACT, the Family Practice focus group expressed concern about 'client satisfaction surveys' and noted their strong preference for 'client feedback' instead. They were concerned that clients might hold Legal Aid to account for outcomes well beyond Legal Aid's control. These might include the loss of a court case where the evidence was not compelling; a client being advised of the position at law and not accepting it, or clients who want validation of their own view and will not accept anything less. All of these involved aspects over which LAACT had no control but which may decrease a client's 'satisfaction' with LAACT. The family lawyers' reservations are supported by international research on outcomes/success measurement that warns against measures which are not achievable or within the service agencies control. This concern was also raised by staff in the Criminal Practice Focus Group.

The Family Practice Focus Group indicated that it would like to see more CLE that takes a lead from community as to what they would like to have more training and information about, focusing on their legal rights and responsibilities around safety, violence and children. This could help disadvantaged people better understand the legal processes in which they are or might be involved – an empowering and practical result. The group discussed the possibility of altering CLE from a presentation style to a conversational approach or workshop models.

### **Partnership Focus Group and Interview with Stakeholders, 7 October 2011**

This focus group was conducted with staff at Australian National University (ANU) who work as supervising solicitors of students of ANU in the Youth Law Centre and Legal Aid Clinic. It included Margie Rowe (Legal Aid Clinic), Tony Foley (Youth Law) and Peter Sutherland (Legal Aid Clinic). The focus group worked through the issues in the Background Paper and answered the five interview questions that comprised the stakeholder interview. This section details the interview questions and the responses.

- *What are the key aspects of the partnership/interactions of ANU with LAACT that you value? Why?*

ANU staff are not staff of LAACT but are able to hold a practising certificate in the name of LAACT. The practising certificate enables ANU staff to supervise law students and practise the law, thereby becoming involved in relationships with Legal Aid staff and clients. These staff members also participate in professional development opportunities. The relationship between LAACT and ANU is valuable because it enables staff at ANU to meet social justice objectives in delivering legal aid services to those who have legal need. To some extent, the university can claim credit for being involved in direct services to community members. The partnership also enables staff to keep their legal skill up-to-date. This assists them to teach students and make the study of law relevant. ANU staff also noted that there were reciprocal benefits for LAACT. LAACT could call on ANU staff with substantial expertise in areas of law relevant to the vast range of legal issues that LAACT clients can have. For example, one staff member has expertise in social security law and another has expertise in property law.

LAACT provides a site for ANU law students to experience the law in operation. This involves the Legal Aid Clinic and Youth Law Centre where ANU students work alongside their lecturers and LAACT staff to deliver legal aid services to clients. The Legal Aid Clinic is for people who attend legal aid for advice sessions and the Youth Law Centre is a service targeting young people. This means ANU students are exposed to issues of social justice and the real world experience of clients. This is invaluable as it means that students expand their knowledge of the local community, legal practice and 'poverty law'. Students learn about the complexity of legal problems and how these problems are exacerbated by poverty.<sup>78</sup> The placements at LAACT assist in raising students' awareness of these issues and expose students to avenues of practice other than the private profession. Again, there is a reciprocal benefit to LAACT as this exposure might encourage students to see Legal Aid work as a possible career. This is demonstrated by the number of ANU students who join the staff of LAACT.

- *Students of ANU's College of Law and Legal Workshop are involved in Youth Law and the Legal Aid Clinic. What specifically do you see as the educational benefits to students from their involvement in these practical programs?*

The experiential learning offered by the Youth Law Centre and the Legal Aid Clinic enables students to deepen their understanding of the law in practice rather than theory and to see how the theory and practice interact. The exposure students have can affect their lives directly and in some instances can be transformative as they see how the community struggles to navigate their legal rights. One of the competencies students must gain in the Practical Legal Training courses for example the one offered at ANU, the Legal Workshop offered to graduates of law is an awareness of the value of pro bono work. Involvement with LAACT enables students to participate in such pro bono practice or to see its value.

The Focus Group noted the programs operate differently and offer different benefits to students. At Youth Law, the aim is to enable students to see the law in operation. Students participate in a semi-structured experience that is not simulated or university-taught. They

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<sup>78</sup> L Curran, 'Human Rights in Australia: Their Relevance to the Vulnerable and Marginalised', *Alternative Law Journal* vol. 33, no. 2 (2008), 70-4.

see real clients with real problems and their experience is 'not predictable'. Students are exposed to social justice issues in the lives of real people. Secondary to this is some opportunity for students to develop legal skills, the capacity to research real client issues (which are not as discrete or organised as in a university setting), undertake administrative tasks, conduct interviews (under supervision) and do some drafting of correspondence and documents. Students have more ongoing involvement with cases at Youth Law than they do in the Legal Aid Clinic, so they can work more intensively on client matters, develop organisational skills and deepen their understanding and awareness of file management and follow-up. All of this brings students' understanding of the law, its operation in practice, the processes of law and how these impact on young people into focus. Students who do not have experiential learning often become bored, disengaged with or cynical about their studies. The opportunity to work at Youth Law gives them the impetus they need for their studies and re-connects them to the application of the law in the real world.

The Legal Aid Clinic differs from Youth Law because the cases are limited to minor assistance and rarely involve much follow-up work. Students at the LAC therefore have fewer opportunities to gain legal skills in practice. Students of ANU's Legal Workshop attend the LAC once a week for eight weeks and are allotted a different duty each week. For example, they might spend a day interviewing or they might accompany the Legal Aid lawyers to the tribunals and courts to observe proceedings. 'Students say they are often' nervous when they start a day of interviews at the LAC. However, as one day can involve up to seven interviews, students build their confidence as they gain practice throughout the day. ANU staff in the LAC stated although the student involvement was not as long as in Youth Law some of this re-energising of students could be seen in the LAC.

ANU staff observed that the opportunities for experiential learning through the partnership with LAACT also meant that students who do not always shine in academic work realise that they might still make very good practitioners by applying the law in a practical way. This opportunity can help students identify their ability to be good lawyers or learn that the practice of law might not suit them and that they might prefer to use their law degree in other ways.

The results of an evaluation of ANU students' experience of the clinical program at LAACT in 2011 can be found in Appendix J.

- *Are there benefits to the clients of LAACT as a result of the involvement of students in these programs?*

The involvement of ANU students in the experiential opportunities offered to them by LAACT enables LAACT to see more clients and to undertake more follow-up and research work on behalf of clients. That is, ANU students expand the capacity of LAACT.

The focus group noted that students involved in the Legal Aid Clinic can provide detailed notes and instructions that can be utilised by lawyers if the matter is taken further. In addition, it was suggested that where some information is provided to the student or lawyer from the point where the booking of clients is made, this gives both the lawyer and the students the opportunity to do some legal research before the client appointment. This can

enhance the advice given. Having students on hand to undertake quick research on these files is advantageous to both client and lawyer: it can enable more comprehensive advice to be given to the client and it can reduce the lawyer's work load. Student participation at the Legal Aid Clinic also enhances the clinic's capacity to follow-up as the students can make follow-up phone calls to various authorities (e.g. the Ombudsman, police and court). It was noted that students could have a capacity to do more of this research and follow-up work.

The ANU staff who help supervise students at the LAC on site often have substantial practice experience and specialisations. Legal Aid practitioners can call on or discuss strategy with ANU staff. This is likely to enhance the preparation of a client case/advice. The focus group noted that the expertise of ANU academics could be further utilised by Legal Aid in other areas.

The other benefit to clients (and this is particularly the case with Youth Law) is that young people who seek legal advice value being catered for by other young people. Staff also noted that most students have 'enthusiasm in spades' and will persist and 'drill down' in areas that Legal Aid staff may not have time to. This includes continually reminding young clients about their appointments and getting them to bring in documentation.

- *Are there any areas where you think that LAACT could enhance the educational opportunity for students? If so, what areas and how?*

Students sometimes get the sense that they are a nuisance or a burden in the Legal Aid Clinic. Lawyers are often very busy. Some lawyers enjoy having the students work alongside them, while others are less enthusiastic. The focus group noted that there has been a noticeable improvement in student-lawyer interactions this year, though they would like this to be more consistent. They suggested that if student interaction/supervision was seen as part of the lawyers' job and as core to LAACT's clinical legal education function, the lawyers might better engage in teaching students about legal aid practice. This would be one way of developing good future lawyers for Legal Aid practice and improving students' understanding of the real life difficulties of clients from low-socio economic backgrounds. Examples of what lawyers might do include: showing the students client files before going to court; having short debriefs or introductory chats with students about what is happening in cases and why; and sharing their own observations and seeking the students' responses. As an experienced Clinical Legal Education Supervising Solicitor, the researcher suggests that such interactions benefit the practitioner as well as the student: they can help energise the practitioner and the practitioner gains the benefit of a different perspective on the case. This can also be useful for the client.

The view of the focus group/stakeholder interview participants for ANU was that Youth Law could be reaching many more young people in the ACT. Students, who are often young themselves, have indicated that there are more opportunities that can target Youth Law at young people – opportunities for youth engagement could be followed through by management including, but going beyond, signage. This includes making the offices more youth friendly and having an online presence (students identified Youth Law in Victoria as having a youth friendly format). The focus group suggested creating a young persons' advisory group for Youth Law. They noted that the Law Students' Society representatives'

attendance at the Youth Law Steering Committee is sporadic. However, the focus group also noted that Youth Law's outreach is done well and that it engages students well.

- *Are there any areas where you think the LAACT could enhance its service delivery to clients? If so, what areas and how?*

Focus group participants considered it desirable to continue discussions between LAACT and ANU about how the Legal Aid Clinic might evolve so that clients can benefit more from student involvement (e.g. clients leaving the LAC with more information). More student involvement in advice matters (e.g. clarifying the client's legal position and giving the client a more realistic assessment of their position, such as the likelihood of them receiving a grant of legal aid) gives LAACT the capacity to use staff resources and time more effectively and would help ensure that clients get early advice of their prospects.

As noted above, ANU students also have many ideas about how to pitch the service to young people in need of assistance. These ideas could be explored and followed up and, as appropriate, endorsed by management and implemented. In addition, there is the possibility for more student involvement in advocacy opportunities in a participatory role students moving away from minor assistance to opportunities to intervene on a client's behalf in matters that are not capable of gaining a grant but can find resolution with some additional advocacy.

Although there have been improvements in the Legal Aid Clinic in gaining access to legal aid reception, it was noted there were sometimes delays. This can be frustrating for clients with urgent matters (e.g. seeking an urgent grant of aid). Many poor clients have pre-paid mobile phones and being placed on hold can be expensive, frustrating and off-putting. Perhaps there could be an administration access line for the ANU supervisors to be able to contact Legal Aid directly without having to go through a central switch board. This can be critical where ANU supervisors are handling urgent matters. There may be an administration line but the ANU staff were not aware of it.

ANU staff also discussed the definition of 'outcome'. They noted that, because ANU/student involvement with LAACT clients was in 'minor assistance' (often the provision of information or advice), outcome would mainly be measured by the conduct of the client interview. They identified the following key elements of a good client interview:

- Establishing rapport with a client.
- Gaining an understanding of the facts from the client.
- Understanding the problem after checking the facts and issues with the clients.
- Identifying key legal and non-legal issues.
- Applying the law to the circumstances of the case.
- If necessary, undertaking research to clarify key uncertainties.
- Exploring the options and pros and cons with the client.
- Explaining the legal process and the place or context of the client within it.
- Identifying legal and non-legal referral pathways.
- The client feels listened to.
- The client is treated with respect.

- The client has a better sense of what to do, how the law operates and the law's applicability to their circumstances than when they walked into LAACT.
- The client response suggests they have understood the advice, for example by suggesting what they might do before the closure of the interview.

ANU staff also identified 'warm referrals' as an important outcome. Warm referrals can help clients avoid the waiting list 'nightmare' that many face (as discussed in the Civil Practice focus group, above). Elements identified as key to such an outcome included:

- An up-to-date awareness of other services and what they do.
- A willingness to phone other services and, with the client's consent, explain the client's circumstances and why the other service should see/support the client.

The group noted once again that students are ideally placed to do such follow-up work.

The focus group gave examples of good outcomes from the Legal Aid Clinic and Youth Law. First was the example of a woman who had a marriage breakdown. She was distraught, confused and frustrated. She did not know if she had any legal rights or what those rights were. She was referred to Legal Aid Clinic where the calming advice of the ANU student and supervisor (who has expertise in family law), helped her feel more confident and able to attend a negotiation. The woman received advice about Child Support through Centrelink, was given details of the Women's Legal Service and given tactical advice on how to deal with her partner. The client reported to a colleague of the focus group participant that the service had been of great assistance. Elements identified as critical to this outcome were:

- The client was made to feel safe and comfortable.
- The role of the lawyer and what the client could expect from the interview was clarified and lawyer-client confidentiality was explained.
- The client trusted the lawyer.
- The client imparted highly personal information and relevant facts so the lawyer was able to give relevant and accurate advice.
- The student was able to do background research for the client.
- Clear information was provided by LAACT in an understandable form.
- The lawyer explained the pathways available to the client.
- Consequences of certain actions were explained.
- The client's rights in the system were explained.
- The client interview included information about the costs of a lawyer and how legal aid applications are assessed.

The second example, this one from the Youth Law clinical program, revolved around a young man who was involved in a car accident and had caused property damage. He did not have insurance. The supervising solicitor from ANU was assisted by the law student, who did some legal research into the client's situation. The lawyer was able to negotiate with the insurer to obtain an instalment arrangement that was considerably less than the initial claim. The debt collectors stopped chasing the client, the client was extremely relieved and the service was able to close the file. Elements that created the outcome include:

- Gathering the client facts from his story at interview.
- Legal research.
- Awareness of the client's legal position.
- Obtaining clear details about the client's current and future financial position.



- Preparing a coherent and tight argument to put to the other side.
- Presenting a compelling argument to the insurer based on client instructions.

## Conclusions from Focus Groups

The focus group discussions reveal that LAACT is a complex service. It delivers services to clients in a variety of ways depending on the nature of the practice area (e.g. Civil Practice, Family Practice, Criminal Practice). This variety is not fully appreciated by the general public, nor in some cases by those who seek to measure legal aid services for accountability reasons. This research demonstrates that investigating the nature of the legal aid service in all its complexity and diversity is a critical first step in accurately and efficiently measuring service impact, results or outcomes. The focus groups revealed that the intent, rationale and policy settings behind each part of LAACT's service are different and that outcomes vary from section to section. The nature of LAACT's work is difficult, technical and complex. The nature of the services provided must be fully appreciated before defining and measuring outcome: this is essential for the outcome to be realistic and for the measurement to be reasonably linked to the outcome sought. This no doubt also applies to other providers of human services that are asked to measure outcomes and quality.

One concern raised in all of the focus groups was that discussions of Legal Aid often forget that Legal Aid staff deal with 'real people', not just laws and paperwork. The work and intervention of legal aid services can have a long lasting effect on the lives of clients and it is this, rather than externally imposed accountability measures, that kept staff conscious of their significant responsibility to be professional and excel in their work.

The ANU focus group/interview with stakeholders noted that, when seeking client feedback on their experience of the LAACT service, there is a need to be cautious in the design of the survey/interview questions. They warned of the dangers in any approach involving taking feedback from clients which does not fully reflect the function/duties of a lawyer. This is consistent with the views of participants in the Criminal Practice, Family Practice and the Civil Practice focus groups. The ANU focus group/interview with stakeholders noted that clients do not always like the advice they are given. They might be sure that they are 'right', the other side is 'wrong' and that the law ought to work in a different way. Some clients might think the role of the lawyer is to be a 'mouth piece' for the client, so they will not be happy with fearless advice.<sup>79</sup> Group participants noted that the role of a lawyer is to give a client accurate and honest advice on their position at law. This may not always meet the client's expectations. Fundamentally, lawyers are 'officers of the court'. They are given licence to practice at the discretion of the court and as such have duties to the court not to mislead it or misrepresent the law. They also have duties that relate to the integrity of the legal system. This is a higher duty than the duty to the client.<sup>80</sup> Many of these duties are also

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<sup>79</sup> This is contrary to the Law Council of Australia, *Australian Solicitors' Conduct Rules* (Law Council of Australia, June, 2011), [http://www.lawcouncil.asn.au/programs/national\\_profession/conduct-rules.cfm](http://www.lawcouncil.asn.au/programs/national_profession/conduct-rules.cfm), Rules 1-11, 30; see also the *Legal Profession Act 2006 ACT*, <http://www.legislation.act.gov.au/a/2006-25/default.asp>.

<sup>80</sup> Ibid.

reflected in the Practice Standards of LAACT, the new Australian Solicitors' Conduct Rules and the ACT *Legal Profession (Solicitors) Rules 2007*, and in the *Legal Aid Act 1977*.

The Family Practice focus group raised similar concerns. These practitioners have to comply with the *Best Practice Guidelines for Lawyers doing Family Law Work*.<sup>81</sup> A client might view their children (or even their partner) as belonging to them and state adamantly that they have a right to them. The lawyer must explain that, under the Family Law Act, the court is primarily concerned with the 'paramount interests of the child'. The lawyer will then advise the client of their legal position vis-a-vis the children, the partner and the history of the relationship. In such scenarios the client is often angry and unhappy with the advice they have been given. It is not uncommon for such clients to shop around for legal advice that suits them and, when no lawyer will give them that advice, they decide to self represent.<sup>82</sup> In these cases the client will not be 'satisfied' with the legal service even though the lawyer has done exactly what a good lawyer should do.

The Criminal Practice focus group also stated that, no matter how brilliant the lawyer, if a client loses the case they will often be dissatisfied with their legal representation (though it was also noted that in some such cases the client is still grateful to the lawyer for their help). Such clients will not necessarily be swayed by the fact that they committed the offence, that the evidence against them is overwhelming and the lawyer put the best argument possible. This highlights why using a case outcome can distort client feedback against a service that may have in fact done everything that was required (and sometimes more).

Staff from the ANU, Criminal Practice and Family Practice correctly identified some of the dangers of using client feedback as a measure if the feedback form is not designed to take these problems into account. This researcher therefore chose the questions for client feedback carefully and decided against using phraseology such as 'client satisfaction survey' or questions that asked if a client was satisfied. This research also follows international research around what clients expect from a service rather than using feedback forms that suggest that 'outcome' means winning or losing a case. The client feedback used in this research focused on the quality of the process and good practice of the process as the outcome.

The Civil Practice and ANU focus groups noted that in many cases (e.g. phone advice or minor assistance) the client will not provide feedback as the contact can be fleeting or the issue unresolved at the point in time. This is also the case regarding community members involved in community legal education. This does not mean that such feedback will not be forthcoming when clients are given opportunities to provide it. The researcher notes that mechanisms to gather some of this feedback can be put in place by LAACT. These include two simple questions put to a client after every phone advice session and a request that client report back to LAACT how they go after the advice to the practitioner or student supervisor. This feedback could be noted in a central client feedback file for each section of

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<sup>81</sup> Family Law Council and the Family Law Section of the Law Council of Australia, *Best Practice Guidelines for Lawyers doing Family Law Work* (Second Edition) (Canberra: Family Law Council and the Law Council of Australia, 2010), <http://www.familylawsection.org.au/resource/BestPracticeGuidelinesv8FINAL.pdf>.

<sup>82</sup> A Lamb and J Littrich, *Lawyers in Australia* (Second Edition) (New South Wales: Federation Press, 2011), 155.

LAACT. Formal CLE evaluations/feedback (given that many clients might not be able to read and write, these should be written and oral) can also ask how clients believe the information has helped them. Such questions to clients are not currently included in the CLE evaluation forms.

Staff noted that sometimes clients have little idea of the role and function of a lawyer, so the lawyer and/or paralegal has to adjust client expectations of the role. This is attributed to the many American lawyer television shows that present the role of lawyers as ‘guns for hire’ – these programs do not show the actual function of lawyers in Australia and their primary duty as ‘officers of the court’.<sup>83</sup> For this reason, many focus group participants said that using the phrase ‘client satisfaction’ when measuring client feedback could be problematic. Their role is to advise the client of their legal position based on the law. Sometimes clients are not satisfied with this advice and this can create problems – although the lawyer is fulfilling their role as independent adviser, the client might not be ‘satisfied’. Concern about using ‘client satisfaction’ terminology when seeking client feedback was also raised in the initial Staff Conversation discussed earlier in this Report.

The focus groups noted that measuring ‘successful outcomes’ can be inherently dangerous if care is not taken to understand the nature of the work that needs to be done and the policy, regulatory and professional paradigms in operation. Focus groups raised issues such as matters beyond the legal aid service’s ability to control and ensuring that definitions and measurements are realistic and linked. The comments of the staff of LAACT reflected the warnings of much of the international literature discussed earlier about the dangers of results-based measurement.

Reassuringly, despite the complexity and diversity of practice, the focus groups produced common themes around what constitutes an ‘outcome’ and the elements needed for an outcome. This assisted with designing a methodology that will not be too onerous for staff and that can be simply applied. The researcher hopes it also reflects the diversity and complexity of LAACT’s work.

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<sup>83</sup> Law Council of Australia, *Australian Solicitors’ Conduct Rules* (Law Council of Australia, June, 2011), [http://www.lawcouncil.asn.au/programs/national\\_profession/conduct-rules.cfm](http://www.lawcouncil.asn.au/programs/national_profession/conduct-rules.cfm), Rule 3, 12-20.



## Client Feedback

The aim of this research tool was to test the findings of international research on what clients consider important in legal aid service delivery (rather than in relation to other human services). The conclusions from this international research were discussed by a researcher with a former LAACT client whose responses to this research were noted. The researcher obtained written consent from the former client to discuss client expectations of LAACT service. The condition of this consent was that the former client was not identified. The former client was interviewed on 7 October 2011. The interview was to check that the findings of international research (summarised in the Background Paper) about what clients considered important in a service resonated with a former client before the research proceeded to the trial 'snapshot' in November 2011.

Some of the research reveals that the 'qualities about which service users are particularly concerned'<sup>84</sup> can include:

- choice;
- flexibility;
- information;
- being like other people;
- respect and being heard;
- fairness and no discrimination;
- cost and value; and
- safety.

Other suggestions include:

- responsiveness;
- empathy;
- involvement;
- accessibility;
- listening carefully;
- keeping me up-to-date;
- discreet atmosphere;
- explaining things clearly and in a way I understood so I knew what to do/what was going on/going to happen;

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<sup>84</sup> Commission for Social Care Inspection, *Real Voices, Real Choices: The Qualities People Expect from Care Services* (Newcastle, UK: The Commission for Social Care Inspection, 2006). See also M Kilian, 'To Pay or Not to Pay? That is the Question: The Impact of Individuals on the Perception of the Legal System', Solden Institute for Law Practice, University of Cologne, Paper to the International Legal Aid Conference, Cambridge (2010), [http://www.ilagnet.org/conf\\_2009/papers/To%20pay%20or%20not%20to%20pay%20-%20is%20that%20the%20question%20\(MK\).pdf](http://www.ilagnet.org/conf_2009/papers/To%20pay%20or%20not%20to%20pay%20-%20is%20that%20the%20question%20(MK).pdf).

- helpfulness of staff; and
- provided with relevant information in a timely way.<sup>85</sup>

The former client indicated that when she contacted LAACT – initially for phone advice and later after face-to face advice – she wanted reassurance that what she thought was ‘bad behaviour and unlawful’ was in fact so. The advice from the lawyer that it was ‘bad behaviour and unlawful’ and not appropriate and that the client has legal rights. After receiving the initial advice, her feelings were validated and she felt more empowered as the law was clearly explained to her. She stated that the vital things she ‘expected’ of the Helpline were that:

- They listened respectfully to her telling her story.
- That their tone of voice did not betray condescension or imply that she was stupid (this can be a problem even if the words themselves are OK).
- They did not interrupt prematurely.
- They provided validation and explanation.

The former client admitted that if she had been told that the law did not agree with her beliefs about what constituted ‘bad behaviour and unlawful’ she might have been unhappy with that advice, because she was seeking validation. She noted that such a situation could be difficult for lawyers whose job it is to give legal advice based on the law and that, if clients allowed their desire to be validated/vindicated to impact on their feedback, this might tarnish the results of such feedback (as discussed in Conclusions from Focus Groups, above).

The client stated that, during her interview with the lawyer:

- The lawyer told the client what she needed to do and why.
- The lawyer realised the client was overwhelmed and that she didn’t think she could do what was required.
- The lawyer offered support and assistance writing the necessary letter.
- The lawyer offered further tactical advice.
- The lawyer clearly explained all the options and ‘pros and cons’ to the client.

The former client said that she was amazed that the lawyer was prepared to provide legal help and that this service was free. In view of her limited funds, she had been worried about legal costs of seeking advice.

The former client raised concerns about how long LAACT took to return calls and the absence of a clear indication on LAACT’s voice mail about the fact that there may be a delay in getting back to clients. She said an explanatory message would help as waiting for a call when stressed can be agitating.

She also noted that getting three months of bank financial statements to qualify for Legal Aid was not easy for some people and that clients who are disadvantaged may not have access to such financial statements without having to pay for them. This should be taken into account as some people can be this destitute. As the former client noted:

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<sup>85</sup> Last three items suggested by the researcher.

Sometimes, the simplest things can seem like enormous barriers when your life is in crisis – this needs to be understood by Legal Aid.

The researcher took the former client through each of the lists of considerations in the Background Paper. The former client agreed that the considerations were all consistent with what she would want from a legal aid service as a client. She added that 'flexibility' should mean the ability to adapt to the different needs and experiences of the different clients. She noted that 'cost and value' is relevant to LAACT because there is a perception in the broader community that you get a lesser service from Legal Aid lawyers because it is free. She said that people think that people work for Legal Aid because they can't succeed elsewhere (e.g. in private practice) and so some clients might expect to be treated poorly. She said that this was not her experience of LAACT. She said that LAACT should 'showcase' the talent of their lawyers.





## PHASE TWO

### Design of Project Trial

The focus group discussions about the different divisions of Legal Aid and partnership organisations, the strategic plan and goals of LAACT and the criteria identified in the NPA have been taken into account in the design of the trial instruments and have guided all aspects of their development.

As indicated above, some of the elements identified in the NPA as ‘outcomes’ are problematic: they are vague and not necessarily likely to lead to the desired ‘outcome’. It has been difficult to reconcile the NPA’s reporting requirements with the nature of LAACT’s varied practice and the real life experience of the service. It is hoped, therefore, that the design of this project might assist the Commonwealth Government better defining, refining and improving its outcome benchmarking and its required results-based reporting. The researcher reiterates that measuring outcome is not an easy task and that many researchers have grappled with it for over a decade, both nationally and internationally. This underlines how difficult the task set by civil servants for services to measure results-based outcomes will be.

LAACT and the researcher hope that this research will help guide the Commonwealth Attorney General’s Office and other funders in developing their accountability reporting requirements for human services/legal aid agencies. Such requirements should be based more closely on the nature and scope of an organisation’s services/service delivery rather than on broader social factors that are outside the control of the service agency. Doing the former sets these agencies up to fail. The measures need to reflect how things can be done, the quality of what is done and the actual impact of what is done – not just the number of activities completed (which, in many cases, is already being reported elsewhere). This is necessary to make the measures realistic, measurable and relevant to what the service actually does, as well as to make sure that accountability reporting does not divert attention/resources from the provision of services.

This project was designed using the following resources, research, reports and consultation processes:

- Results of the focus group discussions.
- LAACT’s strategic plan and goals.
- The criteria identified in the NPA.

- Warnings and suggestions from international and domestic research.

The Productivity Commission's 'Measurement Framework'<sup>86</sup> was considered, but this also struggles to give concrete suggestions regarding how to conduct such research. Some of its key suggestions are vague and offer no guidance on how an outcome based measurement would occur. Some examples include:

- Exerting influence. (The meaning of this and how it could be measured is not included.)
- Connecting community and expanding networks. (But how does expanding a network demonstrate actually having an impact on community/community members?)
- Enhancing community endowment in skills and knowledge assets. (Again, the Commission offers no guidance on how to measure this.)

The research design takes on board the suggestion of measuring engagements that facilitate the connection of community members and networks.<sup>87</sup> The design is also consistent with the Productivity Commission's suggestion that evaluating/measuring performance should include interviews with stakeholders. This research, however, is not about measuring performance of staff; it is about measuring the outcomes and quality of service as framed by LAACT's strategic plan.

A Report undertaken by ARTD Consultants for the National Association of Community Legal Centres was also examined.<sup>88</sup> This research employs an approach consistent with the ARTD suggestion to use illustrative case studies of outcomes/impact/results. Many of the case studies in this Report have come from the research trial and from the focus groups that informed the research design.

The researcher decided not to adopt ARTD's suggested approach to 'client satisfaction' data in view of the concerns raised by focus group participants (discussed above). The concerns raised by ARTD about the clunky nature of the Community Legal Centres Information System (CLSIS) data collected by Community Legal Centres and its limited use in measuring outcome or work processes highlight the points made by Ebrahim and Rangan<sup>89</sup> about the need to gather data that is meaningful and has purpose otherwise it becomes a time and resource intensive but useless exercise. Ebrahim and Rangan also warn that any attempt to measure outcomes must be aligned with an agency's strategy and mission and the systems and measurements that support such alignment. They warn that problems with causal logistics and strategy (discussed earlier in this report) make socially driven organisations

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<sup>86</sup> Productivity Commission, 'A Measurement Framework' in *Contribution of the Not-for-Profit Sector* (Canberra: Productivity Commission, 2010), <http://www.pc.gov.au/projects/study/not-for-profit/report>.

<sup>87</sup> Ibid, 41.

<sup>88</sup> ARTD Consultants, *Developing a Performance Monitoring Framework for Community Legal Centres: Final Report* (NSW: National Association of Community Legal Centres, 2008). The researcher, when Director of the West Heidelberg Community Legal Services, participated in one of the pilots for the online performance monitoring that was being trialled by ARTD in 2010. It is noted that, on examining the ARTD website, there is no explanation of what 'ARTD' stands for, hence the acronym is used here.

<sup>89</sup> A Ebrahim and V K Rangan, 'The Limits of Non Profit Impact: A Contingency Framework for Measuring Social Performance' (Harvard Business School Working Paper, 2010), 1- 35.

fundamentally different to profit driven organisations.<sup>90</sup> It might be easier to measure results of savings and profits, whereas social outcomes can be difficult to gauge, especially given limited resources and the limited ability to measure outcomes. Outcomes for socially driven organisations often only occur over a period of time much longer than the timeframe with which most accountability measures are concerned.

LAACCT has collected sophisticated (and therefore more valuable) quantitative data about clients and cases, which has been of great assistance in this research. Even so, more information on client demographics would be useful in understanding clients. For example, there are a large number of clients listed as having 'no income' who do not receive Centrelink payments. There is little to explain this phenomenon, but it might be critical to understanding the nature of LAACCT clients and their difficult financial circumstances.

The researcher is also wary of 'Performance Monitoring Matrix' suggested in the ARTD Report. The researcher is concerned about the need for the measures to be:

- relevant;
- useful and measurable;
- achievable;
- practical to measure; and
- within the service's or practitioner's control to influence.

Some of the ARTD's suggested indicators of success and performance indicators for measurement are beyond the scope of what a legal service can realistically be expected to achieve. For example they state that the percentage of matters by impact level (matter complexity) in family law and family law violence is one measure. The meaning of this is unclear. Here, what 'impact' is, why complexity matters or whether the measure of it reveals much information is not explained or the link made. How this will be measured or evaluated also remains vague. Accordingly, the researcher is cautious about adopting many of these indicators in the context of this research. Some items in the 'matrix' are useful but others lack precision: the service being measured or the researcher conducting the measurement would need to assist staff who were to be measured as to their performance (who are likely to also be the keepers of the data) in working out what they mean. It is not clear how to record the matters described as performance indicators. This ambiguity lacks the attributes of clear, relevant, measurable and attributable information. Trying to record this information could create onerous reporting requirements and the data collected could be meaningless.

As noted earlier in the report, Paul Bullen warns that, where it is not possible to prove cause and effect relationships, outcome measures should not be used to judge performance.<sup>91</sup> Rather, outcome measures should be used to help ask good questions. Such measurement should not just focus on the outcomes to be achieved, but should set up and have processes in place both to identify the elements for the outcome to be achieved and to document unintended outcomes.

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<sup>90</sup> Ibid., 35.

<sup>91</sup> Paul Bullen, *Management Alternatives for Human Services*, <http://www.mapl.com.au/evaluation/eval4.htm>, accessed 12 August 2011.

The World Bank Handbook<sup>92</sup> stipulates that in terms of data quality and timeliness there should be a sense of timeliness, frequency and currency. In line with their suggestion, the research conducted a 'snapshot' which went for two weeks. The aim is to replicate this two-week snapshot every six months. This will mean that the research will be frequent but will also avoid imposing a significant additional burden on staff. To aid in this, the snapshot data collection should rotate from practice to practice (or division to division) every six months. Because the key focus should be the delivery of quality services to the community, there would be sufficient opportunity to compare data every two years for each division given this would be the approximate time to rotate back to the initial division and examine progress and consistency of quality.

The World Bank also suggests that if there is some ambiguity about how the data will be collected and what the data will look like, it is best to pilot several strategies.<sup>93</sup> Accordingly, this project takes a triangulated approach involving interviews, surveys of lawyers and clients and a personal log kept by staff.

Key questions for measuring results based outcomes are:

- Are the right things being done?
- Are the things being done right? (This question examines effectiveness in achieving the expected outcomes, efficiency in optimising resources and client satisfaction.)
- Are there better ways to do these things? (This question looks at alternatives, best practices and lessons learned.)

These questions have been used to guide the reflections and observations in the staff's personal log. The staff selected to compile the log were those staff not required to participate in the interviews or other data collection. This was done to spread the work load of the contribution to research evenly across staff. This log was kept over five days in the two week snapshot period.<sup>94</sup>

In impact or outcome evaluations, endeavours should be made to determine what portion of the impact was caused by the intervention and what might be attributed to other events or unrelated conditions. This may not always be easy to determine or distinguish. The longer the time between the intervention and the attempt to measure attribution, the more likely it is that other factors will intervene in either positive or negative ways to change the intended outcome. This is one reason the focus groups cautioned against using results of court/tribunal cases or percentages of client recidivism as outcomes. The World Bank suggests the better question might be, 'What would have happened if the intervention had not taken place?' Accordingly, this question was used in this research during the initial conversation with staff, the focus groups and the trial (in the interviews and survey questions). The World Bank notes that while answering the question is difficult, strategies

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<sup>92</sup> J Z Kusek and R C Rist, *A Handbook for Development Practitioners: Ten Steps to a Results Based Monitoring and Evaluation System*, (Washington, DC: The International Bank for Reconstruction and Development/The World Bank, 2004).

<sup>93</sup> J Z Kusek and R C Rist, *A Handbook for Development Practitioners: Ten Steps to a Results Based Monitoring and Evaluation System*, (Washington, DC: The International Bank for Reconstruction and Development/The World Bank, 2004), 112.

<sup>94</sup> *Ibid.*, 117

that use both experiential and experimental designs are worth undertaking.<sup>95</sup> They state that, where possible, it is best to plan for the impact evaluations before the intervention even begins. Unfortunately, in this case, the NPA has been set in place and, at the time of writing, a review of legal assistance service was being mooted. However, this is not insurmountable as LAECT can use the trial for this research to inform the proposed measurement of the NPA's implementation. The elements that are identified in this research as indicators of an outcome are a basis for concluding that if they are present, a good or positive outcome has occurred due to the intervention of the service. Such indicators are often referred to as a 'surrogate indicators' – that is, if the elements are present, one can assume the desired and previously explicitly defined outcome (e.g. 'a good client interview occurred') is also present.

Characteristics of a quality evaluation have been identified in the research as: impartiality, usefulness, stakeholder involvement, technical adequacy, feedback, dissemination and value for money. The World Bank warns that if stakeholders such as staff are to trust the data collected then they must take ownership of the findings and agree to incorporate what has been learned into ongoing and new policies, programs and projects. The World Bank notes that creating a mere façade of involvement is a sure way to generate hostility. Sharing information, discussing the issues a service confronts and otherwise involving the stakeholders is critical in gaining stakeholder acceptance of and participation in the measurements, as well as in ensuring the long-term sustainability of those measurements. The participatory action research process utilised by this research is consistent with these recommendations. Other tips from the research can be summarised as follows:

- Data should be presented in a short and crisp manner and be relevant to the target audience.
- Only important data or information requests should be presented.
- The data might have to be packaged and formatted differently according to the interests, preferences and capacity of each audience.<sup>96</sup>
- Personnel briefings should be conducted, especially to staff and management, to keep them updated.
- Follow-up and feedback. For example, if specific tools are necessary to improvement, then there should be mechanisms to ensure the tools have been put in place.
- Comparisons of data over time are critical. Data for a specific quarter or year is not useful in itself. Its usefulness comes from the collection, collation and comparison of data over time.
- Always report against the baseline and intermediate measurements to determine if progress has been sustained, if there was a short spurt of improvement or if early improvements have disappeared.

Results of any findings should be used to:

- respond to demands for accountability from elected officials and the general public;

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<sup>95</sup> Ibid., 125.

<sup>96</sup> See United Nations Development Program, *Capacity Assessment Methodology User's Guide* (New York: Bureau for Development Policy, Capacity Development Group, 2008).

- help formulate and justify budgetary requests;
- help make operational resource allocation decisions;
- trigger in-depth examinations of the problems that exist and what corrections are needed to get back on track (rather than abandoning a project, for example);
- help provide more efficient and effective services;
- support strategic and long term planning efforts; and
- communicate better with the public to build trust.

The World Bank notes that the following elements need to be present for an organisation to have a 'mature, functioning results based monitoring and evaluation system' (or M&E system):

- a prepared workforce;
- a secure workforce; and
- quality workplaces.

The World Bank discusses 'tunnel vision' as an obstacle to good M&E systems. They state that data results should shed light on areas previously unknown and not fully understood. In the researcher's view, this element can often frighten governments. However, an ability to face up to and shed light on areas previously unknown is essential if improvements are to be made and real outcomes achieved.<sup>97</sup>

## Quantitative and Qualitative Data

Good policy is not only informed by quantitative data, but much of the data collected by agencies for their funders traditionally relies on quantitative data because it is easier to measure and gather. Its limitation is that it tells us little about how results are achieved and the journeys necessary for such results to occur. In contrast, qualitative data allows research to delve more deeply into the reasons behind the statistics. It enables a deeper understanding of the processes undergone and impediments experienced, as well as what works well, when and why. It provides rich information about how results are achieved and how aims can founder. This research has therefore made extensive efforts to understand the nature, complexity and diversity of the service through the use of focus groups. The findings of these focus groups have informed the design of the trial.

Outcome measurement must be prepared to gather rich data that explains the reasons underlying some of the quantitative findings and funders must be responsive to innovations suggested by services working in and with community. For this reason, the World Bank, UN Development Agency and many social service agencies are trying to discover more about the layers and complexities of human service delivery (including in the humanitarian and social service fields) to help explain and understand better why certain statistics exist. They are also helping to highlight how the statistics gathered can sometimes distort the actual stories or ignore how complex and challenging service delivery to disadvantaged people and communities can be. To ensure good policy responses, a fuller understanding is needed than

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<sup>97</sup> J Z Kusek and R C Rist, *A Handbook for Development Practitioners: Ten Steps to a Results Based Monitoring and Evaluation System*, (Washington, DC: The International Bank for Reconstruction and Development/The World Bank, 2004), 125-45.

statistics on their own can provide. Often statistics fail to reveal the initiatives and practices that are likely to lead to better outcomes. The Commonwealth Government, the community, Legal Aid Commissions and other service providers have indicated that, in order to measure outcomes, they want answers to questions about what works well and why. This is evidenced by the National Partnership Agreement. Critical in how to attain better and improved outcomes is this new preparedness to drill down and understand the nature of the services and the contexts in which they are provided. That is why this research project focuses mainly on qualitative data – although some quantitative data has also been gathered.

The World Bank Handbook notes that the following processes in outcome based measurement can be undertaken:

- Hold regular ‘how are we going?’ sessions with staff soon after each outcome report is made available.
- Use the outcome data to identify successful/best practices within the agency.
- Use outcome data to identify common problems and, if possible, solutions.
- Use outcome information to identify staff training needs or technical assistance required.<sup>98</sup>

The current research has achieved this through the focus group questions about what outcomes clients receive, how they are related to quality, how the new expectations of the National Partnership Agreement can be achieved, what practices lead to/hinder the outcome and what can be adapted/avoided next time to ensure better service.

The World Bank states that good M&E systems can minimise the institutional memory loss that occurs due to staff turnover. However, these systems must be adequately resourced to ensure they are well maintained, produce data over time and are not constantly changed (as this reduces the compatibility and comparability of data sets over time). Continuous feedback is also a key requirement.

In summary, the research undertaken for LAACT has tried to incorporate in its design the lessons and advice of many international researchers. In its ‘participatory action research approach’, it has included and involved staff in the research and research design. It has also endeavoured to approach data seeking in way that unpacks the complexity and diversity of the client groups and the legislative and policy settings that impact upon service style and delivery. In this way, the approach hopes to ensure good and strong policy making in the legal services area by better articulating and explaining the realities of client and service experience and the challenges that exist as services try to reach positive outcomes, ensure quality in service delivery and measure these outcomes and delivery.

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<sup>98</sup> J Z Kusek and R C Rist, *A Handbook for Development Practitioners: Ten Steps to a Results Based Monitoring and Evaluation System*, (Washington, DC: The International Bank for Reconstruction and Development/The World Bank, 2004), 125-45.

## Defining ‘Successful Outcome’ in a Legal Aid Context

Following the focus group discussions and the literature review, this Report defines ‘successful outcomes’ and critical elements of quality legal service provision as follows.

Outcome	Qualities demonstrated by outcome
1. A good client interview.	Holistic, Joined-up, Quality, Problem Identification, Empowerment, Good Practice, Early Intervention, Prevention, Responsiveness, Client Centred, Alternative Dispute Resolution (ADR), Targeting, Expertise.
2. Clients with chaotic lifestyles attend interviews, appointments and court dates.	Early Intervention, Prevention, Empowerment, Client Centred, Holistic, Targeting.
3. As appropriate, sentences are minimised or unsubstantiated charges are dropped.	Rule of Law, Efficiency, Good Practice, Expertise.
4. Clients are better able to plan and organise their legal affairs.	Early Intervention, Prevention, Empowerment, Quality, Good Practice, Client Centred.
5. Improvement in the client’s interaction with the legal system.	Early Intervention, Prevention, Empowerment, Client Centred.
6. Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client’s story before the court.	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.
7. Client is better able to understand their legal position and the options open to them.	Early Intervention, Prevention, Empowerment, Good Practice, Quality.
8. A process is undergone where the client is listened to, respected and given fearless advice of their legal position.	Quality, Client Centred.
9. Relationships and trust building with other legal and non-legal support agencies enabling client referral and support.	Early Intervention, Prevention, Holistic, Joined-up, Good Practice, Quality.
10. Holding of authority to account.	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness.
11. A holistic service delivered to the client through collaboration, networking, community legal education and joined-up services.	Good Practice, Client Centred, Problem Identification, Collaboration, Prevention, Early Intervention, Holistic, Joined-up.



## Two-Week ‘Snapshot’ Trial: Findings of the Research

The trial ‘snapshot’ ran from Wednesday 9 November to Wednesday 23 November 2011. It was designed to test the research instruments (surveys/questionnaires and interviews), to provide LAACT with some ready data to measure the quality of service delivery and to report on it based on the trial. Following this trial, the ‘snapshot’ approach was to be tweaked using information from the initial run. It will then be rolled out as a two-week snapshot to be undertaken every six months, rotating between different sections of LAACT – Family Practice, Criminal Practice, Civil Practice, Knowledge Services and Client Services. Over time, the baseline data will be used to compare the level of quality service and build on data of a qualitative and quantitative nature to inform community and governments of the critical role of legal aid services. Legal Aid Commissions including LAACT already collect significant quantitative data. While also collecting some quantitative data, this project aimed to collect more qualitative data in order to deepen knowledge of the stories behind the numbers and to better explain the type, quality and impact of LAACT’s work. It aimed to do this in such a way as to not be an ongoing burden. The snapshot approach was deemed most suitable for these reasons.

As both Family Practice and Criminal Practice staff expressed willingness to be involved in the trial, both areas were included. Initially the trial research was going to examine and focus on one practice area only. This willingness of two practice sections to participate highlighted the benefits of a collaborative research approach as a way of engaging staff participation, a critical element in any study where staff need to be involved in measurement over time.

The questions and the observation log can be found in the Appendices. The questions asked of participants in the research instrument tools were directly linked to the indicators they are intended to demonstrate. If the indicators are present, they reveal that the positive/successful outcomes identified are attained. A Helpline Survey for the telephone information service of LAACT was also developed (see Appendix H). This was not trialled because Helpline is part of the Civil Practice and the Civil Practice was not a part of the Trial. The Helpline survey will be rolled out in future snapshots that incorporate the Civil Practice.

The two week ‘snapshot’ included the following research:

- Eight Lawyer and eight client interviews after the same legal interview.<sup>99</sup>

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<sup>99</sup> These client interviews were with a mix of clients who were having a first interview, some who had a re-hearing of a matter they had initially seen LAACT about (and where there was a grant of aid) and some clients who attended the criminal law duty lawyer service on one day. As the snap shot was only of a two week duration a blend of the types of clients seeking advice through different types of legal aid advice services were included.

- An observation log by seven staff (who were not involved in other parts of the snapshot research) involving five entries over the two week period.
- A voluntary client feedback survey distributed to all clients receiving advice from lawyers .
- Client phone survey conducted on closing a client file.
- Interview with stakeholders.
- Survey of all Legal Aid lawyers with a grant of aid – private and in-house.
- Feedback session with LAACT staff and Board, including tweaking of instruments informed by the trial.

These are detailed below, along with a summary and analysis of each element of the research.

## **Client and Lawyer Interviews**

These interviews were conducted after the legal interview in which advice was given to the client by their lawyer. They included interviews with clients receiving first advice, clients with ongoing matters and a grant of aid and some duty lawyer matters (i.e. clients who did not have a grant of aid but came to LAACT's scheduled drop-in duty lawyer service for an initial advice session). The eight client interviews can be read in full in Appendix B. The eight lawyer interviews can be read in full in Appendix C. Client interviews were conducted prior to clients leaving LAACT and with their written, informed consent. Interviews were 10-30 minutes long. Information was de-identified in line with client legal privilege and accepted ethical conduct of such research.

A 'good interview' was identified as a critical outcome to be measured in this research. The focus groups highlighted the critical importance of a good interview in establishing a relationship with the client and eliciting accurate information from the client about their case. These factors can determine the accuracy and quality of the advice the lawyer gives the client and they often influence the overall running of a case. If the interview process is poor, the whole case can flounder.

Richard Moorhead and Margaret Robinson<sup>100</sup> have observed that 'advisers' own skill and expertise served as the strongest indicator of how clients would be dealt with'. Their research demonstrates a disparity between what the lawyer identified as the client's issue and what the client identified as the reason they were seeking legal advice. In Moorhead and Robinson's research, interviews were conducted with lawyers and clients after their initial consultations. Follow-up interviews were conducted six months later. Often, even after six months, the lawyer had still not identified the issue for which the client was seeking assistance. The study remarked on lawyers' poor listening skills, their lack of fact checking and their lack of understanding regarding client needs. These aspects were tested in the statements put to participating clients in this snapshot research.

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<sup>100</sup> R Moorhead, M Robinson and Matrix Research and Consultancy, *A Trouble Shared: Legal Problems Clusters in Solicitors' and Advice Agencies* (London: Department of Constitutional Affairs, 2006). The researcher had the opportunity to discuss Richard Moorhead's research with him in Cardiff in 2007.

During this research trial, interviews with clients occurred after they left the lawyer's office following their advice session with their lawyer. Noone and Digney<sup>101</sup> warn that advance notice might make clients think that the provision of the legal service was conditional on their participation in the research. This gives rise to ethical concerns for both LAACT and this research, as participation would thus not be considered completely voluntary. In order to deal with this, lawyers in the snapshot trial asked clients at the end of their advice session if they minded spending an additional 10 or so minutes answering some questions from a researcher who was looking into Legal Aid's service provision. Due to Client Lawyer Privilege, the researcher could not observe the client-lawyer consultations, so separate interviews with the lawyer and their client occurred. If the client agreed to take part, the lawyer escorted them to a private office where the researcher was waiting. The researcher explained the nature and purpose of the research and provided the client with a Information and Consent Form. Clients, when being read the Information and Consent Form by the researcher, were told that all their information would be de-identified. If they wished to contribute to the research, the client was asked to sign the Consent Form (this was stored in a separate file to the interview notes in order to protect client privacy). This process was designed to make sure the client knew they had the choice to not participate and that their participation or non-participation would not impact on the service they received from LAACT). In Noone and Digney's research, the client often had another appointment to go to and the response rate was compromised because of this. After being read the Information and Consent Form, clients in this research were not scared off in the way that Noone and Digney's research warns.

It is critical that participants in any research are aware of the nature of the research and how it might be used in the future. All client participants were read and signed a Information and Consent Form. One client had to leave an interview with the researcher after she took an urgent call. She did not return for the conclusion of her interview. The researcher was later notified that a close family member of the client's had passed away. As the client did not re-contact the researcher during the snapshot period it was assumed her consent had been withdrawn. Accordingly, the interview that had been conducted (in part) was not utilised in the research.

It was also critical to ensure that lawyers knew they could use their discretion. In some cases where a client was distressed, it was not appropriate for them to be interviewed for this research. In these cases, the lawyer did not ask if the client wanted to answer the researcher's questions.

## **Summary and Analysis of Results**

Comparing the client and lawyer interviews in this research to the interviews conducted in Moorhead and Robinson's research shows that the LAACT lawyers are much more in tune

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<sup>101</sup> M Noone and K Digney, *'It's Hard to Open up to Strangers': Improving Access to Justice – The Key Features of an Integrated Legal Services Delivery Model* (Melbourne: Legal Services Board and La Trobe University, 2010).

with the client's problem, what the client wanted and what they required.<sup>102</sup> This is encouraging in terms of service quality and good practice. The results also revealed that the lawyers interviewed all had a strong appreciation of the need to address clients holistically, explore legal and non-legal issues and make referrals. The results show that LAACT lawyers use approaches that are responsive to clients, adaptive, flexible and client centred. This demonstrates that even though the NPA requirements are recent, the actual practice and the approaches embrace the NPA framework/'outcomes' already.

Importantly, all clients seemed pleased with their lawyers and felt that they had been heard and given good advice (in some cases noting that, while they did not want to hear the advice, the lawyer was right to tell them). The clients seemed to appreciate the lawyers' efforts. Although the lawyers were concerned that clients might blame the lawyers for the failings of the legal system, the clients seemed to understand their lawyers were trying to help them and that some matters were beyond the lawyers' control. On interviewing the lawyers, they realised that due to a concern about letting their clients down they often worked extra hard to explain their role, thus making an adjustment to a client's expectations. The lawyers expressed surprise that the clients understood the lawyer's role and its limitations.

### ***Client Interviews (after Interview with Lawyer)***

The sample includes eight clients interviewed immediately after their client/lawyer interview. These interviews revealed the complexity of LAACT clients' legal issues, as well as other legal and non-legal issues affecting or compounding clients' legal problems.

#### **Did you have any other problems at the moment? What are they?**

- a. Health (50%)
- b. Fines (37.5%)
- c. Employment (37.5%)
- d. Immigration (0%)
- e. Family and relationship (50%)
- f. Domestic violence (37.5%)
- g. Housing (25%)
- h. Discrimination (0%)
- i. Mental health (25%)
- j. Income difficulties (75%)
- k. Debt/credit (50%)

A later question revealed a lack of knowledge of some clients about the nature of a legal issue and this clearly impedes their ability to get assistance:

#### **If you had another problem would you seek legal help earlier?**

- Yes (100%)
- No (0%)

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<sup>102</sup> R Moorhead, M Robinson and Matrix Research and Consultancy, *A Trouble Shared: Legal Problems Clusters in Solicitors' and Advice Agencies* (London: Department of Constitutional Affairs, 2006).

**Explain:**

I had no idea the things you mentioned earlier were legal and that I could get legal aid to help so wouldn't have asked. I just thought you did crim and family.

Similar comments were made by four other participants. The interviews demonstrated that, from the clients' perspectives, LAACT lawyers have expertise. Clients said they would consult LAACT lawyers again if they needed to.

**Did the lawyer seem familiar with the law and the operations of the legal system?**

Yes (100%)

No (0%)

**Explain:**

Yes, very reassuring. Seems there is not a lot of evidence against me so he is going to help.

Outstanding.

Absolutely knowledgeable.

Practical Guidance was given.

**Would you feel comfortable seeking help from this lawyer again if required?**

Yes (100%)

No (0%)

**Explain:**

Totally.

Definitely.

I left it too late last time, because I didn't know. Now I do, so it won't happen again.

The above responses and the clients' indication of lawyers' actions were evidence/indicators of the following approaches being present:

- Empowerment.
- Client Centred.
- Problem Identification.
- Holistic service/approach.
- Early Intervention.
- Prevention.
- Responsiveness.

The following responses indicate that other legal and non-legal issues can impact on the legal issues about which a client is seeking help.

**Do you think these other problems affect how you are dealing with the issue you came to talk to the lawyer about today?**

Yes (75%)

No (25%)

**Explain:**

Assault came from argument with neighbour in public housing. I am self defence.

Could see the situation escalating and knew [it] would blow up. Had to help my girls too. No-one would listen until the counsellor and lawyer got involved. Kids less stressed, I have breathing space.

Exhausting – things get out of control. Advice is needed. I don't know how inarticulate people cope. I couldn't with the stress I was under – how would they get help if they can't articulate? Thank god for legal aid.

Yes, it's the low income thing. I didn't have money to get out of debt so came up with a scheme.

Lost my job as I needed my licence as I a cleaner.

Mental health and depression affects how I don't cope with family law problem.

Clients all reported being listened to and respected. Clients noted that the lawyers had clearly explained their options.

The NPA requires that legal assistance services use Alternative Dispute Resolution (ADR) processes and advise clients of alternatives to litigation. The clients were therefore asked for feedback on whether lawyers suggested ADR processes. In view of the different practice standards for criminal and family lawyers and the different court offerings for ADR available in the criminal and family law jurisdictions a breakdown of the type of matters needed to be identified. This highlights the different and complex program policy and legislative settings that need to be considered in any study before making comparisons of data between the different programs. In this study, 55% of client respondents indicated that lawyers discussed ADR with them (i.e. all family law clients in the sample).

**Did the lawyer explain how the law affects your problem, the various options open to you, and what might happen next in a way that you could understand?**

Yes (100%)

No (0%)

**Explain (e.g. did the lawyer, if appropriate, explore mediation or dispute resolution; identify any other agencies that might help?):**

The law and its limitations are frustrating. The lawyer can explain it but then you are left with a system that the logic of is hard to comprehend. It's not about justice it's about forms and processes, fitting into pigeon holes or else - not about humans or justice.

The lawyers try. Lawyer can only do so much and then there's the workload. I can see it.

The overall results demonstrate that the following indicators of quality and NPA requirements are present:

- Good practice.
- Quality.

- Client Centred.
- Problem solving.
- Prevention.
- Early Intervention.
- Empowerment.
- ADR.
- Targeted service.

Clients indicated that they understood their legal position after interview and knew what steps would be taken.

**Do you feel:**

- a. You understand what to do next? (87.5%)
- b. You understand what steps you need to take? (100%)
- c. You understand what steps the lawyer will/will not take and why? (100%)
- d. You understand all the options open to you? (100%)

**Explain:**

Sometimes I have to be told over and over again. It must be annoying for the lawyer and their helpers. When I am stressed I can only take some things in. I appreciate the way they tell me in small bites. I can get overwhelmed if it's too big picture. They give me it in bits so I go step by step. It's how they know I cope.

He explained really clearly everythings.

This demonstrates the following indicators are present:

- Empowerment.
- Prevention.
- Early Intervention.
- Client role in managing affairs.
- Targeted service.

Further statements and their responses incorporated the NPA's elements around prevention and early intervention as follows.

**As a result of seeing the lawyer today are you better able to plan and organise your affairs?**

- Yes (100%)
- No (0%)

**Explain:**

She has given me options and a list of things to do. She helped me know where to go and what to do. I know where to go from here.

Without free legal help. God. I would have run away from court. Now I know this could have really set me up. I know where to turn now.

It is so complex but the lawyer is helping and I know where I stand.

I can see there's a light at the end of the tunnel now.

**Do you have a better sense now of how the law operates and affects your case than before you contacted LAACT? Explain.**

Yes (75%)

No (12.5%)

Sometimes (12.5%)

**Explain:**

I think the system is beyond me. The lawyer gives me 'stop signs' and it stops me from doing stupid things. I need this.

**If you had another problem would you seek legal help earlier?**

Yes (100%)

No (0%)

**Explain:**

I had no idea the things you mentioned earlier (see question 4) were legal and that I could get legal aid to help so wouldn't have asked. I just thought you did crim and family.

Similar comments were made by four participants. This last response indicates that clients still are not aware of the nature of problems where they can seek legal assistance. This suggests that further work needs to be done in raising awareness amongst community members and workers who assist disadvantaged people of how to identify a problem as being capable of a legal solution. This issue was also raised by participants in the Family Law and Criminal Law focus groups discussed earlier.

### ***Lawyer Interviews (after Interview with Client)***

Overall responses reflected that some time was taken to prepare for interviews with clients.

**Did you or the paralegal need to take measures to prepare for the interview?**

a. Need to take measures to get the client to the interview? Yes (50%)

b. Call the client to ensure brought documents? Yes (50%)

c. Research the legal issues? Yes (50%)

Should have been better prepared had planned to be but got called to court.

No time as was held up unexpectedly in court.

Called into court so did not prepare as would have liked.

d. Read the file to familiarise yourself? Yes (50%)

Scanned document left on file but could not read them faint and tiny font.

Squint to read. Takes unnecessary time better if have originals or copies.

e. Converse with a colleague? Yes (75%)

The lawyers' responses reveal how complex clients' issues are and how pressed lawyers can be to adequately prepare for the interviews. One response noted 25% of matters were urgent, i.e. time was 'short as it became critical for immediate action with documents and affidavits. Would have loved time to prepare but in this case it was not possible'.



To gauge efforts by lawyers to provide holistic service, get clients to take responsibility in planning their case and understand the legal system better through a 'good interview process', the following question was asked:

**What assistance did the client receive from you today?<sup>103</sup>**

Legal Advice (8).  
Emotional support (4).  
Steps to take (7).  
Support (2).  
Calming them down (7).  
Referral or attempt at referral (7).  
Representation - Appeared in court and got AVO withdrawn (1).  
Explained how to operate in court, the processes so could self represent (1).  
Reiterated legal issues and what they need to do and the likely process (5).  
Advised of defence (2).  
Gave him tasks (2).  
How to approach court and services in the other jurisdiction contact details (1).

The lawyers described outcomes of the legal interviews as follows:

**But for your intervention here today, what do you believe might have happened for this client?**

Child would have been living primarily with the father and he is domineering and dictates everything using fear. Now she is likely to get her child back.

Escalation of an already conflict ridden relationship. I explained simple ways she can negotiate with her partner over her children. She repeated what she would now do back to me so I feel reassured she gets it.

If the client has been self represented he would not likely be able to explain himself and would have been given short shrift by the court. He is now able to raise a defence. He has also been given some more ideas about improving his housing and support situation.

If represented himself, without a doubt would have pleaded guilty even though overcharged and has a defence. Police want compensation and yet he has already done this, would have been told to pay again.

Would have completed the form he didn't understand that I asked him to have a look at. He indicated he would plead guilty in it when he shouldn't have and so would have had a harsher penalty.

Potentially he would have had no means of getting his child back. That child is his life and he is so proud of how he is shaping his daughter encouraging her and walking her to school. His partner is aggressive and so the child would also have been at some risk.

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<sup>103</sup> The sample includes eight lawyers, therefore these results refer to eight clients.

The other key revelation, based on the lawyer's account of the eight interviews, was that all of the clients raised difficult and complex issues:

Client reliant on husband. He does finances, is violent, abusive, client has lost connection to family and friends due to husband's behaviour. Child removed by husband. Client frightened and disempowered.

Client failed to appear at court in criminal matter. Client was in rehabilitation at time of court non appearance. Client had written to court and prosecutor about it. Shouldn't have happened client will defend this. Here we have a client doing the right thing trying to stop offending and seek help and the system has come down on him. So much for early intervention and prevention.

Client was a gentleman, he has reformed and worked hard for child but has had a tough time. The child has been taken from him by former partner but because of delays in CSU [Client Services unit] his urgent application has not been processed in time. Now, the court due to the delay (not his fault) can say he acquiesced by inaction.<sup>104</sup>

Client is highly anxious, it is a complex relationship, the child was taken – it is a child abduction.

Assault occurred in pressure cooker environment in his public housing estate, he's on a low income, there is a possible defence.

Responses to a further question indicated that the lawyers were providing holistic service and were mindful of the interconnection between a client's legal and non-legal problems.

**Do you think there were other problems linked to their legal problem?**

Yes (87.5%)

No (12.5%)

**If yes, in what way?**

Mental health.

Depression (2).

Subjected to partner violence and intimidation – 'withdraw the AVO and you can have her (child) back'.

Anger management issues and bi-polar.

Isolated socially.

Mental health and debt issues plus volatile relationship with girlfriend.

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<sup>104</sup> The researcher asked Client Services about the reason for the delay in making a decision in this case. The delay was partly attributable to the need for the client to provide verification of bank account details. The incident serves as a reminder of the importance of adequate communication concerning urgent cases and the need for timely decision making.

Client did the right thing and was getting help and yet the court and the prosecution disregarded it. The clients can try and we can try to help them but the rest of the system has to also be accountable for stuff ups in early intervention.

**Did you discuss these other problems with the client?**

Yes (87.5%)

**Do you think you have enough knowledge or experience, training or information to help you identify problems their relevance, solutions and work holistically?**

Yes (100%)

**Explain:**

My total focus is holistic.

Evidenced by client partner turning up to insist they could have joint advice. I managed to persuade him using different techniques that he needed to go elsewhere – it could have been volatile situation but my background skills in social welfare helped navigate him elsewhere. Good to have FDR as an option.

I have experience and use common sense. Intelligent humour often helps.

I always look at the client holistically, e.g. living situation, substance abuse, well being are all part of their legal issues so need to keep them on track.

**What was the impact of your assistance today?**

Holding pattern rather than conflict (2).

Client clearer on where they stand in the legal system (8).

**How can you tell?**

She's ended up being more 'ballsy' after knowing her rights and now knows she has steps she can take contrary to what he told her.

Knowing he is wrong about what he says she has to do.

Client a lot calmer and more a rational when left the interview.

Knows about the services and when ready it's hoped they will do something. Not ready today too overwhelmed.

Hope he gets some appreciation of his predicament and seriousness. He had no idea before today. I had to be frank and direct about what will happen in court and he responded to this and seemed near the end to have lost his inertia – a bit anyway. Hard to change set opinions and his pride.

Lawyers' responses reveal that they are mindful of the complexities their clients face. They seek to explore legal and non-legal issues and often intervene early to prevent isolation, escalation of a problem and (as far as possible in the short interview) endeavour to assist the client in being able to manage their affairs.

## Observation Logs

Seven lawyers and paralegal staff kept a two-week long observation log consisting of five entries. Staff were chosen from the two practice areas (Family Practice and Criminal Practice) that volunteered to participate in the trial. Trial tasks were spread amongst staff, so logs were kept by staff who were not already involved in tasks such as the interviews with the lawyers. The researcher suggested some simple themes staff might address in the log. The log was designed to take 10 minutes per day. Participants were asked to write five logs over the two weeks, giving consideration to their busy workloads and the fact that on some days they would be held up at court or too busy. Details can be found in Appendix D.

The observation log was an effective way of gaining a deeper insight into the day-to-day nature of LAACT's work, its complexity and the issues that cases present for lawyers and staff alike. It is contemporaneous to the events of the day and so fresh in their minds. The logs reveal detailed background information about Legal Aid work and client situations. Although it is subjective, a log reveals the complexity of Legal Aid work, which a survey might not. It also gives the lawyer opportunity to reflect on what happened and how they handled various situations. The logs reveal the barriers the lawyers face and how they deal with these in their daily work. The logs also produced some case studies. Accordingly, logs can complement a survey approach by adding more substance and detailed information and perspective deepening an understanding of the statistics. Despite an initial concern that staff would be reticent to complete the log or too busy to undertake the task, the staff embraced it, with some describing it as 'helpful' and 'a rare opportunity to unpack what went on and reflect'. This was facilitated in part by the provision by the researcher of both an early briefing session on the task and the guiding themes for the logs.

The log book was kept like a diary and provided to staff members in the participating practice areas in both booklet and electronic form. In the trial, staff members were identified and then asked to 'volunteer'.

The purpose of the observation log was to identify:

- the nature of interactions that occur in the delivery of legal aid services;
- the complexity and detail of the work that was taking place; and
- how much time the work took.

In line with recent research, it was considered important to provide participants with some guiding themes or questions to ensure that the material gathered had a focus relevant to the research.<sup>105</sup> Some professions encourage the use of such reflective instruments in the workplace and in educational settings that have a practical clinical component because they examine and explore issues of concern and enable changes and a greater awareness.<sup>106</sup> Key considerations and benefits of a log or diary are as follows<sup>107</sup>:

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<sup>105</sup> R Spencer, *Holding up the Mirror: Draft Paper – A Theoretical and Practical Analysis of the Role of Reflection in Clinical Legal Education* (Adelaide: University of South Australia, 2011).

<sup>106</sup> L Griffiths, 'Time for Reflection', *Occupational Health* vol. 56, no. 20-1 (2004); S Dillon, 'Reflecting on Reflection', *Victorian Journal of Music Education* (1999), 8.

<sup>107</sup> S Duke and J Appleton, 'The Use of Reflection in a Palliative Care Programme: a Quantitative Study of the Development of Reflective Skills over an Academic Year', *Journal of Advanced Nursing* vol. 32, no. 6 (2000), 1561.

- The ability to describe the event or situation and reflect on it.
- The identification of salient issues and to focus on a situation.
- To analyse the input and feelings of self and others involved.
- The ability to use knowledge and skill to analyse the situation.
- To place the events in the broader context.
- To enable professional perspectives and influences to be revealed that led to an event.
- To enable an examination of the various interactions and relationships that were involved in the work.

The log enabled practitioners in this project to reflect on their work, what worked well and why and what they might do differently next time. Four of the participants indicated that the log was a valuable tool for reflecting on both the nature of their work and their approach to it. They appreciated the exercise and found it helpful. This suggests that the log served a purpose beyond that of collecting rich information on practices, daily events and work undertaken.

## **Summary and Analysis of Results**

The log reveals that LAACT lawyers are often under intense and unrelenting pressure. The entries give some indication of the diversity of lawyers' activities, the constant interruptions that lawyers face and to which they must respond and their heavy administrative burdens (especially for those lawyers who are out of the office in court but still need to keep detailed records). The entries show that lawyers and paralegal staff are often called on to defuse situations where clients are stressed or are about to act unwisely and prejudice their position:

I understood enough about the matter to be aware that the client was upset that things which were not in fact legally advisable were not being done – for example, he was upset his solicitor hadn't focussed on whose 'fault' the relationship breakdown was. I tried nevertheless to listen closely and demonstrate my concern that the client was unsatisfied. I also try not to use CSU [Client Services] as a circuit-breaker for angry people, and I am confident he had calmed down sufficiently to be aware we were all interested in helping him by the time he was transferred.

The log shows that staff in both the Family Practice and the Criminal Practice needed to calm clients down and defuse situations.

The log reveals a facet of Legal Aid lawyers' work not picked up by other research instruments (with the exception of the stakeholder interviews). This is the way the court, other services and the DPP rely on Legal Aid to intervene in tricky situations when a client is unrepresented. Where there are gaps and nobody else is available (e.g. when there is a conflict of interest or a 'no show' by a private lawyer or a self represented client), Legal Aid in-house lawyers often fill these gaps or facilitate the smooth running of a case. This responsiveness ensures greater efficiency, minimises court costs and reduces time wasting. One lawyer described this work in their log:

Providing referrals to self represented litigants to other agencies, or courts, or the DV Unit of legal aid. This is not always recorded in duty notes. When at court, locating the

whereabouts of a lawyer for LAACT clients and legally aided clients with private lawyers (e.g. making a phone call to ascertain the location of the client's lawyer).

The logs reveal that LAACT lawyers undertake intensive work for clients through forming collaborations and relationships with other legal and non-legal services. The logs also demonstrate the impact this work has on clients. The following excerpt gives an example of this work.

Family law solicitor spoke to me about a duty client who needed assistance to have her [baby] daughter returned from a non-Hague convention country. I spoke to the client about support services available to her as a Muslim woman and parent and made a warm referral to a local Imam from Islamic Centre. I had recently met with the Imam to discuss outreach work at the Islamic Centre and speaking with Muslim families about FDR and Australian family law and to invite the Imam to address lawyers and other professionals working in the family law sector about Muslim families. This is an ongoing outreach project with FDR.

Mother obtained legal advice and referral to family support service appropriate to her culture and religion. Within four days the family law solicitor had taken instructions, initiated proceedings and obtained orders that resulted in the mother being able to travel to the Middle East and retain care of her child and return to Australia.

This was an example of FDR and Family law and Client Services (who assisted client with legal aid application form) working together to achieve an outcome for the client. The co-operation resulted in mother and child being reunited in circumstances where the child may have been lost to the mother for many years.

Appendix D provides the template for the observation log. Only relevant extracts are included in the appendix, i.e. entries that demonstrate the complex, responsive, flexible and client centred approaches the lawyers take in what are often difficult, time pressured circumstances.

## **Client Feedback Survey/Questionnaire**

A short, voluntary client feedback survey/questionnaire (Appendix E) was handed to every client who visited LAACT over the two-week 'snapshot' period.<sup>108</sup> The survey/questionnaire was handed out by reception staff, who asked clients to complete it in order to 'help us improve our work and see how we are going'. If the client could not read, the receptionist helped by reading the questions. Survey/questionnaire responses were anonymous apart from a residential postcode and some demographic information (used to understand details about the client's circumstances, e.g. whether they were on Centrelink income support). Boxes for completed surveys was provided at LAACT's reception, in the foyer of the exits for Youth Law and at the main office on the first floor where clients would see lawyers. Clients had a space in reception to complete the survey before they left. Clients were reminded to complete the survey by the lawyer as they left their interview.

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<sup>108</sup> There were so many survey instruments used in the snapshot that the word 'survey' became confusing. We therefore started to call the process the 'client feedback survey/questionnaire' to be able to identify the specific tool.

As noted earlier, the focus groups resisted the use of the terminology ‘client satisfaction surveys’.<sup>109</sup> Staff cited negative experiences in previous workplaces, noting that such instruments were often used to the detriment of agencies. They noted that any measures based around the ‘client satisfaction’ with an outcome of a court or tribunal case led to distortions in how a client felt. Clients sometimes blame lawyers for losing a case, even when the evidence is weighted against the client or where factors outside the lawyer’s control came into play. Staff and the former client agreed that, rather than measuring the case result, it is important to measure the process and how the client is treated in the process. They also noted that clients can be dissatisfied with a lawyer when they receive accurate legal advice on their legal position which they do not like (i.e. the lawyer explains the client’s position at law instead of telling the client what the client wants to hear). This could impact on ‘client satisfaction’, so this terminology is problematic in the context of legal service delivery.

It is worth noting that some of the client satisfaction survey questions examined and analysed in the course of this research (questions produced by Legal Aid bodies and Law Societies and Bar Councils nationally and internationally) sought to measure client satisfaction on issues clearly not within the service’s control.<sup>110</sup> These questions were not used in this research. This research did incorporate some survey questions and information about appropriate approaches from Maryland Legal Aid (a service that was also measuring outcome).<sup>111</sup> A few questions were also adapted from Victoria Legal Aid<sup>112</sup> and Legal Aid NSW.<sup>113</sup> Most of the survey questions derived from the focus group observations about which elements make a good outcome.

## Summary and Analysis of Results

Overall, the service ranked highly on the indicators for positive outcomes and quality legal services. Clients understood the advice they were given and knew what steps to take after their interview.

Like the interviews with clients after their initial consultations (discussed above), the client satisfaction survey provided information about LAACT’s clients’ multiple disadvantages. Clients’ legal issues varied; they listed the following:

- blood alcohol;
- drive whilst disqualified;
- Power of Attorney and Centrelink;

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<sup>109</sup> This issue was also raised by the lawyers in their interviews with the researcher after client/lawyer interviews.

<sup>110</sup> M Bacica and J Winram, LSS Client Survey, Law Services Society & Synovate: Research Reinvented, October, 2007; A Munday and A Rutkay, *Client Satisfaction Survey and Measurement* (Legal Aid WA and Data Analysis Australia Pty Ltd, 2004).

<sup>111</sup> J Goldberg and S Predeoux, *Maryland Legal Aid Outcomes Survey 2010: Measuring the Impact of Legal Aid’s Services for Older Adults* (Maryland: Maryland Legal Aid, 2009).

<sup>112</sup> Victoria Legal Aid *Confidential and Draft Client Satisfaction Survey, 2011* (Melbourne: Victoria Legal Aid, 2011).

<sup>113</sup> Legal Aid NSW, *1st Quarter Customer Satisfaction Survey Report, 2002* (Sydney: Legal Aid NSW, 2002).

- finances;
- child custody;
- finance and child contact;
- representation in court and criminal process;
- Centrelink;
- family;
- divorce;
- property settlement and entitlements;
- theft;
- child custody and mediation;
- discrimination in ACT housing;
- compensation;
- being bad;
- AVO [apprehended violence order];
- neighbourhood dispute;
- debt; and
- drive whilst suspended.

The responses to some of the questions are analysed below.

Some questions were designed to elicit information from clients about whether they would intervene earlier in future. These questions pertained to issues around prevention and early intervention – these can be achieved by clients seeking legal help earlier or changing their advice seeking behaviours.

**Based on your experience today, if you had another legal problem would you seek assistance:**

- From LAACT (50%)
- Earlier than you did this time (23%)
- Know better what to do than last time (50%)
- If it happened to a friend/family member, recommend Legal Aid to someone else (27%)
- No answer (11%)

These answers indicate outcomes around a good client interview that suggest: empowerment, early intervention, prevention, good practice and social inclusion.

LAACT aimed to measure the quality of its legal service. This included delivering those services in a way that respects the client. The NPA asks legal assistance services to demonstrate client centred approaches, social inclusion and legal assistance services' responsiveness. The statements put to clients below were designed to elicit client feedback on these points:

**The service treated me with understanding and respect.**

- Strongly Agree (38%)
- Agree (35%)
- Don't Agree (0)
- Strongly Disagree (4%)
- No answer (11%)



**The service was responsive to my individual circumstances.**

Strongly Agree (50%)  
Agree (38%)  
Don't Agree (0)  
Strongly Disagree (4%)  
No answer (11%)

These answers indicate outcomes from a good advice session interview which suggest responsiveness, client centred, social inclusion, quality service, good practice and problem identification.

Overall, most clients strongly agreed with the indicators that revealed good practice. One question reversed the order of the possible response to ascertain whether clients were actively answering questions stating. This question asked if 'questions were left unanswered' by the lawyer. Most participants either strongly disagreed or disagreed. This suggests that clients were considering their responses to questions.

Two people did not respond to the extra questions, only answering the demographic questions. Each of these recipients was from a CALD background, suggesting the need to issue the survey/questionnaire in different languages in future or not use a written format for feedback (the demographics questions were mostly number-based, rather than word-based). Even then, however, there is no guarantee that new arrivals will be fluent in their own written language.

### **Telephone Survey on Closure of Client File**

On closure of client files in the two-week 'snapshot' period, four clients from both trial practice areas (eight clients in total) were phoned by the paralegal closing the file with a request for five minutes of their time to answer four short feedback survey questions about the service they received from LAACT. A brief summary note on the nature of the file was kept and each survey response was to be recorded and the notes recording the conversation were to be taken and filed separately (see Appendix F).

This researcher first adopted the file closure survey when she was Director of the West Heidelberg Community Legal Service. In that situation, the legal secretary closing the client's file used the survey to gather client feedback. It was a simple process that was not too much of an imposition on staff or client time. Maryland Legal Aid researchers took a similar approach, using file closure as an opportunity for feedback.<sup>114</sup> Goldberg and Predeoux observe that by calling clients upon (or close to) the closure of their file you are better able to measure discrete work done, which makes measurement more precise and connected.

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<sup>114</sup> J Goldberg and S Predeoux, *Maryland Legal Aid Outcomes Survey 2010: Measuring the Impact of Legal Aid's Services for Older Adults* (Maryland: Maryland Legal Aid, 2009).

## Summary and Analysis of Results

The paralegals and support staff (four staff in total) went through ten files in each practice that were designated for closure.<sup>115</sup> They tried to ring these clients regularly throughout the two-week trial period.

In most cases, staff were unable to leave messages, the phones had been disconnected or (if staff did leave messages) the clients did not phone back. Therefore, clients could not be asked if they minded responding to the short survey. Two staff members noted that, when a client matter has been resolved, clients are often keen to 'move on' and forget about the problem that originally brought them into contact with the legal system. In addition, they noted that many Legal Aid clients were hard to contact as their phones were disconnected or their numbers changed. This is a characteristic of work with disadvantaged clients. They noted that it was not uncommon for a paralegal to have to ring and re-ring clients for a number of weeks before getting a response, even when working on that client's matters. This is often due to their chaotic life circumstances which received some discussion earlier in this Report. As the snapshot trial ran for two weeks only, extended attempts at follow up were not possible.

Despite the success of this tool in West Heidelberg and Maryland, it was not successful in this research. Clients could not be contacted and when staff left messages, their calls were not returned. It is probable that because West Heidelberg is a small community legal centre with many clients who are linked in to the local community and interact with the service in other ways it was be easier to operate a 'closure of file survey'. This mode of gaining client feedback as a tool for measurement is perhaps not suited to a larger organisation such as LAACT, maybe because it has less local community connection and sees a greater number of clients from a wider geographical area. The researcher also suspects that if clients had been forewarned on their initial attendance at LAACT that their feedback about the service would be sought on file closure, this might have increased client responsiveness. It may also have improved client responsiveness if there had not been a delay between an end to their matter and the closure of file process.

It is recommended this tool not be utilised in future snapshots unless clients are notified in advance or on file opening or receiving their Client Charter.<sup>116</sup>

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<sup>115</sup> The number of files staff examined was larger than the number of clients from which the survey aimed to gain feedback as staff realised that some clients were not returning calls. Staff were keen to try to meet the target of eight file closure surveys overall. This highlights the problem with this instrument as a tool to gain client feedback.

<sup>116</sup> This Charter is a document which could be handed in hard copy form to all new and returning clients of Legal Aid. It explains their rights and responsibilities and manages expectations of the service on the opening of a client file. This is common practice for many services upon being engaged to work with clients. Although often such information may be available on the organisation's web site, if the majority of the clients are from a disadvantaged background then their ability to access this information is limited due to literacy and language issues and limited access to computers.

## Interviews with Stakeholders

All of LAACT's practice areas were asked to identify key external and independent stakeholders to comment on LAACT's service. The practice areas were asked to indicate stakeholders with whom they had regular contact.

Eleven letters were sent to stakeholders on 2 November 2011 seeking their agreement to being interviewed by the researcher. Stakeholders contacted in the criminal law area were:

- Mr Alyn Doig, Assistant Director, Office of the DPP\*
- Mr Michael Edwards Acting Registrar Supreme Court
- Chief Justice Terrence Higgins, Supreme Court<sup>117</sup>
- Mr Hugh Jorgenson, Registrar, Magistrates Court
- Mr Michael Kukilis-Smith, ACT Law Society
- Mr John Lundy, Assistant Director, Office of the DPP\*
- Chief Magistrate Lorraine Walker\*

Stakeholders contacted in the family law area were:

- Federal Magistrate James Brewster
- Ms Margaret Crawford, Family Pathways Network\*<sup>118</sup>
- Deputy Chief Justice John Faulks, Family Court of Australia
- Federal Magistrate Warwick Neville\*

The asterisks (\*) denote those stakeholders interviewed in the trial period.

Seven stakeholders consented to be interviewed. Five were interviewed during the 'snapshot' period. The ANU was identified as a key stakeholder and staff of the College of Law were interviewed using the same questions asked of other stakeholders as part of the focus group (detailed earlier in this report). ANU staff were interviewed at the same time as the ANU Partnership Workshop to reduce their time commitment. All participants received a copy of the questions a week in advance of their interview with the researcher. For the full results see Appendix G.

## Summary and Analysis of Results

The key aspects of the partnership/interactions with Legal Aid valued by stakeholders were as follows.

### Family Law Stakeholders:

Legal Aid's independence and provision of venues and forums and opportunities to debrief and discuss.

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<sup>117</sup> The Chief Justice of the Supreme Court contacted the researcher outside the trial period willing to be interviewed. Due to work commitments of the researcher, tight timelines for the delivery of the draft of this Report and uncertainty about the length of the trials, it was decided not to interview the Chief Justice. This is not to say he could not be interviewed in future snapshots examining the criminal law practice.

<sup>118</sup> FPN is a network of legal and non-legal services designed to work together to improve community and client connections with services in the area of family breakdown.

Legal Aid auspices Family Pathways Network but takes a 'hands off' approach, allowing autonomy. This supports the Network in being a 'network'.

The knowledge of Legal Aid staff of the operations and impacts of the legal system on clients and their expertise which can be called on for partner agencies and also for forums.

The input and advice from Legal Aid for the Steering Committee of Family Pathways Network.

Having Legal Aid as a point of contact makes the court's job so much easier and manageable. They help clarify documents, take calls in urgent situations when people turn up at front desk. Given the size of some of the documents, the complexity and detail Legal Aid's availability and assistance reduces time wastage and helps clarify and support people often in crisis, distressed or angry. This communication 'reduces a layer of disorder and complexity'.

There are a lot of Self Represented Litigants (SRLs) at court. Often they do not understand the process, evidence, forms, and requirements. They can take up immense amounts of court time, create delays and inefficiencies. Legal Aid helps reduce the number of SRLs appearing before the court and hence saves resources, money, time and a lot of heart ache for those who otherwise could not afford a lawyer and would be SRLs.

### **Criminal Law Stakeholders:**

It remains a fallback resource for the 'underprivileged' especially given there are so many gaps. For example, when the private lawyers do not show up at court, the LAACT lawyers will step in (they often can't represent a client as there is already an established conflict of interest) and locate the lawyer, make enquiries or get the private lawyer to court with speed. Often what LAACT has to do at court is ad hoc and unexpected and can be stressful. They step in willingly and act as 'officers of the court'.

Value the LAACT in-house team as all interactions they are honest, have integrity and are hard-working. I can deal with them we have a mutual respect and understand each others different but important roles in the legal system.

They do the very best for the client and are easy to deal with but also fearless advocates. When I deal with the in-house staff they will not mislead and are readily available to discuss options and take calls.

The in-house lawyer's role at the prison is critical but they have to go through so many hoops to see a client and it can mean waiting around for hours just to get clearance to see a client. This is frustrating for them given other workloads. The lawyers are 'dedicated and hard working'.

Value their open communication with the DPP and their honesty. They are clear about their overriding duty to the court and other duties.

For complex clients rapport building takes time. In house lawyers do not have the profit imperative which makes time short and so can often unravel the clients matter and work to interventions and problem solve as they take time to find out about a client. This can better inform how a case is run.

In view of LAACT's limited resources they deliver services at a 'high level' so matters get resolved.

The stakeholder responses indicate the presence of the following outcomes and service qualities:

<b>Outcome</b>	<b>Qualities demonstrated by outcome</b>
<b>As appropriate, sentence minimised or charges that are unsubstantiated are dropped</b>	Rule of Law, Efficiency, Good Practice, Expertise.
<b>Clients better able to plan and organise their legal affairs</b>	Early Intervention, Prevention, Empowerment, Quality, Good Practice, Client Centred.
<b>Improvement in the client's interaction with the legal system</b>	Early intervention, Prevention, Empowerment, Client centred.
<b>Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.
<b>Client is better able to understand their legal position and the options open to them.</b>	Early Intervention, Prevention, Empowerment, Good Practice, Quality.
<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.
<b>Holding of authority to account</b>	Rule of Law, Quality, Voice, Flexibility, Good practice, Client centred, Responsiveness.

The benefits to clients from their involvement with LAACT's services were identified by stakeholders as:

#### **Family Law Stakeholders:**

Provision of speakers enhances professional development of sectors represented and attending Pathways forums and meetings many of whom would not know the workings of the legal system and how to navigate it otherwise. These services provide direct services to people in great need where violence, relationship breakdown and safety of adults and children are at stake. Having this knowledge enhances their service to clients and ability to make informed referrals.

Clients are often terrorised, confused by the system and with the other side – these clients get help, support and legal advice from Legal Aid. They might never have their problems resolved without legal aid's intervention and advice. Also if Legal Aid didn't exist there would be a lot of money spent by those who are too poor to afford it or they would not get help at all which could be damaging.

### **Criminal Law Stakeholders:**

It's obvious, there are a large number of people from low socio economic backgrounds who would never get help at all, who wouldn't have access to money to get representation. These people get represented on a duty basis by Legal Aid. Often they are in custody and it's their first occasion to get some legal advice and it's by Legal Aid lawyers. Recently, we had a murder trial. The accused could not afford a private lawyer, he got top quality legal advice and representation from the Legal Aid assigned lawyer. Legal Aid in-house couldn't act as there was a conflict of interest. Without legal aid he would not have been able to get a fair trial.

Legal Aid protects the human rights of people. Legal Aid gives clients voice.

Legal Aid is a cohesive structure and becomes a default when matters of a systemic nature or which need resolution arise. This enables a point of contact less disparate than having to deal with lots of individual private law firms. It saves time, is efficient and effective in dealing with one entity which can and will act. It can make a balanced and sensible representation on legislation and the legal process which has a flow on effect for clients.

SRLs [self represented litigants] would be 'caught up in a storm'. Law is complex. SRLs get caught up in their stories which often is not all relevant to the legal process and can consume court time. Getting agreements would be harder. Legal Aid in-house team good at 'seeing wood amongst the trees'. They also ensure every case is proven which is critical to their role and the rule of law.

The stakeholder responses indicate the presence of the following outcomes and service qualities:

<b>Outcome</b>	<b>Qualities demonstrated by outcome</b>
<b>As appropriate, sentences are minimised or unsubstantiated charges are dropped.</b>	Rule of Law, Efficiency, Good Practice, Expertise.
<b>Clients are better able to plan and organise their legal affairs.</b>	Early Intervention, Prevention, Empowerment, Quality, Good Practice, Client Centred.
<b>Improvement in the client's interaction with the legal system.</b>	Early Intervention, Prevention, Empowerment, Client Centred.
<b>Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.
<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.
<b>Relationships and trust building with other legal and non-legal support agencies enabling client referral and support.</b>	Early Intervention, Prevention, Holistic, Joined-up, Good Practice, Quality.
<b>Holding of authority to account.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness.

Stakeholders were asked how LAACT could enhance its service to clients/community.

**Family Law Stakeholders:**

Important for lawyers to be very familiar with non-legal as well as legal issues (counselling, youth workers, mental health professionals, DV workers, aboriginal organisations, schools) and where the support lies for effective referral and training of other professionals working with vulnerable clients of different disciplines.

An understanding that front of office is the first port of call for many people in crisis. It is at this point impressions are made on clients and the client gets a sense of whether legal aid respects them. Training of staff at this contact point of contact is critical as are life experience and empathy. People need help or guidance when help is not possible.

Needs more experienced and properly trained independent child lawyers who can fearlessly advocate for children when up against the two opposing parties in family law proceedings.

**Criminal Law Stakeholders:**

They do a pretty good job given their resource and funding constraints. They constantly are told to do things more efficiently. There isn't much fat to give as they have been getting more and more efficient. There comes a point where you can't go any further without risk.

There needs to be more proactive work at the 'front end' to prepare cases and to know the law applicable and present it to the court. Applies to private and in-house lawyers.

Unfortunately, the areas I would suggest all require resourcing which is the key issue. Issues of clients around mental illness and addiction, low capacity are all areas where lawyers work in Legal Aid and need the support of other services to get clients on track.

The stakeholder responses indicate the presence of the following outcomes and service qualities: quality; client centred.

The other aspects raised pertain to issues of resources and a lack of funding of Legal Aid. It was clear from analysis of the stakeholder responses that all the stakeholders were cognisant of these issues and the pressures that these places on LAACT staff in their work.

Stakeholders were also asked to indicate the areas in which LAACT could enhance its relationship with the stakeholder. The responses show that LAACT is only one participant in the system and that all players need to take on a role in working for improved access to justice. The stakeholders, all, noted that LAACT did a 'good' job.

#### **Family Law Stakeholder:**

Legal Aid's in house lawyers are good to deal with. They 'bend over backwards' to do what they can for their clients. There is often a significant imbalance in what they can do with their resources. It's good to be able to deal with an entity where there are systemic issues. I would stress the need for the court to have experienced and skilled independent child lawyers.

#### **Criminal Law Stakeholders:**

None, there is a good relationship.

This is not one-sided. There is a need for both the DPP and LAACT to have more formal dialogue. We do the informal well. To get earlier resolution we need to stream-line things e.g. points of contact so consistency we can all do better at this. It's so hard to get information in a timely way.

Responsiveness. On the whole Legal Aid is good. This however is impeded by lawyers being in court and not available to clients or with clients and not available to the court. The people in the job work effectively in reducing delay, they are respectful, delightful to deal with, prompt when in their power to be. We have a good relationship but it would be good to be more proactive in that relationship with the Court. Again, I stress the need for lawyers both in-house and private to be better prepared and know how the law applies.

One stakeholder response indicated that following outcomes and service qualities may not always be present. They observed that some practitioners do not consistently analyse their clients' position and the applicable law then submit this material the court as advocates should. This would help the judiciary in their function. It was also conceded that this could be due to the pressure of time of LAACT lawyers and was a problem with non legal aid advocates as well.

<b>Outcome</b>	<b>Qualities demonstrated by outcome</b>
<b>Holding of authority to account.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness.

Overall, the stakeholder responses indicate that LAACT is 'prompt', 'respectful', 'fills gaps', is 'best to deal with', 'bends over backwards to help clients', has 'honesty, integrity', is 'hardworking' and adheres to its 'duty to the court' and other duties.

Stakeholders were asked about the overall strengths of LAACT's relationship with the stakeholder.



### **Family Law Stakeholders:**

Supportive. Good advice when needed. Being located together helps the relationship.

Communication is the key strength. It's easier to deal with Legal Aid. They are open to receiving calls, returning calls, moving things along at the earliest possible time. Although they are not for profit and time is not money they have a real sense and awareness of the importance of time and efficiency.

### **Criminal Law Stakeholders:**

Dedicated. Not there to make money but to help clients.

Camaraderie, collegiality. If they didn't exist there would be a raft of private practitioners who wouldn't touch legal aid.

Without legal aid's representation people would go to court and self represent which would make the system over-run/grind to a halt.

Makes the system less fragmented, streamlines the process.

The in-house lawyers have at their heart making the system a fair one for their clients and to put the clients' interests first but they also honour their duty to the court. They need proper resourcing as the whole system really relies on them and they need to be supported to retain good staff. They need to stay flexible to be able to respond to the often difficult circumstances of their clients which require it.

Reliability.

Knowing that there are people working for people's rights in the court as they do and holding the system together. They take rights seriously.

As an institution you can talk to head of the sections and the CEO with directness and get a result. This structure is not available in the private profession.

The stakeholder responses indicate the presence of the following outcomes and service qualities:

<b>Outcome</b>	<b>Qualities demonstrated by outcome</b>
<b>As appropriate, sentences are minimised or unsubstantiated charges are dropped.</b>	Rule of Law, Efficiency, Good Practice, Expertise.
<b>Improvement in the client's interaction with the legal system.</b>	Early Intervention, Prevention, Empowerment, Client Centred.
<b>Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.

<b>Relationships and trust building with other legal and non-legal support agencies enabling client referral and support.</b>	Early Intervention, Prevention, Holistic, Joined-up, Good Practice, Quality.
<b>Holding of authority to account.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness.
<b>A holistic service delivered to the client through collaboration, networking, community legal education and joined-up services.</b>	Good Practice, Client Centred, Problem Identification, Collaboration, Prevention, Early Intervention, Holistic, Joined-up.

## Online Lawyer Survey

The online survey was hosted by SurveyMonkey. It was to be opened on 9 November and was to be completed by 23 November 2011 by all LAACT lawyers and private lawyers with legal aid grants. The survey took on average 15 minutes to complete.<sup>119</sup> A ‘dummy run’ of the survey (to test how long the survey would take and to clarify any ambiguities) occurred with lawyers who were not to be survey participants.

The researcher examined a large number of international and domestic lawyer surveys in designing this survey.<sup>120</sup> Many of these related specifically to private law firms in the United States of America and sought information mainly to improve perceptions: by clients of the practice, by lawyers of clients or by clients of their lawyers or how the law firm was

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<sup>119</sup> The results of the survey can be viewed on LAACT’s website: [http://www.legalaidact.org.au/pdf/Legal\\_Aid\\_ACT\\_Quality\\_Legal\\_services.pdf](http://www.legalaidact.org.au/pdf/Legal_Aid_ACT_Quality_Legal_services.pdf).

<sup>120</sup> The following were examined to work out the statements to include in the online survey. Idaho Legal Aid Services, *Idaho Legal Aid Client Satisfaction Survey* (Idaho: Idaho Legal Aid Services, 2011), <http://idaholegalaid.org/ClientSatisfactionSurvey>; Legal Aid Ottawa, ‘LAO Common Measurement Tool Overview of 2009 Results’ (Ottawa: Quality Service Office, Legal Aid Ottawa, 2010); Queensland Legal Aid, *Queensland Legal Aid Report Card* (Annual Report 2009-2010) (Brisbane, 2010); Law Council of Australia, *Australian Solicitors’ Conduct Rules* (Law Council of Australia, June, 2011), [http://www.lawcouncil.asn.au/programs/national\\_profession/conduct-rules.cfm](http://www.lawcouncil.asn.au/programs/national_profession/conduct-rules.cfm); Legal Services Commission, ‘Specialist Quality Mark’ (London: 8 February 2012, [http://www.legalservices.gov.uk/civil/forms/specialist\\_quality\\_mark.asp](http://www.legalservices.gov.uk/civil/forms/specialist_quality_mark.asp); Family Law Council and the Family Law Section of the Law Council of Australia, *Best Practice Guidelines for Lawyers doing Family Law Work* (Second Edition) (Canberra: Family Law Council and the Law Council of Australia, 2010), <http://www.familylawsection.org.au/resource/BestPracticeGuidelinesv8FINAL.pdf>. ARTD Consultants, *Developing a Performance Monitoring Framework for Community Legal Centres: Final Report* (NSW: National Association of Community Legal Centres, 2008); R Moorhead and R Harding, *Quality and Access: Specialist and Tolerance Work under Civil Contracts*, (Norwich: Stationary Office, 2004); M Noone and K Digney, *It’s Hard to Open up to Strangers’: Improving Access to Justice – The Key Features of an Integrated Legal Services Delivery Model* (Melbourne: Legal Services Board and La Trobe University, 2010); Victoria Legal Aid, *Confidential and Draft Client Satisfaction Survey, 2011* (Melbourne: Victoria Legal Aid, 2011). Care is needed in using these tools. Many questions contained in these surveys were considered problematic and/or reflected the different histories, structures and exigencies of their jurisdictions. This meant the researcher was unable to utilise much of the material. Many suggestions made by focus group members were considered in framing the statements on which responses were sought. In order to factor in the NPA, the researcher had to develop new questions as this had not previously been the subject of any survey consideration. In addition, the LAACT Practice Standards and the Family Law Best Practice Guidelines were relied upon. Some other studies in the United States were examined but deemed irrelevant.

marketed. Most did not contain questions seeking feedback on outcomes or quality of service provision. Few of them sought information about the process undergone or the interventions taking place to improve quality. Accordingly, very few of these surveys were relevant to the purpose of this research. Aspects of Legal Aid Ontario's Common Measurement Tool were utilised. Some of the United Kingdom's Legal Service Commission's 'Quality Mark' tool was also adapted and used but much of this document was applicable to the United Kingdom's contractual frameworks which, as discussed previously, are significantly different to Australia.

Once again, however, the focus group discussions around good and positive outcomes (and the elements that produced these outcomes) were most useful in constructing the questions for this survey. Many of the identified elements, if present, suffice as indicators of an outcome. The LAACT Practice Standards were also used in the development of the survey questions – as noted previously, focus group participants also identified these elements as being key to obtaining good client, community and legal system outcomes.

For a detailed summary of the responses to each question in the survey, view the survey online at [http://www.legalaidact.org.au/pdf/Legal\\_Aid\\_ACT\\_Quality\\_Legal\\_services.pdf](http://www.legalaidact.org.au/pdf/Legal_Aid_ACT_Quality_Legal_services.pdf).

## **Summary and Analysis of Results**

Forty five surveys were received from practitioners – 25 from private lawyers (there are 146 private lawyers on Legal Aid's General Panel) and 20 from in-house lawyers. This is considered a good response rate for a two-week period.

The NPA requirements had been in place for only eighteen months at the time of the date of this research's commencement. Concepts such as early intervention, prevention, holistic and joined up services and consideration of legal and non-legal issues are not unfamiliar to many practitioners, but are not explicitly stated as reportable expectations of legal assistance service provision in the NPA.

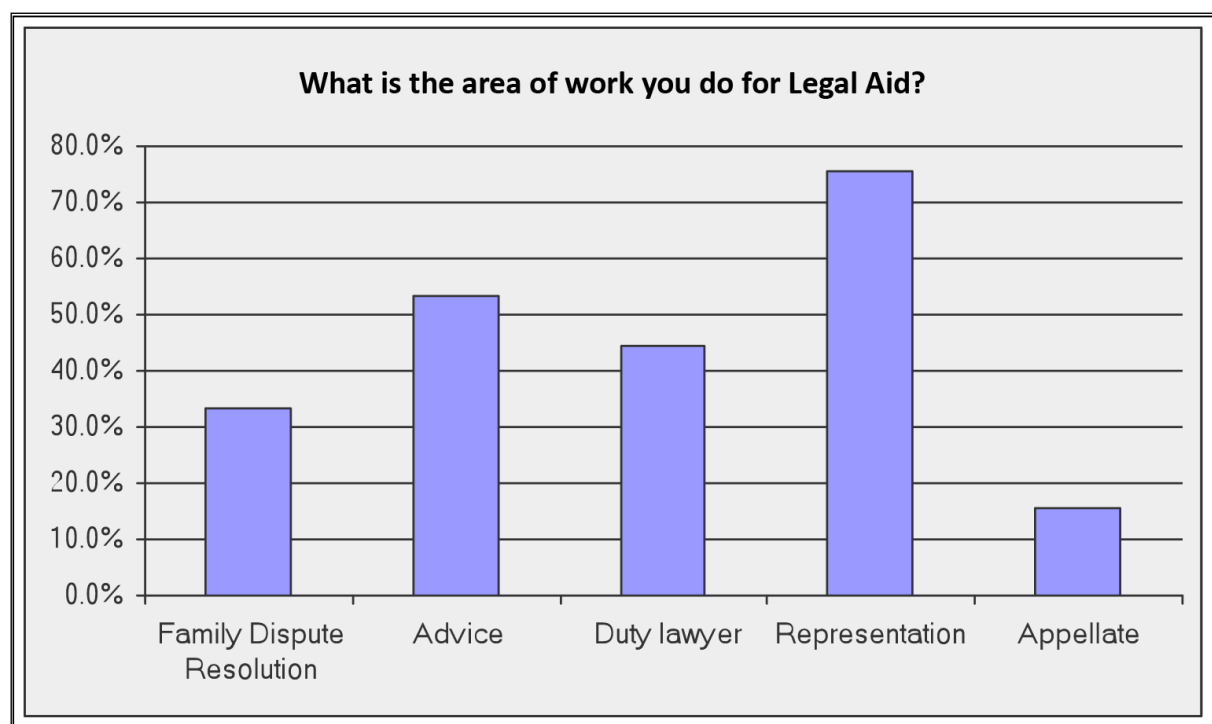
Traditional lawyering tends to focus on technical legal knowledge and expertise, good advice and representation. With the implementation of the NPA, Government expectations of legal aid services have changed. It will take time for these expectations to settle into legal culture. For this reason, the initial online survey focussed on what people thought was essential and important in good legal practice. It introduced practitioners to the notions of early intervention, prevention and joined-up services contained in the NPA as a part of an approach to the practice of law. In addition, the LAACT Legal Aid Practice Standards are new and will take time to embed. In future, it is suggested that the survey could be tweaked to integrate the aforementioned aspects into questions about the conduct of how the lawyers practice (as the concepts will not be so new) rather than what they consider important/essential/not important. The researcher also suggests that the survey only be undertaken annually (unlike the two-week snapshot of the other research tools) because the online survey is across more practice areas and will not rotate as will other instruments in the snapshot.

The survey results reveal that there is very little difference in approach to the practice of law between private practitioners and LAACT's in-house lawyers. Most ranked similar items as essential, very important and important. Almost no practitioners ranked elements as unimportant that was suggested in good practice, quality approaches and the areas that the NPA is seeking to underline. The reason for this similarity may well be that the lawyers' motivations for and approaches to practising the law for Legal Aid clients are about making a difference and exercising proper skill and care.

The rankings in the survey reveal a commitment to quality of client service. Private practitioners take on Legal Aid work knowing it is remunerated at a lower rate than what they expect and receive from private clients. Similarly, in-house practitioners generally earn less than their private counterparts. However, as evidenced by the survey results, this does not compromise their approach to practice.

Unfortunately, the survey instrument could not provide a summary report with a graphic breakdown separating in-house and private practitioner responses. The extracts below represent the results from the composite of in-house and private lawyers.

Survey participants undertook the following work for LAACT in their practice:



Some comments made in the survey reveal that NPA expectations around outcomes can be difficult, especially if they are not realistic given the limited role of lawyers in the lives of clients. Often a lawyer's interaction with their client is brief and for only the time the client is in the legal system. Expectations that the lawyer can influence changes in a client's future behaviour are unrealistic.

This is a difficult process to ensure that one can achieve those outcomes. Some of the questions outlined above are not in my view in the solicitor's gift. We have a role to satisfy the requirements of the Court and the law. We can assist the client in a range of advice options and outline to them their obligations under the law and suggest strategies for the future. But to suggest that in reality clients are wiser after the event or are empowered etc is something I am unable to answer with any certainty.

The client should have a better understanding of the law applicable in their case and the court procedures involved. In a criminal law context it is unlikely that my intervention on a particular case will stop them reoffending.

I would like to think that this situation has been improved. I am not sure that it is the case. A long history of mental health issues, impulsive behaviour and substance abuse has led to recidivism, and although I work with him to help him make better choices in life, improvement is slow.

The client should have a better understanding of the law applicable in their case and the court procedures involved. In a criminal law context it is unlikely that my intervention on a particular case will stop them reoffending.

Salient responses indicative of the approaches lawyers surveyed revealed were as follows:

How often would you refer a client to another legal or a non-legal service?		
Answer Options	Response Percent	Response Count
Daily	14.6%	6
Weekly	41.5%	17
Monthly	19.5%	8
Six monthly	7.3%	3
One a year	4.9%	2
Rarely	7.3%	3
Never	4.9%	2

Regular referral was something the practitioners surveyed ranked high at 41.5% for weekly referrals. The survey reveals that few participants refer rarely. This suggests that lawyers are mindful of linking clients to other services to help with problems that are beyond the remit of the grant of legal aid. This indicates an holistic approach is being taken.

The survey asked for responses to statements that would reveal the complex nature of clients, lawyer responsiveness to clients and whether the lawyers have a 'client centred' approach:

Reflect on legal aid cases that you have commenced working on in the last three months. Rate the following in terms of importance when commencing a new case:							
Answer Options	5 Essential	4 Very Important	3 Important	2 Not Important	1 Irrelevant	Rating Average	Response Count
Spend time preparing a client, calming them down when anxious.	14	15	10	0	0	4.10	39
Encourage them to bring the right paperwork.	14	16	8	1	0	4.10	39
Discourage them from taking inappropriate action without first getting legal advice e.g. discouraging clients from contacting a witness for the other side.	24	7	6	1	1	4.33	39
Build a good rapport with the client which you can determine by the client's responsiveness receptivity – head nodding, asking of further questions, being thanked.	19	12	7	0	0	4.32	38
Affirm the client, for example, when they have taken positive steps to help their situation.	16	16	7	0	0	4.23	39
Provide information and advice that is simple and understandable for the nature of the client e.g. intellectual disability, a child, poor schooling.	27	9	3	0	0	4.62	39
Are up to date on services in the community so that you can make good referrals to other services for support on legal and non legal issues.	12	15	10	2	0	3.95	39
Regularly check that the client at interview and during the matter that they understand the context, the court proceeding or legal process, their position at law.	19	15	3	2	0	4.31	39
Check/verify that the client knows what the next step they need to take is and what the lawyer's role will be and what the next steps the lawyer will take are.	22	13	3	1	0	4.44	39
The client values the opinion of the lawyer.	11	12	13	2	1	3.77	39
The client touches base with the lawyer if required after interview.	10	12	15	1	1	3.74	39

Lawyers tended to rate those elements deemed as essential indicators of good quality practice (by research on good practice, legal profession legislation and conduct rules, ethics case law, focus group and practice standards) as very important and important.<sup>121</sup> Most of these elements had a 0% response of 'not important' and/or 'irrelevant'.

There was very little difference in rankings/approach between private practitioners and in-house lawyers. For example, in the results for private lawyers to the answer option 'Spend time preparing a client, calming them down when anxious':

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<sup>121</sup> For example see B Wolski, *Legal Skills: A Practical Guide for Students* (Asia Pacific: Thomson Legal and Regulatory, Law Book Company, 2006), 59-206.

Rating	% Private practitioners	% In-house practitioners
Essential	38.1	33.3
Very Important	42.9	33.3
Not Important	0	0
Irrelevant	0	0

For the answer, 'Regularly check that the client at interview and during the matter that they understand the context, the court proceeding or legal process, their position at law':

Rating	% Private practitioners	% In-house practitioners
Essential	47.6	50
Very Important	38.1	38.9
Not Important	0	5.6
Irrelevant	0	0

The statements below tried to elicit responses that would reveal client resilience being strengthened, client awareness of their legal position improving and chances for early intervention and prevention improving – as per the NPA requirements.

When you finalise a client file are the following present?						
Answer Options	Always	Often	Sometimes	Rarely	Never	Response Count
Client better able to plan and to organise their legal issues.	4	17	14	2	0	37
Improvement of the client's interaction with the legal system e.g. keeps bail conditions, better at talking to police, the court and authority, understands parameters of arrangements for children and contact (e.g. corrections, husband/ wife).	7	18	12	1	0	38
Empowered to make informed choices knowing their likely consequences.	8	17	12	1	0	38

The statements below tried to elicit responses that would reveal NPA requirements and good practice standards around: clear legal advice being given; good problem identification by lawyers; a holistic approach being taken; the provision of fearless and competent legal advice; and good advocacy where client's issues are explored and authority is held to account.

Rank the following in terms of importance:							
Answer Options	5 Essential	4 Very Important	3 Important	2 Not Important	1 Irrelevant	Rating Average	Response Count
Familiarity with the law and the obligations of authorities under the law to the client.	29	7	1	0	0	4.76	37
Detailed discussion with the client about their own issues/concerns about the problem.	20	13	4	0	0	4.43	37
Exploration of other factors which might affect the client's long-term well being.	7	15	14	1	0	3.76	37
A holistic approach considering legal and non legal issues e.g. other health conditions of the client	10	16	9	2	0	3.92	37
Asking lots of questions of your client and refusing to accept being shrugged off where you need the information to advocate effectively and pursuing answers with vigour until satisfied.	15	9	11	0	2	3.95	37
As part of your advocacy raising questions and results of your enquiries with the authorities to enforce/protect/fulfil client rights (with the consent of your client).	13	12	11	1	0	4.00	37
Making a convincing argument incorporating the client's instructions and the findings of the lawyers own investigations.	23	10	4	0	0	4.51	37
Gathering the necessary evidence to support the concerns and placing it before the authorities to ensure full consideration before decision-making.	25	9	3	0	0	4.59	37

Both private and in-house practitioners rated the following indicators highly (e.g. essential, very important, always, often):

- quality;
- good practice;
- professionalism;
- client centred;
- social inclusion;
- problem identification;
- holistic service;
- seamless referral;
- warm referral;
- joined up services;
- responsiveness;
- collaborations and relationships;
- suggestions of alternative dispute resolution;
- early intervention;



- prevention;
- social inclusion;
- flexibility;
- good and effective practice;
- client role in managing affairs;
- voice;
- holding authorities to account;
- client-centred;
- questioning to broaden considerations; and
- rule of law.



## Case Studies

The following case studies are taken from the focus groups, the online lawyer survey, client interviews with client after client/lawyer interview and the staff observation logs. The research discussed earlier suggests that case studies are an important way in which information on client outcomes can be revealed. They provide rich insights into what happened, how it happened and why it happened – insights that statistics are not capable of eliciting. They also demonstrate why a certain action was taken in an individual instance when it might not be taken in others, thus explaining how cases can vary depending on the individual circumstances of each case/client. This research aims to measure outcome and to trial a range of instruments that reveal different information about what occurs, why it occurs and what the impact or outcome of the service's intervention is for the client. These case studies are therefore an important mechanism. Case Studies can also be used in public documents such as the Annual Report to tell the story of what happened in real life cases as a result of LAACT's intervention. This can assist in raising awareness in the community about LAACT's work and the importance of this work.

### From the Focus Groups

#### Case Study 1

A client was facing 15 charges for a range of offences including escaping legal custody, resisting arrest, common assault and theft. After negotiations with the police about their brief of evidence, LAACT lawyers established that the DPP had insufficient evidence to establish the multiple charges. Bail conditions that should never have been imposed given the circumstances of the case were also removed after these negotiations and because of the intercession of the lawyer.

Outcome	Qualities demonstrated by outcome
Holding of authority to account.	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness.

#### Case Study 2

This client was a thirteen year old with a fragmented family history, who had led a chaotic life, had limited schooling and skills and could not manage their affairs. They were homeless and had no other support in their life. Staff had to shepherd the client through the legal

process, helping the client change their behaviours and stressing the importance of simple life-management skills in order to give the client a better chance in the court case.

Outcome	Qualities demonstrated by outcome
<b>Clients with chaotic lifestyles attend interviews, appointments and court dates.</b>	Early Intervention, Prevention, Empowerment, Client Centred, Holistic, Targeting.

### Case Study 3

One criminal lawyer noted that in late October 2011, he was representing a homeless Aboriginal man with significant mental health problems and intellectual disabilities. The lawyer tried to connect the man with supported accommodation services or accommodation of some kind, because the man was 'at risk' of incarceration if he could not find accommodation. Incarceration was of particular concern in this case given the number of Aboriginal men who die in custody, the rates of prison assaults and this client's particular vulnerability. The lawyer had no success telephoning services to get assistance. The lawyer stated he had to 'go the extra mile . . . with these clients who have no chance at navigating the system – if we don't help, sometimes no one else will. I had to drive him to the [accommodation] places, as otherwise they would not have taken him'. If the lawyer had not 'gone the extra mile', it is almost certain that this client would have been locked up and refused bail.

Outcome	Qualities demonstrated by outcome
<b>Clients with chaotic lifestyles attend interviews, appointments and court dates.</b>	Early Intervention, Prevention, Empowerment, Client Centred, Holistic, Targeting.
<b>Relationships and trust building with other legal and non-legal support agencies enabling client referral and support.</b>	Early Intervention, Prevention, Holistic, Joined-up, Good Practice, Quality.

### Case Study 4

The case involved representation and the preparation of evidence to gain redress for a woman who was a victim of a crime. The client had 'extreme difficulty' gaining access to adequate compensation for serious injury. One reason for this was that it is hard to get reports that reflect the actual impact of the crime. Psychologists and psychiatrists are often loath to document the full extent of the harm and likely ongoing impact of harm caused to the victim because such statements could affect the patient's psychological recovery and therapeutic treatment. In order to gain the appropriate award/compensation, however, a report needs to 'cover off' on the harm caused. In this particular case, LAACT managed to secure an award for the client that was above the usual amount awarded. Staff felt the following elements contributed to this outcome:

- Commencing the case with an overall strategy including engagement with the client.
- Having a fallback plan.

- Speaking in plain, simple English and explaining the process in a way the client can understand.
- Keeping the client informed as to where things are up to.
- Extracting as much information from the client as possible under all headings for the claim. This was difficult for both lawyer and client: reliving the crime was traumatic, while gaining information on the impact of the crime would often be degrading and humiliating for the client, requiring empathy, explanation and skill from the lawyer.
- Conducting legal and social research into both the impact of the crime and the arguments for compensation.
- Advocacy. 'Given the "awful" nature of the crime, paralegals had to advocate on the client's behalf on her the social, health and other legal support she needed to get through the claim process. The crime affected the client deeply and made it hard for her to deal with life, let alone her legal right to her claim'.<sup>122</sup>
- Negotiation. 'As the psychiatric/psychological report did not convey the full impact of the crime on the client, lawyers had to give examples and negotiate with officials to convey this'.<sup>123</sup>
- Interaction and co-operation with other sections of LAACT to get assistance for the client's other problems and to get advice on strategy.

Outcome	Qualities demonstrated by outcome
<b>Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.
<b>Relationships and trust building with other legal and non-legal support agencies enabling client referral and support.</b>	Early Intervention, Prevention, Holistic, Joined-up, Good Practice, Quality.

## Case Study 5

A woman who had a large debt for school fees of \$11,500. Proceedings had been issued against the lady. LAACT negotiated with the other side to reduce the amount owed to \$5,000 and for the other side to 'drop' the proceedings. Elements attributed to the success/outcome in this case were:

- Clear and detailed instructions from the client as to her circumstances, financial position and factors affecting her ability to pay
- Interaction with other areas of legal aid
- Discussions with specialist legal centre namely, the Consumer Law Centre
- Discussions with the domestic violence lawyer to further assist the client
- Thought as to the reasons the school might be prepared to waive part of the debt
- Mounting of a careful strategy around a payment plan reflecting the ladies limited capacity to pay.
- Joint advocacy by different parts of the services to reason with the school.

<sup>122</sup> Comment by a Civil Law focus group participant.

<sup>123</sup> Ibid.

Outcome	Qualities demonstrated by outcome
<b>A good client interview.</b>	Holistic, Joined-up, Quality, Problem Identification, Empowerment, Good Practice, Early Intervention, Prevention, Responsiveness, Client Centred, Alternative Dispute Resolution (ADR), Targeting, Expertise.

## Case Study 6

A client was being considered for Electro Convulsive-Shock Therapy (ECT). In ensuring that various issues were raised/explored and to ensure the process followed was fair, LAACT staff interviewed the client and asked the necessary questions to gain consideration of all aspects/ramifications of the proposed route (i.e. the ECT). They indicated that 'but for LAACT's intervention', serious risk to the client's health could have resulted. Through questioning the client and some health professionals about other aspects of the client's health, the lawyer learned that the 89 year old had a pace-maker and had been considered for ECT without the anaesthetist being asked if the ECT procedure would be safe for the client. The lawyer highlighted the obligation at law that hospital staff had to take into account relevant health factors (unrelated to the client's mental health issues) that posed serious risk to the client's life.

LAACT staff thought the following factors led to this outcome:

- Familiarity with the law and the obligations of authorities under the law to the client.
- Detailed discussion with the client about the client's issues/concerns regarding the treatment.
- Exploration of other factors which might affect the client's long-term well being.
- Holistic approach that considered both legal and non-legal issues (e.g. the client's other health conditions).
- Asking lots of questions, refusing to accept being shrugged off by the authorities and pursuing answers with vigour until satisfied.
- Raising questions and results of enquiries with the authorities.
- Making a convincing argument that incorporated the client's instructions and the findings of the lawyer's investigations.
- Gathering the necessary evidence to support concerns and placing it before the authorities to ensure full consideration before decision-making.

This case study demonstrates the following outcomes and outcome indicators:

Outcome	Qualities demonstrated by outcome
<b>A good client interview.</b>	Holistic, Joined-up, Quality, Problem Identification, Empowerment, Good Practice, Early Intervention, Prevention, Responsiveness, Client Centred, Alternative Dispute Resolution (ADR), Targeting, Expertise.

<b>Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.
<b>Holding of authority to account.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness.

## Case Study 7

One Aboriginal teenager was asked if she had experienced domestic violence or family law. She responded that she had not. In further discussion, the girl indicated that she was regularly beaten by her boyfriend and that her mother and her mother's partner were in dispute and that her mother was also regularly beaten. This demonstrates that many disadvantaged people are not able to identify a need as legal and require assistance and guidance by professionals about how they might get help. As a result of this CLE and outreach work, the teenage girl was given information about her right not to be harmed or be in fear. LAACT staff helped identify a range of support services that she could be linked into. The girl was not able to visit the nearest Aboriginal service as her mother was already seeking help there and the girl wanted her own issues and privacy to be protected. After a number of follow-ups with the teenage girl LAACT staff were able to find a number of services, including legal aid, where the girl felt comfortable discussing issues ranging from her exposure to violence, to her poor self-image and her finances. Elements identified as key in this outcome were:

- Ability to build rapport.
- An understanding that not all people know how to identify their issues as legal. There is a need to have an informal chat to enable people to open up and ask questions in plain English rather than presenting legal jargon – then the legal professional can use their skill to identify the social and legal issues.
- The ability to explain things clearly, at a level appropriate to the target group.
- Cultural sensitivity.
- Understanding client context.
- Responsiveness to individual need and circumstances.
- Extensive knowledge of networks and giving appropriate 'warm referrals'.
- Relationships, where a matter for an individual may be pressing/urgent need to be dealt with speedily, even though others may be on waiting lists. This is particularly relevant when the client is vulnerable and may be at risk of not receiving the service if follow up is not immediate.
- Identifying a person's variety of legal and non-legal issues. On further investigation, the girl was due for a court appearance and had financial and debt issues as well as the domestic violence issues initially identified.
- Knowledge of multiple and diverse services that can assist vulnerable people in a range of legal, social, cultural and economic difficulties.

This case study demonstrates the following outcomes and outcome indicators:

Outcome	Qualities demonstrated by outcome
<b>Improvement in the client's interaction with the legal system.</b>	Early Intervention, Prevention, Empowerment, Client Centred.
<b>Client is better able to understand their legal position and the options open to them.</b>	Early Intervention, Prevention, Empowerment, Good Practice, Quality.
<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.
<b>Relationships and trust building with other legal and non-legal support agencies enabling client referral and support.</b>	Early Intervention, Prevention, Holistic, Joined-up, Good Practice, Quality.
<b>A holistic service delivered to the client through collaboration, networking, community legal education and joined-up services.</b>	Good Practice, Client Centred, Problem Identification, Collaboration, Prevention, Early Intervention, Holistic, Joined-up.

### From the Online Lawyer Survey

The following case studies are taken directly from the Online Lawyer Survey in response to the following question:

Consider a legal aid client you assisted/advised/represented in the last week. In the box below briefly describe the client's situation and how you think the client is now positioned as a result of your intervention.

Prompts: Consider in your answer whether the client is wiser about their situation, the process and their options, knew the elements of the law applicable to them, where they are up to in the process and whether as a consequence of your intervention they would be better placed than before they received your assistance?

### Case Study 8

Client had a matter dismissed under mental health provisions in a criminal matter. Client had originally indicated that they wished to plead guilty to both charges before the Court. Client was not aware that mental health provisions existed. After representations to the DPP and submissions in Court, on one charge no evidence was offered, and the other charge was dismissed under the mental health provisions, and the client submitted to the jurisdiction of ACAT [the Tribunal] for his psychiatric treatment order to continue.

Outcome	Qualities demonstrated by outcome
<b>A good client interview.</b>	Holistic, Joined-up, Quality, Problem Identification, Empowerment, Good Practice, Early Intervention, Prevention, Responsiveness, Client Centred, Alternative Dispute Resolution (ADR), Targeting, Expertise.



<b>As appropriate, sentences are minimised or unsubstantiated charges are dropped.</b>	Rule of Law, Efficiency, Good Practice, Expertise.
<b>Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.
<b>Holding of authority to account.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness.

## Case Study 9

One client, with many issues, legal and non-legal, comes to the service sometimes on a weekly basis. She is a very young Aboriginal mother of 2, suffering from alcohol abuse, mental health/co-morbidity issues, poor education, reliant on Centrelink support, anger management issues and possibly more. She loses her temper easily, storms out of office, yells at everyone including those trying to assist, and is unable to receive advice or process information when under stress. While eligible for housing transfer, because of her poor education and personality issues, she has been unable to secure an accommodation transfer with Housing ACT. I assisted her and wrote a letter to manager of the relevant area a few weeks ago. Last week I was notified that a caseworker has been allocated. I also referred her to our family law area for assistance and representation with family law issues. I am still the main point of contact for her and a lot of my assistance is ensuring referral to appropriate services in a number of areas. In terms of her specific legal problem, I spent quite some time ensuring she was clear on the process, what to expect, her legal rights etc and we were able to negotiate an outcome by consent. I have also liaised with DVCS [domestic violence service] to assist the client to be transported to the court on the relevant day when she had no money for the bus. Without the advice, she would probably still be stuck in the system litigating in court or having her matter dismissed for non-attendance.

<b>Outcome</b>	<b>Qualities demonstrated by outcome</b>
<b>Clients with chaotic lifestyles attend interviews, appointments and court dates.</b>	Early Intervention, Prevention, Empowerment, Client Centred, Holistic, Targeting.
<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.
<b>Relationships and trust building with other legal and non-legal support agencies enabling client referral and support.</b>	Early Intervention, Prevention, Holistic, Joined-up, Good Practice, Quality.
<b>Holding of authority to account.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness.

## Case study 10

I represented one man who was seeking an urgent return of his child to the ACT in the last week. After legal aid's intervention the child has been returned. The client sought

and received the child's return and understands better the obligations upon parents under the Family Law Act. Obviously, without our assistance the child would now be living in Queensland and that would significantly affect his time with the child.

Outcome	Qualities demonstrated by outcome
<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.

### Case Study 11

In a family law property dispute involving a recently separated couple, I advised the client of how fair settlement is determined; the next steps in negotiations; and time limits and referred them to a private solicitor and for mediation for more detailed legal advice and assistance with negotiations. The client left with an improved understanding of the legal process – the many myths they held were debunked and the client knew what to do next.

Outcome	Qualities demonstrated by outcome
<b>A good client interview.</b>	Holistic, Joined-up, Quality, Problem Identification, Empowerment, Good Practice, Early Intervention, Prevention, Responsiveness, Client Centred, Alternative Dispute Resolution (ADR), Targeting, Expertise.

### Case Study 12

The client is wiser as a result of the interaction with Legal Aid. He now understands the likely outcome of his own destructive behaviour. It is the journey of the matter that allows him to understand that if he takes particular positions there are ramifications for this. I believe he is empowered to understand when that journey begins means where it will likely end, i.e. consequences of behaviour.

Outcome	Qualities demonstrated by outcome
<b>Clients are better able to plan and organise their legal affairs.</b>	Early Intervention, Prevention, Empowerment, Quality, Good Practice, Client Centred.
<b>Improvement in the client's interaction with the legal system.</b>	Early Intervention, Prevention, Empowerment, Client Centred.

### Case Study 13

I have a Sudanese client who has brought an application to spend time with his daughter, who is three years old. The parties have been negotiating since June 2011 and on the last court occasion the mother brought an application for parentage testing. This really shocked and upset my client. The court ordered that the parties undergo parentage testing. I explained to the court that this was likely to be a delaying tactic by

the mother and requested that my client's application for time go ahead. The Federal Magistrate declined to make orders but expected the ad hoc arrangements would continue. I have managed to negotiate to have some fortnightly contact.

However my client refuses to do the DNA testing to confirm he is the father until he has spoken with the Sudanese community. I have been in contact with his case worker at Companion House and have explained the risk of failing to comply with court orders and the possibility that he might have his aid terminated for failure to comply with court orders. He stated that he accepted the risk, although he told me that he wanted to respect the Australian court system, but needed to do it the Sudanese way first and this involved consultation with his Sudanese community before he did the test. He said that if he did not do this he would be shamed by the community. He said that this was a bigger deal for him compared to the risks involved of breaching court orders and having his grant terminated. In the circumstances, all I could do was reiterate my advice to him about the risks involved of not doing the parentage testing and encourage him to consult the Sudanese community as soon as possible so that there would be time to do the testing. Unfortunately, even though the client said that he was grateful for my assistance, it was important for him to deal with the matter of doing parentage testing by consulting the Sudanese community. I believe the client is wiser about the situation, the process and his options. He knows about the possibility that his application to spend time with his daughter could be dismissed; however this is secondary to his cultural upbringing.

The case highlights how the client is better informed but the issues that we face in achieving outcomes clients may want when they come into contact with cultural norms and the Australian legal system.

Outcome	Qualities demonstrated by outcome
<b>A good client interview.</b>	Holistic, Joined-up, Quality, Problem Identification, Empowerment, Good Practice, Early Intervention, Prevention, Responsiveness, Client Centred, Alternative Dispute Resolution (ADR), Targeting, Expertise.

## Case Study 14

Client obtained bail in the Supreme Court to enter a residential rehabilitation. Bail was opposed but granted as a result of the intervention of legal aid representation. The client did not have advocacy skills to achieve the outcome, not to mention filing the correct paperwork and discussions with DPP and to negotiate the rehabilitation prior to the application being heard. The client would not have been able to run the matter for these reasons. It took several attempts at bail in Magistrates Court and the Supreme Court. After much effort to develop trust and understanding the client is now able to work more effectively with me which would be unique in terms of his life journey so far.

Outcome	Qualities demonstrated by outcome
<b>Clients are better able to plan and organise their legal affairs.</b>	Early Intervention, Prevention, Empowerment, Quality, Good Practice, Client Centred.

<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.
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### Case Study 15

I would like to think my mildly retarded client had some level of insight into his offending behaviour and what the consequences of offending were but the reality is, he probably doesn't and there's little I can do to bring that home. Such is the nature of mild mental retardation. This client had so much going for him and then in a matter of minutes, all the good work was undone by his poor judgment and decision to break into two homes again. It's all very well to discuss outcomes but cases like this highlight the complexity and upward hurdles legal aid lawyers face.

<b>Outcome</b>	<b>Qualities demonstrated by outcome</b>
<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.

### Case Study 16

The client is looking at a breach of a Good Behaviour Order with the imposition of suspended jail sentence. After significant resistance the client after clear and frank explanation by me now knows they have to stop resisting and obtain mental health report and other clinical reports. I have successfully argued for the six week adjournment so the client can organise for sentence and obtain the necessary reports.

<b>Outcome</b>	<b>Qualities demonstrated by outcome</b>
<b>Client is better able to understand their legal position and the options open to them.</b>	Early Intervention, Prevention, Empowerment, Good Practice, Quality.
<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.

### Case Study 17

My client is mother of a four month old and two-year old, had relocated from [X] to Canberra prior to birth of youngest child. The father commenced proceedings seeking an order that the mother and children return to [X] some 9 months after having come to Canberra. The father had commenced proceedings in the local Court of [Y] on the day client was giving birth. I advised client with regard to transferring proceedings to the Federal Magistrates Court and advised the client with regard to the court's likely view based on the legislation and case law and decisions about unilateral relocation. I advised the client of the prospects of father's application succeeding in light of the age of the children, the father's acquiescence to the relocation/delay in commencement of

the proceedings and what the law/court would view to be appropriate contact arrangements in light of children's ages and distance. I advised the client of the court process from interim and beyond, including role and importance of Family Report and the likely outcome on a final basis. The client is now fully apprised and aware of the legal/litigation process and the stage that she is at, her options and the range of likely final outcomes. After legal aid's intervention the matter has now been transferred to [Z]. This has meant that the client and children are able to continue to live in Canberra with the father having daytime contact on alternate weekends (including one hour with the baby). The court outcome reflected the advice given to the client. The client is now much less anxious and having been allowed to stay in Canberra on an interim basis with the children who are settled and is more confident about the final court orders and has some sense of stability that did not exist before our interventions.

<b>Outcome</b>	<b>Qualities demonstrated by outcome</b>
<b>Clients are better able to plan and organise their legal affairs.</b>	Early Intervention, Prevention, Empowerment, Quality, Good Practice, Client Centred.
<b>Improvement in the client's interaction with the legal system.</b>	Early Intervention, Prevention, Empowerment, Client Centred.
<b>Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.
<b>Client is better able to understand their legal position and the options open to them.</b>	Early Intervention, Prevention, Empowerment, Good Practice, Quality.
<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.

## Case Study 18

I saw a non-English speaking client today who was not at all aware of the law in Australia as it applied to her situation or where she should seek help for each of the separate legal problems she presented with – Centrelink/Family Relationship Counselling/Domestic Violence Order. After speaking with assistance of telephone interpreter, she has a clear pathway for each issue and an understanding of when to come back, what to expect and how to access services. She had none of these before, just very helpful neighbours who sent her to us.

<b>Outcome</b>	<b>Qualities demonstrated by outcome</b>
<b>A good client interview.</b>	Holistic, Joined-up, Quality, Problem Identification, Empowerment, Good Practice, Early Intervention, Prevention, Responsiveness, Client Centred, Alternative Dispute Resolution (ADR), Targeting, Expertise.
<b>Client is better able to understand their legal position and the options open to them.</b>	Early Intervention, Prevention, Empowerment, Good Practice, Quality.
<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.

## Case Study 19

The client (an Arab Muslim woman) has had her child remain in overseas country contrary to her wishes. It is not a Hague Convention country which means she could lose her access to her young child. With assistance of another lawyer, I gave legal advice to the client, referred her to a child abduction support service, to a local Imam and to an Islamic Centre. We also assisted her to make an application for legal aid, expedited her application, made an appointment with a lawyer for legal representation who then prepared and filed court documents and had the client in the Family Court before a judge within four days. It was a lot of work, much of it after hours, but as a result the client is now in a position where she may possibly have the child returned to her care.

Outcome	Qualities demonstrated by outcome
<b>Improvement in the client's interaction with the legal system.</b>	Early Intervention, Prevention, Empowerment, Client Centred.
<b>Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court.</b>	Rule of Law, Quality, Voice, Flexibility, Good Practice, Client Centred, Responsiveness, ADR, Expertise.
<b>Client is better able to understand their legal position and the options open to them.</b>	Early Intervention, Prevention, Empowerment, Good Practice, Quality.
<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.
<b>Relationships and trust building with other legal and non-legal support agencies enabling client referral and support.</b>	Early Intervention, Prevention, Holistic, Joined-up, Good Practice, Quality.

## Case Study 20

The client is looking at relocating in a Family Law matter. I discussed parenting options – block periods with the other party during holidays, Skype etc. I stressed the need to actively acknowledge ongoing relationship with former partner as the client did not seem to understand that the child had rights to see the other party. The client is herself from a broken home. After a long interaction and explaining the situation in different ways the client acknowledged the need for relationship with both parents and encouragement of this.

Outcome	Qualities demonstrated by outcome
<b>A good client interview.</b>	Holistic, Joined-up, Quality, Problem Identification, Empowerment, Good Practice, Early Intervention, Prevention, Responsiveness, Client Centred, Alternative Dispute Resolution (ADR), Targeting, Expertise.
<b>Improvement in the client's interaction with the legal system.</b>	Early Intervention, Prevention, Empowerment, Client Centred.
<b>Client is better able to understand their legal position and the options open to them.</b>	Early Intervention, Prevention, Empowerment, Good Practice, Quality.

<b>A process is undergone where the client is listened to, respected and given fearless advice of their legal position.</b>	Quality, Client Centred.
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## Case Study 21

In the ACT Legal Aid is the auspice of the Family Law Pathways Network [FLPN] and this is a great forum to facilitate collaboration between legal and relationship services. The steering committee of the ACT FLPN is made up of both lawyers and professionals working in relationship services so when we discuss issues and organise presentations and seminars we are brainstorming with lawyers and social scientists. These interesting presentations that reach a broad cross-section of professions/areas in the family law sector and from these presentations/seminars are born some valuable relationships and opportunities for outreach and collaborative projects. For example:

Presentation on Child Inclusive Practice and Family Dispute Resolution – combined effort by child experts/child consultants, FDR practitioners and lawyers involved in lawyer-assisted FDR resulted in collaboration between Legal Aid and our major family services centre who work with the most difficult of families. A representative from this family service who works with the parents has participated in the Legal Aid FDR Program in conferences/FDR to assist parents and their lawyers reach appropriate care arrangements for children. Feedback from lawyers was that the matter settled at FDR on a final basis largely due to the participation of the family services rep in the FDR.

A presentation on fathers in the family law process and connecting children to fathers – the joint presentation by lawyers, men’s sector and academics bridged gaps and improved understanding. This resulted in a relationship between legal aid and men’s sector where counsellors have attended information sessions with family law and FDR sections about family law and then individual counsellors having contact with lawyers and FDR to give information/direction to counsellors about their individual clients – also lawyers attending men’s groups (e.g. addressing men enrolled in anger management groups).

Presentations on teenage and young parents – combined effort with women’s legal centre, legal aid, youth sector, Centrelink, school for pregnant teens and young parents – resulted in Legal Aid doing outreach work to the school for pregnant teens/young parents and ongoing legal advice to these young parents. Research/preparation for developing a presentation about Muslim families and FDR and family law – meeting with a local Imam has resulted in an invitation for lawyer to attend the Canberra Islamic Centre to talk to Muslim men and women about family law and a reciprocal agreement for the Imam to address lawyers and other professionals in the family law sector about Muslim families and other cultural issues.

<b>Outcome</b>	<b>Qualities demonstrated by outcome</b>
<b>Relationships and trust building with other legal and non-legal support agencies enabling client referral and support.</b>	Early Intervention, Prevention, Holistic, Joined-up, Good Practice, Quality.
<b>A holistic service delivered to the client through collaboration, networking, community legal education and joined-up services.</b>	Good Practice, Client Centred, Problem Identification, Collaboration, Prevention, Early Intervention, Holistic, Joined-up.

## Case Study 22

I am acting for client injured in police custody. I arranged a medical appointment. I diarised and texted client to get him to the appointment without forgetting which this client does regularly. I arranged for the client to collect scans at hospital prior to attending the appointment. Without this assistance it is unlikely that the helpful evidence would have been obtained.

Outcome	Qualities demonstrated by outcome
<b>Clients with chaotic lifestyles attend interviews, appointments and court dates.</b>	Early Intervention, Prevention, Empowerment, Client Centred, Holistic, Targeting.
<b>A holistic service delivered to the client through collaboration, networking, community legal education and joined-up services.</b>	Good Practice, Client Centred, Problem Identification, Collaboration, Prevention, Early Intervention, Holistic, Joined-up.

## Case Study 23

I have one ongoing legally aided client since 2008. He started out as 'unfit to plead' but is now considered fit provided special measures are put in place. Having facilitated and implemented those measures his understandings of the above matters seems to have improved such that he can validly enter a plea for the right reasons.

Outcome	Qualities demonstrated by outcome
<b>Clients are better able to plan and organise their legal affairs.</b>	Early Intervention, Prevention, Empowerment, Quality, Good Practice, Client Centred.
<b>A holistic service delivered to the client through collaboration, networking, community legal education and joined-up services.</b>	Good Practice, Client Centred, Problem Identification, Collaboration, Prevention, Early Intervention, Holistic, Joined-up.



## Summary Evaluation of Findings and Conclusions

The research for this project used a range of approaches. The research model was designed after examination of international and domestic research and, more importantly, by discussing the nature of the service – its layers, complexities, contradictions and impediments – with the people on the ground. The measurement of outcomes and the identification of indicators of whether an outcome is present is not an easy task. Warnings from focus group participants and international research about the dangers of using outcome-based measurement when outcomes are outside an agency's control were taken on board. In many studies examined in the course of the literature review it was revealed that although a few studies had sought to measure outcomes, they had rarely defined the outcome they were to measure – or, if they did define it, the definition was significantly broader than the areas the specific service would be able to influence. The NPA implicitly recognises this in its suggestion that agencies work in collaboration and partnership with other legal and non-legal services.

This research project spent considerable time defining what an 'outcome' might look like before launching into measurement of outcomes. It also sought to identify what the hallmarks of a good practice model are in the area of legal services through an examination of literature, legal professional legislative frameworks, good practice standards and academic clinical teaching methods. Time was then spent asking those who deliver and receive legal aid services what elements they thought were critical to quality and to achieving an outcome. It also examined other research on what clients want from a service.

The focus group discussions were pivotal in assisting the researcher to understand both the complicated nature of legal aid service and what is and is not within the scope of legal aid services to control. This input was critical in determining and refining the questions or statements that would be put to lawyers, staff of LAACT, clients and stakeholders during the research. In addition, these focus groups led to a redesign of the initial instruments and the inclusion of stakeholder interviews, in order to ascertain the experiences of those who work alongside LAACT and LAACT's reputation. This researcher notes, therefore, that focus groups and conversations with those who deliver, receive or work with services are a critical component in any research of this kind, even though in this study the focus groups stood outside the snapshot data collection period. The focus groups revealed rich and useful information that has been included in reporting back on the findings and data.

The humanitarian literature outlining the key considerations that should be factored into any results-based measurement was also critical. This affirmed that an 'action participatory research' approach was the best way forward for research that undertakes to measure outcomes and quality. This research demonstrated that the action participatory research approach is critical to garnering the expertise of those who actually deliver services in the

‘real life practical’ scenarios that they face when dealing with disadvantaged clients and making suggests around social inclusive legal practices. The fact that two practice areas were prepared to participate in the trial (rather than the one that had been intended) indicates that the action participatory research approach successfully engaged staff. This is critical: if research, evaluation and measurement are to drive quality of service for clients up, then staff must embrace the process. This is particularly the case in this research, because staff will have a key role in the roll-out of any future snapshots. Staff engagement means the process will be more sustainable as it is owned by and inclusive of staff and assists them in their professional development.

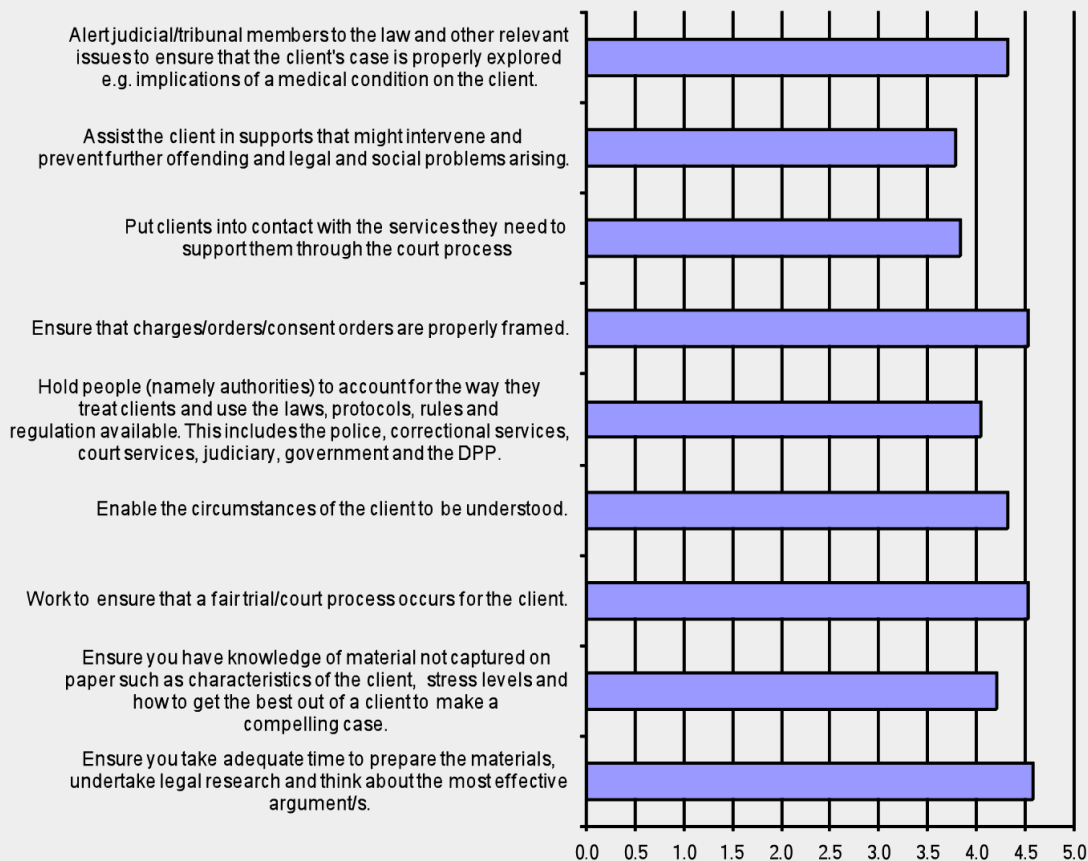
The two-week snapshot (from 9 November to 23 November 2011) consisted of interviews by the researcher with both clients and lawyers after client/lawyer interviews; an online survey with in-house and private lawyers; surveys with clients at the end of a matter; client feedback by questionnaires/surveys<sup>124</sup>; interviews with stakeholders; and case studies. The overall process of participatory action research adopted for the project involved what could be described as a ‘360 degree analysis’: it engaged clients, those who deliver the services and external stakeholder viewpoints and experiences of the legal system.

Warnings from focus group participants and international research about the dangers of using outcome-based measurement when outcomes are outside an agency’s control were taken on board. Outcomes were defined accordingly and in consultation at each stage. When defining outcomes, the matters listed in the table below were identified as critical outcomes for a legal aid service. These were tested through the statements assessed by private and in-house practitioners in the online survey.

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<sup>124</sup> A number of surveys were used during the pilot. To avoid the confusion that began to arise, we decided to call them client feedback questionnaires/surveys.

**Rate the following in terms of importance when you represent a client at a court or tribunal:**



There are, of course, areas where improvement is possible. Some of the areas identified in the research as needing improvement include:

- The focus of CLE activity needs to be broadened to include targeted education programs tailored to the needs of particular disadvantaged groups. This could be done by working with these groups and practitioners to find out what the need for legal education of these groups is, rather than telling them what they need and developing programs in isolation from clients, community and the practitioners who deal daily with the issues at the 'coal face'. Staff in the Civil, Criminal and Family Law focus groups identified a need for 'much more community legal education that responds to the issues clients need to know about how the legal process operates, the clients place within it and what clients need to do and the client's rights'. Such CLE 'is also critical for the workers [legal and non-legal] who try to support these groups'.
- The need for adequate communication across all areas of LAACT so that urgent applications are processed in a timely way.

- Training for front office staff needs to be enhanced and improved. Reception is the first contact that many members of the public have with LAACT. The manner in which reception greets people and the way people are listened and spoken to create an immediate impression of the office, its values and the quality of its services. A good experience at reception, like a good client interview, demonstrates qualities such as holistic, quality, problem identification, good practice, responsiveness, client centred, and expertise.

As noted in the Executive Summary, Mowles, Stacey and Griffin<sup>125</sup> make a salutary warning to funders and agencies trying to report and comply with measurement of outcomes and results. They note that managerial methods have been adopted largely uncritically from the private sector and are now ubiquitous across a range of organisations and in expectations from funding bodies. They observe that, when applied to processes of social interaction like human development or services, such methods have severe shortcomings. These methods overlook or ‘fail to understand unanticipated contextual and contingent circumstances unforeseen in the more abstract and de-contextualised planning processes to be such “noise” which needs to be managed away’.<sup>126</sup> Mowles, Stacey and Griffin also warn of the dangers of applying ‘the historical and abstract tendencies’ since the tendencies over-emphasise causality and linearity, implying that human action is more rational and pre-reflected than it actually is.<sup>127</sup> They are concerned that in dealing with humanitarian and human services (where human interactions are often complex, unpredictable and unexplained) any performance measurements that are rigid and pre-set can be problematic. Such measurements can fail to take into account what is actually occurring on the ground as their proscribed targets, informed by history or untested abstract theories, can fail to recognise or incorporate the complex, unpredictable circumstances in which these services must work, operate and adapt in order to be effective.

Mowles, Stacey and Griffin argue that data collection and service planning should be a continuous process of recognition and reflection on action and consequences. Employees could be rewarded for their ability to interpret and respond to circumstances/situations encountered in their day-to-day work with others. Finally, the researchers argue the process needed to achieve the outcome should be valued as much as the outcome itself.

The data from this research project reveals that Mowles, Stacey and Griffin are right and that (insofar as legal aid services are concerned) the situations that clients and service providers can find themselves are often inherently paradoxical, difficult, unpredictable and affected by systemic issues. Yet, amidst this, good, quality service delivery can on occasion transform the experiences and lives of clients – clients who struggle to navigate a complex legal system and deal with the power imbalances that exist in their relationships with others (e.g. the opposing party, the DPP, the courts or debt collectors).

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<sup>125</sup> C Mowles, R Stacey and D Griffin, ‘What Contribution Can Insights From the Complexity Sciences Make to the Theory and Practice of Development Management?’, *Journal of International Development*, vol. 20 (2008).

<sup>126</sup> *Ibid.*, 808.

<sup>127</sup> *Ibid.*, 814.

This study also reveals that good outcomes are often unexpected and unanticipated. Such outcomes cannot always be pre-determined by a remote planning process removed from the front line of the service. 'Successful' or 'positive' outcomes are more likely to occur if staff have good practices in place, are clear on their roles, are adequately supported and trained and are responsive to client and community needs.

This research has clearly demonstrated the complex and complicated nature of LAACT's clients and work. Snowden and Boone<sup>128</sup> observe that simplifications of what ought to happen and how it ought to happen are useful in ordered circumstances. As circumstances change and become more complex, however, the simplifications must also change. Snowden and Boone observe that complicated circumstances, unlike simple ones, may contain multiple right and wrong answers. They observe that the more complex and protracted the situation and behaviours are, the more expertise, flexibility and adaptability is required. This relationship needs to be acknowledged and valued by those who fund and manage services like Legal Aid. Discussion, dissent and dialogue should be promoted to increase ideas, options and informed action.

This research reveals the complex and complicated nature of Legal Aid work and Legal Aid clients. It also clearly demonstrates that autonomy, creativity and relationship building are critical in achieving 'successful outcomes'. Successful outcomes must be understood in the context of the realities of clients' lives and must be within the control of the agency given its role and function in society. LAACT's role or function, as defined in this Report, includes upholding the rule of law, advising clients, providing information and education, representing clients, holding others to account, asking the right questions and knowing and applying the law.

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<sup>128</sup> D J Snowden and M E Boone, 'A Leader's Framework for Decision Making', *Harvard Business Review* (November 2007), 1-8 – see page 3 for a good discussion of understanding complexity.

## Recommendations

This research recommends that LAACT takes the following steps to enhance quality of service, accessibility and outcomes for LAACT clients and work towards improving the future for the community of the ACT.

### **Recommendation 1: Educate communities about the quality and low cost of LAACT services**

As identified in this research, one obstacle to people seeking legal aid services was that many thought they would have to pay. It was noted by a former client that clients often did not know until after contacting Legal Aid that the information and advice service is free. This is likely to deter people from seeking help. Targeted work needs to be done with people from vulnerable and disadvantaged groups. Greater effort could be made to explain to low socio-economic groups that legal aid is available and that the service offered by LAACT is of a high standard.

### **Recommendation 2: Six-monthly repetition of snapshot surveys**

The snapshot surveys should be repeated every six months and rotate around the functional areas of LAACT that provide services to the public. Over time, this will enable comparisons with baseline data. The researcher suggests that the Civil Practice be examined next, followed by CLE in twelve months time. This will give Knowledge Services a lead time to adapt to the recommendations of this report: staff will have time to implement changes to their practice, ascertain what elements might inform and promote pro-activity and develop processes to target and identify CLE need in disadvantaged groups. The researcher also suggests that Client Services be included in rotating six monthly snapshots, subject to the survey instruments being modified where necessary to reflect the different roles of Client Services. LAACT may wish to reconsider the 'client survey on file closure' as an instrument unless clients can be forewarned on the opening of a new file that they may be asked to voluntarily participate in a closure of file survey.

### **Recommendation 3: Online lawyer survey and focus groups**

A focus group process with the service area being examined in future snapshots should be incorporated. This is due to the rich information that these elicit.

In any further roll-out of the online survey of lawyers, the questions should be more directly related to how lawyers actually practice. The survey used for the trial was designed to give

practitioners time to incorporate the (sometimes new and different) approaches to practice signified by the NPA and to raise their awareness of this shift whilst still seeking their views on whether they considered these approaches important. The survey should be conducted annually rather than every six months to ensure that the burden is not too heavy. This is also because the survey is for all practitioners with a legal aid grant rather than only those who are part of the area being measured by the rotating 'snapshot' approach. This survey could also be a useful tool for monitoring lawyer adherence to LAACT's practice standards.

The researcher also suggests one question change. In the question asking about client circumstances, the phrase 'financial problems' should be changed to 'low income'. Because all fields in the survey were mandatory, one practitioner stated he could not continue with the survey as none of the answer options applied. Clients receiving grants of legal aid either have very low incomes (to pass the 'means test') or special circumstances and this change of wording would ensure at least one category is completed and that lawyers can move to the next question.

#### **Recommendation 4: Make a Client Charter available**

Review the existing Commitment to Service Statement on the LAACT website and incorporate it into a Client Charter explaining the rights and responsibilities of clients. This should be handed to all clients on the opening of a file in order to help manage expectations. This also recognises that not all clients of LAACT are able to access or know how to use a computer and will check the website. Handing a copy of the Charter to each client when a file is opened will help manage client expectations of the service.

#### **Recommendation 5: Application Form and CLE Feedback Evaluation**

Client feedback should be used to ascertain how easy the new Application Form is for LAACT clients to understand. A new Client Evaluation Form should be developed for the CLE function of Knowledge Services. This researcher is happy to provide guidance.

#### **Recommendation 6: Collect qualitative data to complement and improve understanding**

When measuring complex services like Legal Aid, governments and other stakeholders should not rely solely on quantitative data. This provides limited information about what is actually going on and what leads to better outcomes. Homogenising service models, simplifying them to make things easier to measure or driving cost efficiency agendas can reduce the quality and effectiveness of the service.

### **Recommendation 7: Produce an ACT Practice Manual**

Consideration should be given to the need for and resourcing of an annotated Criminal Practice Manual in ACT law (together with any other ACT legal areas where gaps in practical manuals exist). There is now a body of laws in the ACT different to that in NSW.

### **Recommendation 9: Community Legal Education**

The CLE Program should prioritise education in areas of the law with which community members struggle most. To this end, a needs analysis should be undertaken to determine which issues with a legal dimension are most pressing for vulnerable and disadvantaged community members. A CLE strategy should be developed and implemented based on consultation with these vulnerable groups and the agencies that work with them. The *Guidelines for the Management of Community Legal Education*<sup>129</sup> are a good starting point.

### **Recommendation 10: Recording gaps in client demographics**

More accurate client demographics would be useful in understanding LAACT's client base. For example, what does a tick in the 'no income' box in the Application for Legal Assistance form signify? And how do clients end up with 'no income' when social security should be available? If a client has 'no income', what action ought Legal Aid take to ensure the client's income security?

### **Recommendation 11: Further information/referrals for clients who do not qualify for legal aid**

If legal assistance is not granted, clear information ought to be provided to the client about where they might go to get help. A monitoring mechanism to ensure this is happening in practice could be integrated into the snapshot research for the Helpline and Client Services areas.

### **Recommendation 12: Client focus and communication**

Communication across functional areas of LAACT should be improved. Emphasis should be placed on the way such interactions and information flow can ensure client care, quality of service and the matching of appropriate legal services to the client. This is particularly important to ensure that urgent applications are processed in a timely way.

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<sup>129</sup> CLEWS Working Group, *Guidelines for the Management of Community Legal Education* (National Association of Community Legal Centres, 2009), [http://www.nacclc.org.au/cb\\_pages/files/13%20National%20CLE%20Guidelines%20%28Oct%202009%29%282%29.pdf](http://www.nacclc.org.au/cb_pages/files/13%20National%20CLE%20Guidelines%20%28Oct%202009%29%282%29.pdf).



## Appendices

## Appendix A: Background Paper

The following Background Paper was used for the Family Practice focus group. The paper was adapted as appropriate for the other focus groups.

**Aim of the Workshop:** to get enough information from you about what you do so as to inform the questions formulated for the interviews and surveys and feedback mechanisms for the trial in the two weeks from 7 November – 18 November to ensure the outcomes we measure reflect the reality of what you actually do.

The session will take one and a half hours.

### Part One: Outcome/s

What is an outcome?

It is not what you do but the changes you make or participate in for the people or group you serve.

Tells the story of impact

Reflects on practice and what you do/achieve

Utilisable data which is not onerous to collect

Identifies areas for improvement, including suggested remedial action

What must an 'outcome' be?

- Relevant
- Useful and measurable
- Achievable
- Practical to measure
- Within your control to influence

(Source: 'Ask the Expert', Dawn Smart, 2004 USA National Resource Centre)

Paul Bullen described outcomes as:

- The outcomes we are trying to achieve (and any unintended outcomes)
- The extent to which we are achieving these outcomes (including showing a cause and effect link between the services provided and the outcomes achieved).

He observes the following:

### Clients

Clients will have a more accurate and reliable picture of what has been achieved by a particular service. This is likely to allow them to make better judgments about the value of the service and also make better choices about services.

### Practitioners

Practitioners will be better able to monitor and reflect on their work because they will have measures of what has been achieved.

### Services

Services that want to continuously improve the quality of their services will have information about the effectiveness of the services provided. This information can be used to monitor the effects of improvements to service processes.

Services that want to reflect on the different kinds of services will be able to see the relative effectiveness of the different kinds of programs they are offering. For example is family work in home more or less effective than group work? Under what circumstances?

Bullen also warns:

1. Where it is not possible to prove cause and effect relationships **do not use outcome measure to judge your performance**. Rather **use outcome measures to help you ask good questions**.
2. Don't just focus on the outcomes to be achieved, have processes in place to **identify and document unintended outcomes**.

(Source: Management Alternatives for Human Services, Paul Bullen, <http://www.mapl.com.au/evaluation/eval4.htm>)

This is why the design of our project for the two week pilot **(7 November 2011- 18 November 2011)** will include components that involve all staff and input from some clients of Legal Aid ACT.

### Our Definition?

What do you think of this as our definition of an outcome?

“Outcome: A direct or indirect effect on the person/group of people concerned which is intended, positive and can be primarily attributed to the service.”

Do you have any suggestions/variations?

## Part Two: The Research as a guide

How might we start to develop indicators of what is a success/outcome or the elements of it?

- Identifying a desired result (goal or outcome) which is stated plainly and clearly
- Identifying an indicator that represents progress on the result, and the performance measures used to assess progress against this indicator.
- Intended and unintended outcomes can occur

To be manageable and not increase your work load we need to limit the numbers of indicators for each outcome. Indicators need to be:

- Specific
- Relevant to the outcome
- Measurable/observable
- Reasonable
- Feasible to garner resources to reflect/measure them

(Source: 'Ask the Expert', Dawn Smart, 2004 USA National Resource Centre)

Key factors influencing outcome achievement should be a focus, outlining the strategy or actions that are likely to lead to achieving the result(s), which should be based on evidence linking specific activities/interventions with desired goals and outcomes.

Words of warning from the research:

- To account for the continual change in the system a focus on the bigger picture is required.
- How the individual effects of Legal Aid ACT's actions interact with each other and contribute to outcomes in the wider system need to be considered.
- A focus on 'explaining how', rather than 'identifying what', in measuring and evaluating is needed to support practical outcomes measurement. This focus provides better understanding of how particular outcomes were achieved or why they were not.
- Descriptive measurement within measurement frameworks may be useful, to aid understanding of how effects have occurred.
- Data approaches and systems to support data collection and analysis should be tried prior to implementation. (Our 'Pilot' 7 November – 18 November 2011).
- Both qualitative and quantitative approaches are useful in outcome measures.

One suggested, and in my view very narrow approach, from the UK has been also to consider the following aspects of a lawyers work in delivering outcomes. These can be a relevant guide but to have to account for all would end up being a long list and a cumbersome and a not necessarily revealing mode of measurement of success or outcomes:

- inputs (resources, staff time, physical space, volunteer time, case management system);
- activities (what the program actually does, the strategies used, i.e. represent clients, provide pro se assistance or give advice);
- outputs (services or products produced, i.e. number of eviction cases, number of clients given consumer advice); and

- outcomes (an event, occurrence, or condition that is outside the activity or program itself and that is of direct importance to customers and the public generally, i.e. client obtains safe housing or client retains job).

(Source: 'Performance and Outcomes Measurement Project', Preliminary Report, Colleen Cotter, UK 2003)

Considering the link between outcomes and impacts and the ability to look at the big picture, in which multiple outcomes contribute to the achievement of impacts, is essential in understanding the concept of 'contribution' and thinking about how contribution can be measured.

(Source: 'Measuring Outcomes of Community Organisations', The Australian Research Alliance for Children and Youth, 2009)

The benefits of successful or effective service for clients may extend beyond the immediate practical gains that can be achieved. Sometimes these can be called 'soft' outcomes, both because they relate to personal and individual client circumstances and because they are more difficult to measure. An alternative term is 'consequential' gains as they arise as a result of, or follow, the achievement of practical gains. There are a myriad of ways to describe or classify these consequential gains. These might include:

- Personal gains – confidence, self esteem and peace of mind; capacity to cope and take action; support and reassurance. Personal gains such as these can be as much linked to the way a service is provided (customer care) as to the skill with which a practical problem is resolved (quality of advice);
- Healthy living – improved physical and mental health; sleep and relaxation; food, shelter and heat. Health gains can include direct reports of better health as well as factors associated with healthy living such as better food, a warm home, or access to medication;
- Quality of life – independence and security; better family and personal relationships; \*capacity to resolve their issues in future; and active in the workplace or community.

These are improvements to the ability of an individual to interact with, and gain value from, the world around them.

Also worth consideration is that a client's immediate needs or problem may resolve, but may benefit a client group as a whole such as preventative work (for example community legal education and financial capability) or achieve systems and policy changes (e.g. law reform, legal precedent). Further extended impacts might also include benefiting the local economy (e.g. representation enables a more efficient and smoother operation of the court process), building referral networks or growing civil society.

Substantive benefit outcomes might include:

- Client housed, re-housed or retains home
- Client receives financial award from court
- Settlement with benefit for the client
- Secured provision of service

- Agreement now set in place which provides a workable framework i.e. reduces confusion and conflict – e.g. counselling for children, arrangements for when contact with children to occur, time with grandparents, supervised contact

Other indicators (Source: Legal Services Commission 2010, UK) might be:

- Client advised and enabled to plan and/or manage their affairs better
- Client secures explanation or apology
- Opponent/other party action benefited person other than client (e.g. a change in policy or procedure)
- Improved the client's interaction with the legal system. In what way?
- Intervention by the service improved the person's understanding of the law and encouraged them to take action to resolve their dispute earlier. In what way?
- Did the duty lawyer service:
  - improve the person's experience before the court?
  - enable the person to exercise a right?
  - assist them in representing themselves?
- Client satisfied (see Part Five below)

(Source: Pleasence P, Buck A, Balmer N, Williams K 'A Helping Hand: The Impact of Debt advice on people's lives', Legal Services Research Centre, 2007  
<http://www.lsrc.org.uk/publications/Impact.pdf>)

### **Part Three: Brainstorming and breaking down the elements/indicators of a 'successful outcome'**

What do you think are the elements any definition of 'outcome' (particularly a 'successful outcome') should include?

#### **Information, Referral, Case and Advice Work**

To assist:

1. Can you have a think about a client/s of yours that has had one or more of these issues (below) in their life?
2. Let's discuss the case and what you did and the sort of outcomes/successes/ breakthroughs along the way that occurred.

By doing this we might breaking down what work you did for them and be able to distil some trends/elements/ approaches to work that lead to of what we will jointly define as a success/outcome.

**To assist by way of prompts\*** consider the nature of your family law work in your response:

Complex nature of clients – what elements help with a successful outcome if you are working with people with the experiences below:

- Drug addiction
- Mental illness
- Language difficulty
- Literacy

- Intellectual Disability
- Indigenous (ATSI)
- Refugee/ Asylum seeker
- Newly arrived person
- Poor
- Inter-generational disadvantage – poor education, low income, poor health, no-one with a job in immediate family, lack of connectedness.
- Chronic disease
- Ill Health
- Fragmented or non-existent family support
- Age young – old
- Gender
- Sexuality
- HIV/Hep/Aids
- Institutionalisation from a young age
- Repeated prison stints in adult- youth life cycle
- Unwanted/unloved
- Conflict of cultures
- Domestic violence
- Child abuser
- Child abuse victim
- Physical disability – mild to severe

To what degree would you say your clients present with multiples of the issues above?

What elements help with a successful outcome if you are working with people with such multiple and complex needs?

### **Type of Work**

- a) What elements help with a successful outcome /or
- b) What elements hinder a successful outcome if you are working in:

**Duty Lawyer** – preliminary advice – phone/face to face, complexity, workload.

**Case work** – family law – advice, referrals e.g. counselling, mediation, contact and placement of children, limited property, violence, interim orders, final orders, Federal Magistrates Court, child support, care and protection - interim orders, final orders, parenting, extended family, complexity, workload.

**Superior Court Casework** – Family Court (with reference to the above and to) contact and placement of children, limited property, abduction, removal interstate, violence, interim orders, final orders, parenting, extended family, separate representative for children, complexity, workload.

**Domestic Violence Unit** - preliminary advice- phone/face to face, sexually transmitted debt, poverty on sudden leaving, safety of housing/tenancy, complexity, and workload.

**Dispute Resolution** – networks and referrals (CRIS), preliminary legal and non -legal information – resolution as a consequence before ADR, getting people to attend, conciliation process, interim agreements, final agreements, children, parenting, extended family, conciliation process – property, counselling linkages, children, parenting, schooling.

**Nature of Dispute** – Multiple other legal issues in addition to the family law – criminal, tenancy, debt. CLE areas – child contact, family, exposure to violence, child reaction (well being) children, debt, housing other civil, criminal and family, complexity, workload.

#### **Part Four: Brainstorming and Back-tracking - what led to these successes?**

Things we might consider in the design of the Legal Aid ACT Trial will be:

- What activity do we need to undertake to achieve those outcomes?
- With whom as partners?
- Do the professionalism, the quality and the care we take affect the outcome? In what way?
- The degree to which a holistic approach was taken and appropriate referrals made?
- What resources do we need?
- What do we need to do more of, less of or do differently?
- What aspects/ outcomes are of the most interest to you to have examined?
- Who benefits? - The client? Their family members? The court? Justice itself? Government? The general community
- The benefit of supervision of junior staff by senior staff?
- The effect of the service on client situation?
- Early intervention + prevention strategies?
- The changes made because of the services intervention to the client's life/prospects?

How will we know if we have made a difference?

One way of examining outcomes and successes is to think about the differences we want our services to make.

What changes do we need to make in order to collect evidence about the difference we are making?

(Source: 'Measure Success: How can we develop an evidence base for measuring outcomes', Lancashire County Council and Community Service, David Bunham, 14 December 2011, additions by Curran).

Any further suggestions?



## Part Five - Client Feedback

‘Qualities about which service users are particularly concerned’:

- Choice
- Flexibility
- Information
- Being like other people
- Respect and being heard
- Fairness and no discrimination
- Cost and value
- Safety

(Source: the Commission for Social Care Inspection UK, March 2006, ‘Real Voices, Real Choices’- a consultation with service users).

- Responsiveness
- Empathy
- Involvement
- Accessibility
- Listened Carefully
- Kept me up to date
- \*Explained things clearly & in a way I understood so I knew what to do/what was going on/going to happen
- Discreet atmosphere
- \*Helpfulness of staff
- \*Provided with relevant information in a timely way

(Source: ‘To pay or not to pay? The impact of Individuals on the perception of the legal system’, Dr Matthias Killian, Solden Institute for Law Practice, University of Cologne, Paper to the International Legal Aid Conference, Cambridge 2010)

The research states clearly that issues around the quality of the service provided and competency affect client feedback.

Client feedback interviews might look at these elements.

The research, like the discussion at the staff workshop on 12 August 2011, notes that clients will be affected in feedback by whether in their court case they get what they want or have a ‘win’. Clearly there are many things outside the services control as to whether a client wins a case or not. This can include\* the client’s initial actions/inaction which gave rise to the case, the amount of evidence, the laws and their operation, the conduct of other parties and so on.

The research also notes that client expectations of their lawyer may be unrealistic e.g. based on too many American television shows. Clients may not always measure by way of the outcome but by how things affect them. The research suggest that a lawyers ability to manage and explain their role can have a significant part in ensuring a clients expectations/ perceptions of their lawyer and their role can make the clients expectations more realistic

and this management of expectations by the lawyer should be considered in measuring the issue of perceptions/expectations. (Source: Assessing Clients Perspectives of the Impact of Legal Services on their lives' 2004, Equal Justice Conference & 'To pay or not to pay? The impact of Individuals on the perception of the legal system', Dr Matthias Killian, Solden Institute for Law Practice, University of Cologne, Paper to the International Legal Aid Conference, Cambridge 2010.)

Colleen Cotter suggests a way forward (Source: 'Performance and Outcomes Measurement Project', Preliminary Report, Colleen Cotter, UK 2003) where questions asked include 'Was I able to help you?' 'Was the information helpful? \* Do you have a better idea of what to do next? Such questions could be routinely asked at the end of the provision of information by phone and gives the lawyer/paralegal; and a further opportunity to check the client has understood the information. In other areas of work such as advice work and case work a question like 'Did the service meet/exceed you expectations?' Could be asked.\* I would add why/why not? And get some qualitative information to inform the service around expectations.

Some other questions could be around improved client capacity, how the service's intervention has affected their situation, has the service provided made a change to their situation, or did the service provided make a difference to their lives in any way?

Is there anything else we might consider in gaining client feedback on Legal Aid ACT's services?

It is OK that there may be other reasons for an outcome that contribute but that we claim a role in it too where applicable.

(Source: 'Outcome Reporting in legal Services: Caution Signs on the Road Ahead, Melville D Miller, 21 June 2003).

## Appendix B: Client Interviews

Eight interviews were conducted with clients following their interview with a lawyer. Written and informed consent to the survey was obtained from clients at the end of the interview with the lawyer. Interviews with clients took 10-20 minutes and the information obtained was de-identified.

### Demographic profile

#### Age

- 18-24 (12.5%)
- 25-34 (12.5%)
- 35-44 (50%)
- 45-54 (12.5%)
- 55-64 (12.5%)
- 65+ (0%)

#### Gender

- Male (63%)
- Female (47%)
- Other/Not given (0%)

#### Income

- Health Care Card (50%)
- No Income (12.5%)
- Employed Part Time (12.5%)
- Casual (0%)
- Full Time (12.5%)
- Retirement Funds (0%)

#### Country of Birth

- Australia (87.5%)
- Croatia x1

#### Main Language spoken at home

- English (87.5%)
- Croatian x 1

#### ATSI

- 0%

#### Highest Level of Education

- Year 9 (12.5%)
- Year 10 (25%)
- Year 11 (12.5%)
- Year 12 (25%)
- University (12.5%)

#### Disabilities

- Yes (12.5%)
- No (50%)
- Not prepared to say (37.5%)

Questions	Demonstrates/indicates
<b>1. How do you know about LAACT?</b> Friend (2), court (2), 'Mum', 'word of mouth', 'arrested and police told me', 'necessity and phoned around'.	<b>Accessibility</b>
<b>2. Have you had any contact with LAACT before?</b> Yes (3), No (2), 12 months ago, 3 times- 'Intervention Orders for safety'.	<b>History with LAACT</b>
<b>3. What was the issue you came to see the lawyer about today?</b> Family custody (3), 'assault and self defence', 'deception', 'criminal charges- driving', 'fail to appear', 'my child abducted'.	<b>Nature/Problem</b>
<b>4. Did you have any other problems at the moment? What are they?</b> <b>Consider:</b> <ul style="list-style-type: none"> <li><b>Health</b> (50%)</li> <li><b>Fines</b> (37.5%)</li> <li><b>Employment</b> (37.5%)</li> <li><b>Immigration</b> (0%)</li> <li><b>Family and relationship</b> (50%)</li> <li><b>Domestic violence</b> (37.5%)</li> <li><b>Housing</b> (25%)</li> <li><b>Discrimination</b></li> <li><b>Mental health</b> (25%)</li> <li><b>Income difficulties</b> (75%)</li> <li><b>Debt/credit</b> (50%)</li> </ul>	<b>Holistic Approach</b> <b>Problem ID</b> <b>Complexity</b> <b>Client Centred Focus</b>
<b>5. Are you receiving help or support with these problems? Did LAACT have any involvement in assisting you with gaining this support?</b> Yes (50%)- 'just started to doctor and counsellor – lawyer suggested it and connected me up' (1) No (50%) – 'don't need it' (3)	<b>Holistic</b> <b>Early Intervention</b> <b>Prevention</b> <b>Joined-up services</b>
<b>6. Do you think these other problems affect how you are dealing with the issue you came to talk to the lawyer about today?</b> Yes (75%) 'assault came from argument with neighbour in public housing. I am self defence' 'Could see the situation escalating and knew would blow up. Had to help my girls too. No-one would listen until the counsellor and lawyer got involved. Kids less stressed, I have breathing space.' 'Exhausting – things get out of control. Advice is needed. I don't know how inarticulate people cope. I couldn't with the stress I was under – how would they get help if they can't articulate. Thank god for legal aid' 'Yes, it's the low income thing. I didn't have money to get out of debt so came up with a scheme'. 'Lost my job as I needed my licence as I a cleaner.' 'Mental health and depression affects how I don't cope with family law problem.' No (25%)	<b>Client Centred Focus</b> <b>Problem ID</b> <b>Holistic</b> <b>Early Intervention</b> <b>Prevention</b> <b>Responsiveness</b>

<p><b>7. Did your lawyer ask you about the issues and how they might be affecting you or your legal issue?</b> Yes (100%) No (0%)</p>	<p>Holistic Early Intervention Prevention Problem ID Good Practice Intervention Targeted</p>
<p><b>8. Did the interviewing lawyer listen as you explained your situation?</b> Yes (100%) 'Absolutely', 'Definitely', No (0%)</p>	<p>Client Centred Focus Quality</p>
<p><b>9. Did the lawyer make you feel safe/comfortable and respected during the interview?</b> Yes (100%) No (0%)</p>	<p>Quality Good Practice Professionalism Client Centred Social Inclusion</p>
<p><b>10. Did the lawyer explain about the confidential nature of the interview and did you feel you could trust them with your information? Why? Why not?</b> Yes (100%) No (0%)</p>	<p>Quality Good Practice</p>
<p><b>11. Did the lawyer ask questions that extracted all you think they needed to know and did they check with you to see they had understood?</b> Yes (100%) 'really well' No (0%)</p>	<p>Good Practice Quality Targeted</p>
<p><b>12. Did the lawyer understand the nature of the problem you came to see them about today?</b> Yes (100%) No (0%)</p>	<p>Good practice Quality Problem ID</p>
<p><b>13. Did the lawyer explain how the law affects your problem, the various options open to you, and what might happen next in a way that you could understand?</b> Yes (100%) No (0%) <b>Explain – e.g. did the lawyer, if appropriate, explore mediation or dispute resolution; identify any other agencies that might help.</b> 'The law and its limitations are frustrating. The lawyer can explain it but then you are left with a system that the logic of is hard to comprehend. It's not about justice it's about forms and processes, fitting into pigeon holes or else - not about humans or justice.' 'The lawyers try. Lawyer can only do so much and then there's the workload. I can see it.' Yes ADR (25% in family law)</p>	<p>Good practice Quality Client Centred Problem solving Prevention Early Intervention Empowerment ADR Targeted</p>
<p><b>14. Did the lawyer seem familiar with the law and the operations of the legal system?</b> Yes (100%) No (0%) 'Yes very reassuring seems there is not a lot of evidence against me so he is going to help' 'Outstanding' 'Absolutely knowledgeable' 'Practical Guidance was given'</p>	<p>Expertise Good Practice Quality</p>

<p><b>15. Would you feel comfortable seeking help from this lawyer again if required?</b></p> <p>Yes (100%) No (0%)</p> <p>‘Totally’</p> <p>‘Definitely’</p> <p>‘I left it too late last time, because I didn’t know. Now I do so it won’t happen again’</p>	<p>Prevention Early Intervention</p>
<p><b>16. If you had another problem would you seek legal help earlier?</b></p> <p>Yes (100%) No (0%)</p> <p><b>Explain.</b> ‘I had no idea the things you mentioned earlier (see question 4) were legal and that I could get legal aid to help so wouldn’t have asked. I just thought you did crim and family.’ Similar comments made x 4 participants.</p>	
<p><b>17. If your matter has been ongoing does your lawyer keep you informed of progress?</b></p> <p>Yes (75%)</p> <p>Not Applicable (25%)</p>	<p>Good Practice Quality Professional</p>
<p><b>18. Was the lawyer direct and honest with you about your legal position?</b></p> <p>Yes (100%) No (0%)</p> <p>‘Sometimes I did not want to hear what they said and was angry but I know they were right. It’s their job to tell me.’</p>	<p>Good Practice Quality Professional</p>
<p><b>19. Did the lawyer give you an opportunity to ask questions or clarify all you wanted to know?</b></p> <p>Yes (87.5%) No (12.5%)</p>	<p>Good Practice Quality Problem ID Professional</p>
<p><b>20. Do you feel:</b></p> <p><b>a. you understand what to do next?</b> (87.5%)</p> <p><b>b. you understand what steps you need to take?</b> (100%)</p> <p><b>c. you understand what steps the lawyer will/will not take and why?</b> (100%)</p> <p><b>d. you understand all the options open to you?</b> (100%)</p> <p>‘Sometimes I have to be told over and over again. It must be annoying for the lawyer and their helpers. When I am stressed I can only take some things in. I appreciate the way they tell me in small bites. I can get overwhelmed if it’s too big picture. They give me it in bits so I go step by step. It’s how they know I cope.’</p> <p>‘He explained really clearly everything’s’</p>	<p>Empowerment Prevention Early Intervention Client role in managing affairs Targeted</p>
<p><b>21. Do you have a better sense now of how the law operates and affects your case than before you contacted LAACT? Explain.</b></p> <p>Yes (75%)</p> <p>No (12.5%)</p> <p>Sometimes (12.5%)</p> <p>‘I think the system is beyond me. The lawyer gives me ‘stop signs’ and it stops me from doing stupid things. I need this.’</p>	<p>Prevention Good and effective practice Client role in managing affairs</p>

<p><b>22. Will the lawyer be doing anything further to assist you?</b>  <b>Yes (87.5%) No (12.5%)</b>  <b>Explain.</b>          'Filing affidavits, recovery papers urgently and documents'</p>	
<p><b>23. During the interview did the lawyer discuss with you other services that might assist you and help you with a referral?</b>          Yes (50%) 'She's giving me the names of services and people'          No (37.5%) 'I try to stay away. I take what I need to know', 'Don't think relevant for me'          Not applicable (12.5%) 'Already been referred and using them'.</p>	<p><b>Collaboration.</b>  <b>Awareness of legal and non legal services by lawyer.</b>  <b>Warm referral</b>  <b>Seamless referral</b>  <b>Engagement by lawyer with other services.</b>  <b>Targeted</b></p>
<p><b>24. As a result of seeing the lawyer today are you better able to plan and organise your affairs?</b>          Yes (100%) No (0%)  <b>Why?</b>          'She has given me options and a list of things to do. She helped me know where to go and what to do. I know where to go from here'          'Without free legal help. God. I would have run away from court. Now I know this could have really set me up. I know where to turn now.'          'It is so complex but the lawyer is helping and I know where I stand.'          'We can see there's a light at the end of the tunnel now.'  <b>Why not?</b>          n/a</p>	<p><b>Empowerment</b>  <b>Prevention</b>  <b>Early Intervention</b>  <b>Client role in managing affairs</b>  <b>Social Inclusion</b>  <b>Change and Impact</b></p>

## Appendix C: Lawyer Interviews

Eight interviews were conducted with lawyers following their lawyer/client interviews with the clients who participated in the previous survey (see Appendix B). Interviews took 10-20 minutes.

Questions	Demonstrates/indicates
<p><b>1. Tell me about the client you saw today who was interviewed by the researcher?</b></p> <p>Summary of responses are that cases are complex.</p> <ul style="list-style-type: none"> <li>• Client reliant on husband. He does finances, violent, abusive, lost connection to family and friends due to husband's behaviour. Child removed. Client frightened and disempowered.</li> <li>• Client failed to appear at court in criminal matter. Client was in rehabilitation at time of court non appearance. Client had written to court and prosecutor about it. 'Shouldn't have happened client will defend this. Here we have a client doing the right thing trying to stop offending and seek help and the system has come down on him. So much for early intervention and prevention.'</li> <li>• 'Client was a gentleman, he has reformed and worked hard for child but has had a tough time child taken from him by former partner but because of delays in CSU his urgent application has not been processed in time. Now, court due to the delay (not his fault) can say he acquiesced by inaction.'</li> <li>• Client highly anxious, complex relationship, child taken – child abduction.</li> <li>• Assault occurred in pressure cooker environment in his public housing estate, low income, possible defence.</li> <li>• Out of our jurisdiction. 20 minutes away in NSW but we cannot help him as in ACT.</li> </ul>	<p><b>Client Centred Focus</b>  <b>Understanding of client issues</b>  <u><b>Comparative understanding -when benchmarked with client feedback after interview.</b></u></p>
<p><b>2. Did you or the paralegal need to take measures to prepare for the interview?</b> 25% matters urgent i.e. time critical need immediate action with documents and affidavits.</p> <p><b>a. Need to take measures to get the client to the interview? How?</b> (50%)</p> <p><b>b. Call the client to ensure brought documents?</b> (50%)</p> <p><b>c. Research the legal issues?</b> Yes (50%). No (50%) – 'should have been better prepared had planned to be but got called to court'. 'no time as was held up unexpectedly in court', 'Called into court so did not prepare as would have liked.'</p> <p><b>d. Read the file to familiarise yourself?</b> Yes (50%). No (50%)  See comments in 2c). 'Scanned document left on file but could not read them faint and tiny font. Squint to read. Takes unnecessary time, better if have originals or copies.'</p> <p><b>e. Converse with a colleague? About?</b> (75%)</p>	<p><b>Complexity</b>  <b>Good Practice</b>  <b>Professionalism</b>  <b>Quality</b>  <b>Recognition of Client need.</b>  <b>Holistic Care</b>  <b>Targeted</b></p>



<p><b>3. If the client had 'complex' needs please explain why and how you adapted your interview to handle these issues.</b></p> <p>Mental illness and stress – reassured client; depression &amp; anxiety – calmed client; CALD- made all simple English; drug and alcohol – repetition and different words, lists; 'totally disempowered, no income, exposed to violence, intimidated and frightened for child and self safety. Told her she had rights and how to navigate to keep safe'; 'His child is his life so distressed. Told him steps and what his rights are and her chances not good – took time but he is clearer that not all hopeless'.</p>	<p><b>Flexibility Complexity Client Centred</b></p>
<p><b>4. Did the client feel confident to bring up their problem and ask for help in the interview?</b></p> <p>Yes (100%)</p> <p><b>What demonstrated this?</b></p> <p>Very forthcoming after initial reticence (2) Opened up (2) Asked lots of questions (4) Volunteered information some very personal and asked questions (2) His mum bought it up and after questioning and responses he realised how serious it all is. I explained how he might deal with it.</p>	<p><b>Good Practice Professionalism Quality Recognition &amp; ID Client need. Holistic Care Client Centred</b></p>
<p><b>5. What were the problem/problems that were presented to you today?</b></p> <p>Abductions (2); Recovery Order; Variations to interim orders and how to negotiate away from conflict with partner for kids sake, alcohol but client not ready or wanting to link into services – time to think, has family support interstate so encouraged this; traffic offence, failure to appear in court, deception and debts.</p>	<p><b>Problem Solving Good Practice Client Centred Problem ID</b></p>
<p><b>6. Do you think there were other problems linked to their legal problem? Yes (87.5%) No (12.5%) If yes, in what way?</b></p> <p>Mental health; depression (2); subjected to partner violence and intimidation – 'withdraw the AVO and you can have her (child) back'; Anger management issues and bi- polar; isolated socially; mental health and debt issues plus volatile relationship with girlfriend; 'Client did the right thing and was getting help and yet the court and the prosecution disregarded it. The clients can try and we can try to help them but the rest of the system has to also be accountable for stuff ups in early intervention.'</p> <p><b>Did you discuss these other problems with the client? Yes (87.5%)</b></p>	<p><b>Responsiveness Flexibility Good Practice Holistic Early Intervention prevention Targeted</b></p>

<p><b>7. What assistance did the client receive from you today?</b></p> <p>Advice Legal (8)  Emotional support (4)  Steps to take (7)  Support (2)  Calming them down (7)  Referral or attempt at referral (7)  Representation - Appeared in court and got AVO withdrawn  Explained how to operate in court, the processes so could self represent (1)  Reiterated legal issues and what they need to do and the likely process (5)  Advised of defence (2)  Gave him tasks (2)  How to approach court and services in the other jurisdiction  contact details (1)</p>	<p>Responsiveness  Flexibility  Good Practice  Holistic  Early Intervention  Prevention</p>
<p><b>8. Does the client plan to do anything about their problem?</b></p> <p>a. Don't know  b. No plan yet (12.5%) – 'I needed to look further into it'  c. Client feels able to manage their problem (50%)  d. Client has sought further support (37.5%)  e. Client referred. (37.5%) <b>How/process?</b> 2x FDR; 1 x counselling  f. I am helping the client further (75%)  g. Someone else at LAACT will be assisting them (75%) 2 x FDR  h. Other – Explain.</p> <p>'I need to act quickly now as the delay from CSU in processing his urgent application should not have happened. It could prejudice him in getting his kids back. I will have to work on the weekend to make it happen. I will also have to be extremely apologetic and take the blame so they client doesn't get penalised.</p>	<p>Lawyer Awareness  Intervention success  Empowerment  Management of client affairs feasible  Holistic  Early Intervention  Collaboration  (joined up)  Coordination  Relationships networks with other legal, non-legal</p>
<p><b>9. Did you refer the client, if it was appropriate, to any other services/people for their legal and non legal issues?</b> Yes (50%) No (12.5%) <b>If so where?</b> FDR x 2 <b>If not, why not?</b> as already linked into counselling,  <b>Did you offer to assist the client in the referral process? If so how? If not why not?</b>  Suicidal issues he has had help previously but once he turned 18 not eligible – I am doing some research into where I can get him to go and link in'; 'he doesn't want to access any services – he is a man of his generation'; 'Has family support which is enough for him at the moment he says.'  'Already linked into counselling and doctor. I will check in with them in a week and see how it's going.'</p>	<p>Lawyer Awareness  Intervention success  Empowerment  Management of client affairs feasible  Coordination  Holistic  Early Intervention  Collaboration (joined up)  Information Sharing  Relationships networks with other legal, non-legal.  Seamless referral  Warm Referral  Social Inclusion</p>

<p><b>10. Do you think you have enough knowledge or experience, training or information to help you identify problems their relevance, solutions and work holistically? Yes (100%) Explain.</b></p> <p>‘My total focus is holistic’</p> <p>‘Evidenced by client partner turning up to insist they could have joint advice. I managed to persuade him using different techniques that he needed to go elsewhere – it could have been volatile situation but my background skills in social welfare helped navigate him elsewhere. Good to have FDR as an option.’</p> <p>‘I have experience and use common sense. Intelligent humour often helps.’</p> <p>‘I always look at the client holistically. e.g. living situation, substance abuse, well being are all part of their legal issues so need to keep them on track.’</p>	<p>Lawyer Awareness Reflective capacity Client focus Holistic Outcome empowerment Early Intervention Prevention Good Practice Training and support needs Information Sharing</p>
<p><b>11. What was the impact of your assistance today?</b></p> <p>Holding pattern rather than conflict (2), client clearer on where they stand in the legal system (8).</p> <p><b>How can you tell?</b></p> <p>‘She’s ended up being more ‘ballsy’ after knowing her rights and now knows she has steps she can take contrary to what he told her.’</p> <p>‘Knowing he is wrong about what he says she has to do.’</p> <p>‘Client a lot calmer and more a rational when left the interview.’</p> <p>‘Knows about the services and when ready it’s hoped they will do something. Not ready today too overwhelmed.’</p> <p>‘Hope he gets some appreciation of his predicament and seriousness. He had no idea before today. I had to be frank and direct about what will happen in court and he responded to this and seemed near the end to have lost his inertia – a bit anyway. Hard to change set opinions and his pride.’</p>	<p>Outcome and Impact Effectiveness Targeted</p>
<p><b>12. Do you think there are enough opportunities formal and informal for staff to interact with each other and identify opportunities to work together? Yes (100%)</b></p> <p><b>If so how?</b> ‘Kitchen café and hallway great opportunities to converse, debrief check advice and options. Great to be all in same location to do this.’</p> <p><b>How might this be improved?</b> Issues when others sick or on leave especially in urgent DV matters. Not easy to pick up another persons file in family where relationships are fragile and volatile. Have to leave other clients in the lurch when their matters may also be pressing, running off to court. Court has to take priority I know but client not always assisted back at the office by a solicitor who rushes off and they often do not understand it.’</p>	<p>Problem Identification Reflective capacity Client focus Holistic Good Practice Training and support needs Information Sharing</p>

<p><b>13. Reflecting on this interview, what worked well and why? What did not go so well and why? Would you make any changes?</b></p> <p>Worked well (87.5%) – responsiveness of client to suggestions made, client calmer than they were when they came, client prepared to take steps suggested, client calmer (4), humour is a great rapport builder when appropriate.</p> <p>‘Could have done better – CSU needs to realise their inaction on urgent cases can have real life consequences we are not just being precious for example the guy could have lost his child as a result of their delay.</p> <p>‘Could have taken more time on his non-legal issues on reflection (which this interview has made me think about more I had to balance his readiness but I also think I was more rushed because another client was waiting to be seen’.</p>	<p><b>Lawyer Awareness</b>  <b>Reflective capacity</b>  <b>Client focus</b>  <b>Holistic</b>  <b>Effectiveness</b>  <b>Responsiveness</b></p>
<p><b>14. But for your intervention here today, what do you believe might have happened for this client?</b></p> <p>‘Child would have been living primarily with the father and he is domineering and dictates everything using fear. Now she is likely to get her child back.’</p> <p>‘Escalation of an already conflict ridden relationship. I explained simply ways she can negotiate with her partner over her children. She repeated what she would now do back to me so I feel reassured she gets it.’</p> <p>‘If the client has been self represented he would not likely be able to explain himself and would have been given short shrift by the court. He is now able to raise a defence. He has also been given some more ideas about improving his housing and support situation.’</p> <p>‘If represented themselves, without a doubt would have pleaded guilty even though overcharged and has a defence. Police want compensation and yet he has already done this, would have been told to pay again.’</p> <p>‘Would have completed the form he didn’t understand that I asked him to have a look at. He indicated he would plead guilty in it when he shouldn’t have and so would have had a harsher penalty.’</p> <p>‘Potentially he would have had no means of getting his child back. That child is his life and he is so proud of how he is shaping his daughter encouraging her and walking her to school. His partner is aggressive and so the child would also have been at some risk.’</p>	<p><b>Impact</b>  <b>Effectiveness</b>  <b>Outcome</b>  <b>Early Intervention</b>  <b>Prevention</b>  <b>ADR</b></p>

## Appendix D: Observation Log Entries

A week long observation log was kept by a number of lawyers and paralegals in the Family and Criminal practices with some simple themes they might address. (20 minutes for five days.)

### Instructions:

You will be given a number for this Observation Log and this will be filed separately with your name corresponding to the diary. Please make 5 entries over the trial.

Please spend fifteen minutes at the end of each of five working days over the next fortnight from Wednesday 9 November until Wednesday 23 November 2011 reflecting on what you did that day and recording the following information as appropriate in this Observation Log:

What work and interactions your day involved

1. The nature of the work and what you did.
2. Any difficulties you faced
3. Any breakthroughs in any cases or other client interactions? Why and how they came about?
4. Any dilemmas or stresses and how you managed these
5. Any other agency? engagements – briefly describe these
6. Any positive outcomes from your day no matter how small and how these came about
7. Any reflections

The following are highlights of actual entries made in the various observations logs.<sup>130</sup>

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<sup>130</sup> Sometimes, the researcher has included square brackets and deleted information that may risk identifying the client.

## FDR Manager

	Work done: what you did, barriers, breakthroughs and interaction with staff and other agencies	Outcomes	Reflections on the day's occurrences Professionalism Good practice Quality of Service
<b>Day 1</b>	Family law solicitor asked me to speak to a self-represented father who presented with the mother for her interview with her solicitor. Concerns that self-rep father was bullying mother into inappropriate care arrangements for a small child. While the mother met with her solicitor I spoke separately with the father about FDR and arranged an urgent FDR conference to be held within 7 days and for the father to receive independent legal advice.	Mother relieved of the stress of father's insistence for certain orders and able to attend upon solicitor without conflict with father and urgent FDR conference scheduled.	This was an example of FDR and Family law working together to achieve an outcome for the client. The co-operation resulted in a positive outcome and legal advice for both parties.
<b>Day 2</b>	Family law solicitor spoke to me about a duty client who needed assistance to have her [baby] daughter returned from a non-Hague convention country. I spoke to the client about support services available to her as a Muslim woman and parent and made a warm referral to a local Imam from Islamic Centre. I had recently met with the Imam to discuss outreach work at the Islamic Centre and speaking with Muslim families about FDR and Australian family law and to invite the Imam to address lawyers and other professionals working in the family law sector about Muslim families. This is an ongoing outreach project with FDR.	Mother obtained legal advice and referral to family support service appropriate to her culture and religion. Within four days the family law solicitor had taken instructions, initiated proceedings and obtained orders that resulted in the mother being able to travel to the middle east and retain care of her child and return to Australia.	This was an example of FDR and Family law and Client Services (who assisted client with legal aid application form) working together to achieve an outcome for the client. The co-operation resulted in mother and child being reunited in circumstances where the child may have been lost to the mother for many years.
<b>Day 3</b>	This day was largely spent progressing FDR files, conducting intake and assessment, arranging conferences and sending out conference documents to parties and their lawyers. Several phone calls were made to and received from self-represented persons who had received a letter inviting them to participate in FDR. One self-rep mother was the victim of many years of domestic violence and was upset and stressed about my letter. I was able to calm her down and explain to her that there were exceptions to compulsory FDR and that nothing would be arranged without her consent. I talked to her about the need for obtaining legal advice and helped her to apply for legal aid.	Information given to a distraught and traumatised person resulted in her better understanding a legal process and some confidence that with legal advice she could retain some control of her matter.	The work of the Legal Aid ACT FDR Program not only assists legal aid clients but hundreds of self-represented persons each year with referrals, information and other practical assistance.
<b>Day 4</b>	FDR was conducted in two family law matters today. FDR manager convened one of these conferences. The conference went for a duration of five hours. When the conference was due to finish after three hours, both lawyers had to leave and the parents asked if they could stay and keep talking. The FDR Manager agreed to stay on for a further two hours to mediate with the parents.	FDR succeeded in the parties reaching an agreement in principle on nearly all aspects of the children living with, spending time and communicating with the parents. However no parenting plan or consent orders were signed. FDR resulted in the parents being able to sit in the same room and communicate with each other for the first time since separation.	This demonstrates quality of service to clients in that while the lawyers could not stay on, the FDR Practitioner did. It also highlights that even though there was a successful outcome in this matter in that there was agreement in principle, the FDR conference will be recorded as not settled because no formal agreement was reached.

<b>Day 5</b>	Received a telephone call from a counsellor at a local men's centre. The counsellor sought assistance from FDR manager about FDR and court processes for the purpose of being able to speak to his client about his individual family law matter. The client was a non-English speaking self-represented father who was experiencing difficulty communicating with the court and other agencies about obtaining information. FDR Manager spoke with the counsellor to explain the FDR process and the client's court process to date and to interpret certain orders that had been made.	A self-represented non-English speaking person was assisted with information to understand court processes and court orders.	This outcome was the result of good inter-agency relationships between Legal Aid ACT and family service groups in the community. The relationship came about as a result of the work Legal Aid ACT does as auspice of the local Family Law Pathways Network. The FDR manager worked collaboratively on a FLPN presentation to the family law sector about men/fathers in the family law system and connecting children with father. This led to a meeting with counsellors from men's centre and head of family law section and FDR manager to discuss family law issues in general. This has created a relationship of trust where counsellors now contact Legal Aid ACT for assistance with their clients on a as needed basis.
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## Family lawyer

	<b>Work done: what you did, barriers, breakthroughs and interaction with staff and other agencies</b>	<b>Outcomes</b>	<b>Reflections on the day's occurrences</b> Professionalism Good practice Quality of Service
<b>Day 1</b>	<p>The main thing that I did this day was a family dispute resolution conference in a parenting matter. There are a few difficulties in this matter, the first being that my client is very intense and struggles to understand that other people (including the children's father) may have a different view to what she has. The other main problem in this one is that we are trying to work out care arrangements for the kids where there are logistical and practical problems as the father works shift work and has a strange roster. My client doesn't agree that the father's roster should really be considered, although I tried to explain to her that 'reasonable practicality' is one of the issues that the court will consider.</p> <p>Unfortunately, the conference was not successful on a final basis, although we did narrow the issues to how many nights per month the children will spend with the father and worked out time for the kids with dad in the holidays. The part that we couldn't work out was which days the father should spend with the kids.</p>	<p>One of the outcomes was narrowing the issues in dispute which is good, although it would have been nice to settle the entire matter</p>	<p>I need to accept that I can't change clients' instructions and to accept that not every matter will be able to settle.</p> <p>I do however think that Legal Aid has provided this client ample opportunities to try to work out this matter.</p>

	<p>It turns out that the client's aid will not be extended for us to represent her in court given that this is the third FDRC we've had in this matter and we have narrowed the issues substantially.</p> <p>This day I spent mostly in the office focussing on catching up on documents and letters. I was also busy preparing for the matters that I had in court on the Monday.</p> <p>One matter that presented difficulty was a parenting matter where we had been acting for mum for some time but her aid had been cut and her matter was in Court on the Monday. This client is quite intense and insistent and it was difficult for her to understand that I couldn't keep helping her without a grant of legal aid.</p> <p>I also had to let a client whose matter was on the Monday, know that the respondent had filed documents with the court that were quite negative for him. He came in to collect them, but wasn't happy about the documents, proclaiming that they were 'full of lies'. It was difficult as the client did not seem to accept that the respondent's documents might be accepted as a more credible version of the truth.</p>			<p>I wish that I had been more firm with this client instead of letting her have 'just one more question'.</p> <p>This presented personal difficulty for me, although I need to learn that the client made his bed, now he has to lie in it so to speak, and that no amount of smart lawyer techniques can change the facts of any case.</p>
<b>Day 2</b>			<p>Legally, I think I prepared the client as best as I could for court, and let him know that his application might not be successful.</p> <p>Despite the rudeness, I was very glad to have a final outcome for a very deserving client.</p> <p>The outcome was expected and I had briefed the client properly beforehand, so he wasn't too disappointed when he wasn't allowed interim time with the child just yet.</p>	<p>In hindsight, I wish that I didn't get so upset by the other party's rudeness and ill treatment of me.</p> <p>I felt quite okay with this outcome as I think the right/ 'just' decision was made.</p>
<b>Day 3</b>	<p>I had two matters in the Federal Magistrates Court duty list this day. The first in the morning was an adjournment to file documents as we have finally reached a final settlement in a client's property matter. Unfortunately the other party to this matter is self represented and horrible to me. He was very rude and walked off on me mid-sentence.</p> <p>In the afternoon, I had an interim hearing in front of a Federal Magistrate. My client is the applicant father who hasn't seen his child in [a number of] years (mostly his own doing, drugs and alcohol abuse). Child now lives with mother in [a NSW town]. My client's application was for supervised contact monthly. Mother's application was for a transfer of proceedings to Sydney, and that an ICL be appointed and random drug testing.</p> <p>One difficulty we faced was that the other lawyer was appearing by phone and the court's phone system went down for two hours, so we had to come back later in the afternoon.</p> <p>The result was that the transfer application was denied, mostly due to delays in the [x] registry; that an ICL and family consultant be appointed and speak to the child prior to the father having any time with the child and an order for random drug testing.</p>			



<b>Day 4</b>	<p>First thing in the morning I went before Magistrate [x] in the Children Court in another lawyer's matter where we needed to get trial dates as there is no consent for the care orders to last until this child is 18 (as per care and protection's application). As I didn't have carriage of the matter, I was nervous. We ended up getting trial dates in March 2012, although the Magistrate was not happy about this. She seemed to think that it was a waste of Court time dealing with a matter in which the dispute was either orders for 2 years or orders for 18 years.</p> <p>I then went to the Fed Mag Court duty lawyer service for two hours. This was largely uneventful, although I did see a client who wanted to argue with me that him having his sons attend a [recreational] weekend with him in Feb 2012 was an 'urgent matter' that the court should list on an urgent basis. He would not accept my view that this court has a lot more urgent matters before it than a camp.</p> <p>Later in the afternoon, I had another matter before Magistrate [x] in the Children's Court. In that matter I was the representative for a three year old child who was taken into care in April 2011. The mother has not filed any documents in this time, although she retained a lawyer in September 2011. She had not complied with filing directions to file within 4 weeks. I supported the mother's application to have an extension to file documents. This was refused on the basis that the matter should be finalised and the mother had had multiple chances to file.</p>	<p>This client brought a support person with her which was helpful, although I got the view that the client would have preferred to have her usual lawyer present.</p>	<p>I think that I did the best that I could in a matter that I was not necessarily familiar with.</p> <p>I do not think that this was the right decision and it made me feel quite dejected.</p>
<b>Day 5</b>	<p>Had an initial appointment with a client today who has both physical and mental illnesses. She brought her son in with her to the appointment which was quite helpful, although the appointment still took around two hours. The client has memory problems so there had to be a lot of prompting. It was slow going and hard work. She is a good candidate for spousal maintenance as she is on a disability pension after her husband left her 10 weeks ago for another woman. He earns \$100k plus. I have given the client and her son a Financial Statement to fill out so that I can assess the 'need' that she has. The client has also seen [another LAAC staff member] in the past that referred her to 'CARE Financial'.</p> <p>There may be some issues with this client's capacity to give instructions and I really need to speak with [practice head] about this issue. I am concerned the client will have problems, particularly given memory, but also mental illness things. Some of the things she said sounded to me like delusions/paranoia.</p>	<p>I felt like the client valued the time that I put in to the appointment, and she and her son were very thankful. However, there'll be issues re how long appointments take etc as it's very difficult for the client to get to the point.</p>	<p>I felt as though I did the best I could in difficult circumstances, where I tried to appear patient, but also professional and efficient by trying to steer the conversation around to the relevant facts. In hindsight, I probably didn't succeed in steering the conversation as much as I would have liked.</p>

## Family lawyer

	Work done: what you did, barriers, breakthroughs and interaction with staff and other agencies	Outcomes	Reflections on the day's occurrences Professionalism Good practice Quality of Service
<b>Day 1</b>	<p>Checking calendar and mail discover FDRC booked over court time. Check to see if other side can mention – my file note from last time not there</p> <p>Talked to client for FDRC – nice chap, wants more time, explain process of FDR but also need to be patient with OP who has to get used to idea of not having complete ownership of child</p> <p>Talked to other client – this person failed to attend appointment in Oct – now wants to advise sooner – OP wants dna test but only by blood type (!??) told her she needs proper appointment – she wanted to come in right away then wanted appointment for 8am tomorrow – accepted noon tomorrow instead</p> <p>Registrar rings to thank for assistance of duty client yesterday who had property orders drafted by a non family lawyer – unenforceable, had to be requisitioned – I rewrote. Client now able to complete process.</p> <p>System for closing files has now changed. Go see [a senior support staff] – process too painful – so either I ignore and close the old way or just stop closing files until better way comes up – new system requires printing a sticky label from Visualfiles but I don't have such labels nor the skill to use them – [senior support person] describes a crazy process she has to use – then there is something else about more orange stickers to go on the other sticky label?</p> <p>New client at 10:30. Client applied for aid 18 Oct for urgent return of child. File note from CC included with application. Grant not made until 26 Oct. Urgency not communicated. File came to me on either 27 or 28 Oct. Allocated until Mon 31 Oct. Appointment made for 1 Nov. Client had retrieved child by agreeing to op demands, including dropping dvo. Client attended with OP who appears to be trying to dictate arrangements that make him primary carer and are not in child's best interests. Reporting letter to client and request for extension of aid.</p> <p>Email care and protection about clash in calendar at 2pm. Need someone to mention for me.</p>	<p>Made arrangements to get him away, organised urgent fdr with Michelle. Client went to Liz for survey while op talked to Michelle about fdr. Put temp arrangement in place by simply telling op what would happen in meantime.</p>	<p>Example of process failing at commencement because aid application not processed as urgent. Lawyers then having to undo poor outcomes as best they can. Urgency should have been recognised and application for recovery made on 18 October. Hopefully end result will be security for client, safety for client, and child in primary care of mother.</p>

	<p>DVs getting more weird phone calls from [a client] – been going on for a couple of weeks now – started with suicide threats – mostly ramble. Staff feeling disturbed by it. [Senior manager] getting OPC to block number somehow.</p> <p>Had a light interval over lunch</p> <p>FDRC at 2pm – convenor running late. Tried to check out emails and email went into some weird mode where it pulled up august emails as if they were new. Shut down system</p> <p>Debrief with [family lawyer] about her first interim before DCJ.</p> <p>Continue with FDR.</p> <p>Interrupted because another client ringing up and saying something about killing himself or the other party. Had to take call and tick him off.</p> <p>Back to mediation. Mediation goes overtime. Hand over end to another solicitor with client's knowledge.</p>			
<b>Day 2</b>	<p>Taking judgement in two matters.</p> <p>Continuing negotiations re TP.</p> <p>Crazy on Friday, but left it too late to write up.</p>	<p>In [name of case] we got the order for an expert report. Never was much doubt but OP was wildly objecting.</p> <p>In [name of case] judgment delivered but me to devise the orders consistent with that judgement – quite bizarre outcome. Inconsistencies mean mammoth exercise. Sought clarification from Court</p>	<p>Just how much money do private lawyers get for contesting foregone conclusions?</p> <p>[Client] ET reneging on deal struck at FDRC – only partly but really don't blame him. Have to draft slightly different agreement.</p> <p>[staff member] on holidays. [staff member] spent a lot of the week over assisting at DVs – amazing how chaos develops so quickly without them.</p> <p>I think I hate emails.</p> <p>Concerns about Replacing [staff members] for Jan next year.</p>	
<b>Day 3</b>	<p>Trying to allocate new files – file arrives indicating Hague matter – clearly NOT a Hague matter but client has written that so CSU describes it as such. Only half the court orders came with the file and no other docs.</p> <p>[firm name] agency matter listed for court this morning – no instructs – trying to find out if they want us to do anything.</p> <p>Updating discussions with [staff member] back from leave.</p>			

	<p>Law society meeting</p> <p>Court</p> <p>Union meeting</p>			
<b>Day 4</b>	<p>Arrived to find I have 9am appoint for urgent recovery order. Did not know about it. That changes the day's agenda.</p> <p>Then meeting with [staff member] about recent request to accelerate</p> <p>Straight into management meeting</p> <p>Straight into urgent FDR. I am hungry.</p> <p>Then talk to [staff member] about issues.</p>	<p>Got the application and affidavit done by 11:30am. Not sure it really should have been a recovery application in fact – but aid was granted and the appointment made. No file yet though.</p>	<p>Just goes to show I should never assume I will have a morning to do shrapnel work.</p> <p>Gosh almost settled – we were amazed and happy but at last minute OP talked to family and whole thing fell apart. Think I jinxed it when I expressed relief at the settlement.</p>	
<b>Day 5</b>	<p>The diary looks very light today – theoretically I should be able to do all sorts of shrapnel – lets see how it pans out. This is kinda fun.</p> <p>Talk to [CEO] about staffing issue</p> <p>Feedback to staff member</p> <p>Prepare response to court re [client name] matter include table of assets and liabilities</p> <p>Discussion with another staff member about stuff.</p> <p>Very long phone call with yesterday's FDRC. She has agreed to a 4/2/3/5 arrangement for a 3 year old. I am concerned she is bullied by OP and/or focussing on equity between her and OP rather than on the developmental needs of the child – referred her to ARCK to talk to someone about the child's developmental needs in relation to stability – also reinforced court would not order that arrangements.</p> <p>Lunch with a friend. YAY</p> <p>Caught up on some phone calls</p> <p>Ran 2 hour session on affidavit writing.</p>		<p>Nice to catch up on some staff training but hey, the shrapnel still calls. Sigh – did not get much of that done at all. But ... there is tomorrow.</p>	

## Family paralegal

	Work done: what you did, barriers, breakthroughs and interaction with staff and other agencies	Outcomes	Reflections on the day's occurrences Professionalism Good practice Quality of Service
<b>Day 1</b>	<p>Liaising with self-rep and OC about the transfer of cars</p> <p>Helped a caller understand the process of what happens once she makes an application to the Legal Aid Office. Transferred client through to Legal Aid</p> <p>Liaising with Family consultant about making an appointment for parties to speak with her</p> <p>Former client with mental health issues called in – needed details of a barrister who is no longer taking her calls. Contacted her Criminal lawyer to find out what was happening.</p>	<p>I think the most rewarding part of the day was talking the process of making a grant to getting a family lawyer with the person who called in. They were really appreciative that I took the time to answer their questions.</p>	<p>The “outcomes” reflects what I would say about that instance.</p> <p>It was hard to know what to do for our former client. It was obvious that she had need hassling the barrister when her matter was completed. I left it with her criminal lawyer to talk to her about it.</p>
<b>Day 2</b>	<p>Client wanted me to help him fill in his divorce documents. I wasn't able to make time to see him that day. He often comes to the office demanding to see [family lawyer] or I immediately. I suggested that if he wanted to have someone help him with the documents today, that he could call the phone duty advice service or attend the Court. The duty solicitor later confirmed that he attended the court to see the solicitor.</p> <p>Still liaising with parties about the transfer of the cars. Self rep party getting agitated he hasn't heard from us with a definite response to his proposal. We are still seeking OC instructions and are not prepared to settle on all matters yet.</p> <p>Assisted solicitor drafting up terms of settlement for consent orders to be filed in Court.</p>	<p>Not able to resolve the transfer of car matter like the self rep wants. Needed to inform the self –rep that our client is not in a position yet to agree to a final settlement, as kids matters are not agreed between the parties. Difficult for him to understand why this is the case.</p> <p>Able to progress the above matter by assisting solicitor in drafting terms of settlement in relation to property.</p> <p>Good to know that OC with divorce was successfully assisted by duty lawyer service. I would have been happy to help him expect I just didn't have time today to help.</p> <p>Client was very happy to hear she would be getting the remainder of her money in trust following her matter</p>	<p>I think the referral of OC to duty was professional and ensured client satisfaction to the extent possible, as I was not able to see him that day. It is sometimes difficult for clients to understand that their lawyer can only help them with parts of their family law matter and not all of it (i.e. divorce)</p>
<b>Day 3</b>	<p>Only two paralegal staff here for the morning. Just [staff member] and I to answer phones and do admin tasks for solicitors.</p> <p>Organised FDRC with client and FDRC unit.</p>		<p>It was good to be able to get the money cleared and reassessed so quickly. I know our client really appreciated it.</p>

	<p>Helped refer a former client to a solicitor to CSU to request a grant of aid and to be allocated to her former solicitor. Spoke to CSU about the matter.</p> <p>Organised the reassessment of a client's contribution in a finalised children/property matter. Contacted CSU and Accounts to ensure that the money was transferred into our trust account and ready to transfer the remainder of the money.</p> <p>Requested extensions for the payment of invoices for subpoena from CSU and made payments to [finance officer].</p> <p>There was a lot of other things happening, but it was hectic.</p>		
<b>Day 4</b>	<p>Urgent return of child. Unable to get in contact with OC. Made things difficult considering he is the applicant. Finally got through to him and organised a late notice appointment to see [family lawyer]. Had to make appointment next day.</p> <p>Solicitor away. Needed to explain client's matter to another solicitor appearing in court on [family lawyer's] behalf.</p> <p>AWOL client phone's in on day of Court. Hadn't been able to contact client for weeks in preparation for court. No solicitor available to speak to client, I take detailed update on what is happening and whether OC and OP have reached a possible agreement or would consider mediation again. I pass this on to the solicitor taking the matter to court that morning.</p>	<p>Very glad to get in touch with OC. Apparently he lost his mobile after being in hospital.</p> <p>Matters being looked after by other solicitors had good outcomes or outcomes we were hoping for in Court.</p> <p>The file notes I took for the solicitor on AWOL client allowed them to present their client's matter to the court appropriately.</p>	
<b>Day 5</b>	<p>Urgent return of child. Client forgot his filing fee money. Unable to file until the next day.</p> <p>Former client comes in to office wanting a copy of archived orders from 2008. I located original and gave her a copy.</p> <p>Spoke to CSU about a client we believe is over the Legal Aid income threshold and has not declared to CSU. CSU investigating.</p>	<p>Waiting on outcomes.</p>	<p>Although it never feels good "dobbing on the client", it's essential that client's are not abusing the system. Hopefully CSU will be able to make a good judgement call on this.</p>

## Family paralegal

	Work done, what you did, barriers, breakthroughs and interaction with staff and other agencies	Outcomes (no matter how small) Case study welcomed.	Reflections on the day's occurrences. Professionalism Good practice Quality of Service
<b>Day 1</b>	<p>Monday morning, a very busy day on the duty list at the FMC.</p> <p>A new agency grant came upstairs about 40 minutes before it was due in the FMC at 10am. Made the file up, the section spoke to the principal and got the documents faxed through. Handed the file to the solicitor with fifteen minutes to spare.</p> <p>Took messages and reassured three clients between 9.30 and 10am who were each attempting to contact their solicitors for various urgent concerns – all solicitors were tied up in the FMC duty list. Chased process server for affidavit of service for a matter which had apparently been served late last week and was in Court at 10am.</p> <p>Followed up on the archives request for former client, making sure the relevant department had all the necessary information and were looking for it.</p>	<p>Solicitor was able to successfully do the appearance.</p> <p>Passed on messages and was able to hopefully help clients have confidence their solicitors are on top of their matters.</p>	<p>Once the urgent things were resolved spoke to CSU and principal re: notice, in this case it was a mention but more notice would have improved the service to the client.</p> <p>Passing on messages is probably one of the smaller tasks that we do that has the biggest impacts on clients feeling secure and attended to. Our solicitors are often at Court or working on other matters and the clients really do need to have confidence that we are able to get messages to their solicitors even if they can't speak directly to them.</p>
<b>Day 2</b>	<p>Took a call from a client who wanted to change solicitors. Took a detailed file note and asked the client to explain his concerns, checking his requests against his grant of aid, and noticing that he was expecting the solicitor to do work outside of the grant. He was also upset that things were taking so long, and I looked over the matter, noted that unfortunately there are delays which are unavoidable once the court processes starts which his solicitor couldn't control. I also noted that his solicitor had been in Court a lot lately but was working on OC's file, as evidenced by recent reporting letters. He was still a bit concerned, so I explained that the decision was actually one made by Client Services, and they could talk him through the steps he needs to take if he doesn't feel he can work with his solicitor. Placed client on hold, explained briefly to CSU client's name, file number and briefly that he wanted to have the process for having his grant referred explained.</p>	<p>I don't know the outcome of the client's discussion downstairs, but I think perhaps he found having his concerns heard cathartic as he seemed more relaxed and less agitated by the time he was transferred to CSU.</p>	<p>This was a bit frustrating as I understood enough about the matter to be aware that the client was upset that things which were not in fact legally advisable were not being done – for example, he was upset his solicitor hadn't focussed on whose 'fault' the relationship breakdown was. I tried nevertheless to listen closely and demonstrate my concern that the client was unsatisfied. I also try not to use CSU as a circuit-breaker for angry people, and I am confident he had calmed down sufficient to be aware we were all interested in helping him by the time he was transferred.</p>

	<p>At nearly 6pm, received a phone call from client, who had called the police because of fears for the OP/his children's safety. His housing application had also fallen through this week, his property settlement has been delayed and he has been sleeping in his car for most of this year and he felt his lawyer wasn't calling him back and was angry that her contract was finishing and she was moving on, said he would call the law society over this. Also angry that another solicitor in our office 'didn't fix the temporary fencing problem with my house'.</p> <p>Took detailed notes as to his concerns and ascertained that there was nothing we could do to assist with the housing matter at this stage. Reassured OC that his solicitor has been working hard on his matter and his file is ready to be handed to senior practitioner who will be taking up the file next week, offered to schedule OC an appointment with that practitioner so they could meet and to help with the things that have arisen in his matter lately. Explained fixing his fence probably outside his grant of aid but that I would make inquiries with the solicitor concerned and if there was something we were to do then I would chase it up. He was quite agitated and I eventually had to tell him that I was doing all I could to help him, I understood he was having a difficult time of things but that it wasn't appropriate to shout at me. Call terminated by OC.</p>	<p>Detailed file note, followed up on with relevant solicitors the next day.</p> <p>Client called back on Day 3 and left a message apologising for having been inappropriate. He called back subsequently on the same day, the people who deal with him regularly had been warned that he was agitated and he did again start to escalate into quite aggressive and angry communication.</p>	<p>Spoke with solicitors about the matter. Answering the phone after 5.30 when the office is closed can be difficult as there is little we can really do without solicitors being present. Tried to de-escalate the situation but I don't think I effectively managed this as OC's emotional state quite heightened. When he called back the next day he was calmer and another paralegal was able to schedule an appointment for him.</p>
<b>Day 3</b>	<p>Came into work to help cover a colleague's leave.</p> <p>Rescheduled a client appointment because solicitor held back at Court and would have been 30 minutes late.</p> <p>Followed up on a matter where the client was waiting on a court date from his application. Called and provided the date and explained the process. Discovered he was concerned OP would react aggressively once she was aware the matter had progressed to Court. I indicated we would keep him posted as to updates and let him know when the process server intends to serve the OP. I reminded him that his solicitor would have explained that it's part of our system of justice that she be able to see the materials, but we would do our best to ensure OC alerted to be prepared.</p> <p>Had a client who worries a great deal about the time the children spend with the OP call and ask about whether or not she should not provide the children under the orders on the weekend. OP had sent her some nastily worded SMS messages. Liaised with her solicitor and passed on the advice of her solicitor, making sure to explain each step carefully and why it would be bad to breach orders and steps she can take to limit risk, such as bringing a friend to the</p>	<p>Client happy to attend tomorrow outside his work hours.</p> <p>Client received legal advice which prevented her legal matter being</p>	<p>Routine, was glad to catch the client before he left home for the appointment.</p> <p>Flagging the file to ensure we advise client before service adds to the workload of the paralegal managing the matter, but at significant benefit to the client's anxiety levels. It's something we more commonly use where there has been a history of DV – or in one case, where parties were separated under one roof and there were concerns of a violent reaction – but it is something we offer to do when we think it will help clients feel more comfortable with what can be a frightening and alienating process.</p> <p>Risk here is that non-compliance with Court orders can seriously damage case, can result in</p>



	changeover with her for support/company, not engaging with OP. Said it was understandable to be anxious be concerned about conflict and upset about unpleasant comments from OP but not enough here to not follow the orders, not following the orders has even worse outcomes for her and escalates the conflict even more. She agreed that she would comply with the orders.	significantly disadvantaged, agreed to comply with the Orders for time over the weekend, said she would consider mitigating risk steps for her comfort.	contempt of court type penalties in some cases and may, if it happens without very good reason or in a systemic way, lead the court to negative conclusions about the client's capacity to foster a relationship between the children and the other parent or to comply with orders at all.
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### Criminal lawyer

	<b>Work done: what you did, barriers, breakthroughs and interaction with staff and other agencies</b>	<b>Outcomes</b>	<b>Reflections on the day's occurrences</b> Professionalism Good practice Quality of Service
<b>Day 1</b> (8.5hr day)	<p>Supreme Court Sentence – Decision handed down by Justice. Appeared as counsel; client has mild form of mental retardation; interacted with Court staff, client's family &amp; custodial staff.</p> <p>Magistrates Court mention – Family Violence List</p> <p>Appeared as solicitor; client has mental health diagnosis, short attention span. Interacted with Court and custodial staff.</p> <p>Client appointment at office. Phoned C'th DPP re Statement of Facts.</p>	Adjournments and matters finalised.	<p>Differences between Supreme &amp; Magistrates Courts – volume, time per case;</p> <p>Explained procedures well; requested client obtain reference material.</p>
<b>Day 2</b> (7.25hr day)	<p>Magistrates Court Duty Pleas – advice and appeared in Court on mentions and pleas; interaction with Court and custodial staff</p> <p>Mention for colleague – in custody client; saw client in the cells and then appeared in court; interaction with Court and custodial staff</p> <p>Mention for colleague – in custody client; saw client in the cells and then appeared in court; interaction with Court and custodial staff</p> <p>Mention for colleague – in custody client; saw client in court, brief discussion then appeared; interaction with Court and custodial staff</p> <p>Work in the office – follow up phone- calls and emails to DPP, phone-calls to clients and Corrective Services, reading statements &amp; briefs of evidence, tasks for support; printing material for files.</p>	<p>Adjourned for 1 week</p> <p>Adjourned for 5 weeks, client's request.</p> <p>Adjourned for 6 weeks for psychiatric report to be done.</p>	Client satisfied.

<b>Day 3</b> (10hr day)	<p>Magistrates Court sentence – part-heard Magistrate [y]. Tendered references and made submissions.</p> <p>Delays by DPP &amp; AFP, made Costs Application at Magistrate's suggestion.</p> <p>Client appointment at the office – former client so knew her history. Interacted with DPP –phone &amp; email re Statement of Facts.</p> <p>Client appointment – mother attended.</p> <p>Advised elements of charge, procedure and likely penalties if pleas of guilty entered; identified areas to negotiate Statement of Facts with DPP.</p> <p>Printed copy of High Ct case for client.</p>	<p>No conviction Good Behaviour Order made, Costs awarded – AFP to pay LA's costs of \$180</p> <p>Statement of Facts amended</p> <p>Client had better understanding of Court process.</p>	<p>Best outcome for client; rare occurrence for costs to be awarded in LA's favour. O/C very pleased</p> <p>Statement of Facts amended, her personal safety was jeopardised if Statement was not amended.</p>
<b>Day 4</b> (9hr day)	<p>Magistrates Court Duty Pleas – advice and appeared in Court on mentions; interaction with Court and custodial staff</p> <p>Magistrates Court mention for client</p> <p>Magistrates Court mention for colleague – former client of mine</p> <p>Magistrates Court duty plea – read colleague's notes, submitted there was a reasonable excuse for failing to appear at court.</p>	<p>Magistrate supported my submissions and adjourned matters for further information to be provided.</p>	<p>Client satisfied.</p>
<b>Day 5</b> (10hr day)	<p>Work in the office – reading emails, follow up phone- calls and emails, reading statements;</p> <p>emailed client's brother (a solicitor) re High Court case and that it didn't apply to his sister's case;</p> <p>Appointment with client at court – mother present. Read through Pre-Sentence Report – identified disputed facts.</p> <p>Attended Law Society Criminal Law Committee meeting – 45 mins</p> <p>Magistrates Court Sentence, called evidence from client's brother (mentioned above), tendered references, made submissions.</p> <p>Interactions with client and family, court and custodial staff.</p> <p>Work in the office follow up phone- calls and emails to DPP, phone-calls to</p>	<p>Suspended Sentence, GBO with probations supervision and community service work.</p>	<p>Client relieved not serving sentence of full-time imprisonment.</p>

	clients and Corrective Services, reading statements & briefs of evidence, tasks for support; printing material for files.		
	Work in the office – follow up phone- calls and emails to DPP, phone-calls to clients and Corrective Services, reading statements & briefs of evidence, tasks for support; printing material for files.		

### Criminal lawyer

	<b>Work done: what you did, barriers, breakthroughs and interaction with staff and other agencies</b>	<b>Outcomes</b>	<b>Reflections on the day's occurrences</b> Professionalism Good practice Quality of Service
<b>Days 1-5</b>	<p>Appearances including mentions and sentences for other lawyers in the practice in both the Supreme and Magistrates Courts.</p> <p>Court assistance, e.g. when a defendant is unrepresented, the court will stand down for five minutes while the defendant is advised (usually to apply for legal aid) by a lawyer from LAACT. Depending on the level of assistance they may become a duty client, but if simply a referral or provision of aid form not recorded.</p> <p>Providing referrals to self represented litigants to other agencies, or courts, or the DV Unit of legal aid. This is not always recorded in duty notes.</p> <p>When at court, locating the whereabouts of a lawyer for LAACT clients and legally aided clients with private lawyers (e.g. making a phone call to ascertain the location of the client's lawyer).</p> <p>Supreme Court bail hearings where a client is in custody (locked-up that morning or the night before) for a breach of bail and a fresh application for bail is made. An extension is not applied for at time due to short time frames, and inability to obtain the relevant material to provide to Client Services to consider the request prior to the application for bail being heard.</p> <p>Taking Graduate Diploma in Legal Practice students to court and providing them with an introduction to day to day legal practice as a criminal lawyer.</p> <p>Providing mentoring and coaching to junior solicitors from other non government, not for profit organisations such as the Aboriginal Legal Service.</p>		

	<p>Participation in Committees of ACT Law Society.</p> <p>Giving talks to Clinical Youth Program students from ANU (working at Youth Law) to assist in their understanding of criminal law matters.</p> <p>These above activities do not include the following:</p> <ul style="list-style-type: none"> <li>• Participating in professional development sessions/seminars/conferences either in house or external.</li> <li>• Keeping up to date with new legislation and case law.</li> <li>• Criminal practice meetings and other office meetings.</li> </ul>		
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### Criminal paralegal

	<b>Work done: what you did, barriers, breakthroughs and interaction with staff and other agencies</b>	<b>Outcomes</b>	<b>Reflections on the day's occurrences</b> Professionalism Good practice Quality of Service
<b>Day 1</b>	Entering data from duty notes, allocating new file, answering telephone calls, making an appointment for a man that is currently in Brian Hennessy House (managed accommodation), copying notes to attach to correspondence.	<p>Appointment made for man in managed accommodation, involved making arrangements with the staff at the House to enable us to attend there.</p> <p>Sent DPP documents to clients who were represented on a duty basis along with a follow up letter reminding them of Legal Aid Services and directing them to fill out an application form.</p>	<p>This was a fairly procedural day.</p> <p>My work allowed for the solicitors to be more prepared and clients to be more informed of the charges they are facing and their options for obtaining legal assistance.</p>
<b>Day 2</b>	<p>Received 3 names of people fresh in custody, checked for conflict of interest and prepared notes for solicitors.</p> <p>Emailled the Supreme Court to ask that one of our clients be given a pseudonym in the court list that is mailed to all organisations as there was a non-publication order made (underage sex matter).</p> <p>Spoke to client to request a list of his medications at the treatment facility he is currently at to provide to court on the next occasion. Received same and sent to Counsel.</p>	<p>My work allowed for medications list to be received prior to court for Counsel to reflect upon.</p> <p>Also allowed for the DPP to prepare for court in the event that the Supreme Court Registry was delayed.</p> <p>Took detailed messages which meant the solicitors were required to spend less time</p>	<p>This was a very busy day with a number of small fiddly tasks.</p> <p>Felt like I spent the entire day doing urgent tasks that should have been organised earlier, but clients don't apply for legal aid until the last minute and the court is under-resourced so it is hard to avoid this happening.</p>

	<p>Asked CSU to make a decision in regard to funding an expert report urgently so the Federal Magistrate may make an order the same day and the report could be available on the next date.</p> <p>Examined the documents for a new grant and advised CSU we had capacity to take the matter on. Next in Court tomorrow.</p> <p>Took a message from a client who was advising that he wished to change his plea in one of his many charges.</p> <p>Sent a document to the DPP for their information prior to filing in the Supreme Court to allow them to peruse it in time for the next in court date (as there have been lengthy delays in receiving documents back from the Supreme Court Registry since their move to the Magistrates Court building).</p> <p>Called ACT Mental Health to request records for a client.</p> <p>Requested court documents from DPP regarding new file received that is in court tomorrow.</p> <p>Took call from client advising she has new charges. I took details on these new charges and asked her to drop in copies. Passed the message to her solicitor.</p> <p>Called the prison to ask some detainees to call their solicitors.</p> <p>Generally took phone calls which involved assessing whether a person is required to make a duty appointment, talk to their solicitor, apply for legal aid funding etc.</p>	<p>on the phone with their clients.</p> <p>Prepared files for court tomorrow so that solicitors had all the information they needed.</p>	
<b>Day 3</b>	<p>Emailled CSU to advise we had a matter in Court that morning that we had not yet received any documents for.</p> <p>Reviewed expressions of interest in volunteer positions to assess suitability in doing a placement while we are short staffed over December/January. Made arrangements with the Youth Law Centre to borrow their staff over that period.</p> <p>Chased the Court of Appeal in relation to a Notice of Appeal filed 5 days ago which has not been received back.</p>	<p>Managed to obtain documents for the solicitor for his matter in court that morning.</p> <p>Added information to our contacts list to enable solicitors to access associates direct lines and save time.</p> <p>Began preparing a brief.</p>	<p>This was a slow day.</p> <p>Did a lot of administrative catch up work which I hadn't had a chance to do and had been piling up since the supervisor took leave last week.</p>

	Updated our contacts list to include the numbers of the judges associates which was a list received by email.			
<b>Day 4</b>	<p>Began to prepare a (6 folder) brief for a forensic psychiatrist to be sent asap.</p> <p>Received 10 names of people fresh in custody, checked for conflict of interest and prepared notes for solicitors.</p> <p>Changed internal mail procedure as the previous courier had not been replaced and we were required to do our own mail runs.</p> <p>Collected mail from reception for our section and distributed.</p> <p>Ordered flowers for colleague who is in hospital.</p> <p>Prepared a brief for a forensic psychiatrist and mailed to Melbourne so he could prepare for his client appointment in 2 weeks. Also sent copy to his Barrister.</p> <p>Sent Transcript Waiver form to client so he may obtain the transcript of his sentence free of charge.</p> <p>Emailled Pre Sentence Report to Cth DPP prosecutor for court tomorrow so that she was aware what material we could be relying on and could prepare accordingly.</p> <p>Gave PSR to client so that she may read it and raise any questions/issues with her solicitor before court tomorrow.</p> <p>Spoke to a client regarding him breaching his bail, obtained details as to how he breached (using drugs) and informed his solicitor so that he could phone the client and advise.</p>	<p>Mail processes were streamlined to allow for the least disruption in our work day.</p> <p>Client was able to obtain a transcript without having to pay \$11 per page.</p> <p>Pre sentence report was supplied to all parties prior to court.</p>	<p>This was a very busy day in terms of taking a lot of calls and emails.</p> <p>My work allowed the solicitors to be more prepared for court as they knew whether the clients would be opposed for bail.</p> <p>Also allowed the forensic psychiatrist to be more prepared before seeing our client for a referral appointment.</p>	
<b>Day 5</b>	<p>Created new grant file for client.</p> <p>Called a client to remind them to attend court.</p> <p>Checked the detainee list at the prison and made determinations as who should be seen by a solicitor for duty advice based on their previous dealings and next in court date.</p> <p>A client attended reception where his bail conditions stipulated he apply for</p>	<p>A client attended court who may not have without the reminder.</p> <p>Contact made with 9 clients at the AMC to advise them of the services that Legal Aid provides.</p> <p>Made an appointment for a man who was attending the Crimes Commission to give</p>	<p>We were very understaffed today as one staff member is away at a course and another is having surgery. Meant we took a lot of calls today.</p> <p>Tried to ensure in each case that clients were aware of their obligations and options to give them the best possible outcome.</p>	

	<p>bail by 4:30pm today. He already had a grant of legal aid for that matter so I asked the receptionist to prepare a detailed file note that he attended so as not to have the client breached for non-attendance.</p> <p>Assisted the family law section in printing letters as they had an error in the computer system.</p> <p>Spoke to the mother of a juvenile client in court tomorrow for a hearing and advised her what time to be there and where to meet the solicitor.</p> <p>Organised an appointment for a migrant who has been summonsed to give evidence at the Crimes Commission. Asked him to drop in his documents asap so I may do research for the solicitor before the appointment. We don't normally have dealings with the Crimes Commission. Client was very abrasive and difficult to deal with. He did not want to talk to me, only a solicitor and did not want to drop documents as he said we did this kind of work all the time. I advised this was not the case. Spent a lot of time correcting his preconceptions.</p> <p>Prepared a brief index for a brief going to counsel.</p>	<p>evidence. Asked him to drop in documents so that we may prepare ahead of time as the duty appointments are only half an hour.</p>	
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## Appendix E: Client Feedback Survey

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A short voluntary client survey/questionnaire was handed to every client over the two trial week period by reception with a request that they complete it to 'help us improve our work and see how we are going'. If the client could not read, the receptionist would help by reading the questions.

Client Surveys were anonymous save for postcode and some demographic information. A 'client feedback box' was provided at reception and the first floor lift lobby and Youth Law lobby where clients exit. Clients were given time and a space for them to complete the survey in reception before they left and were reminded to do so by the lawyer as they left the interview.

### Response Rates

- 24 responses from LAACT (LAACT)
- 2 Responses from Youth Law

**Total 26**

### Demographic profiles

Postcode 2582, 2913x3, 2617 x4, 2903, 2606, 2612, 2617x3, 2615, 2905, 2607, 2611, 2620, 2906, 2902, 2600, 2602x2, 2912, 2614

#### Age

- 18-24 (23%)
- 25-34 (26%)
- 35-44 (15%)
- 45-54 (8%)
- 55-64 (23%)
- 65+ (4%)

#### Gender

- Male (50%)
- Female (50%)
- Other/Not given (0%)

#### Income

- Health Care Card (19%)
- Low Income (23%)
- No Income (19%)
- Employed (Part Time (11%)
- Casual (8%)
- Full Time (23%)
- Retirement Funds (0%)

#### Country of Birth

- New Zealand (2)
- China (2)
- Australia (12)
- Croatia



- Sudan (2)
- USA
- Bangladesh
- Spain

**Main Language spoken at home**

- English (21)
- Mandarin
- Dinka (2)
- German (1)
- Bangladesh

**ATSI**

- (0)

**Highest Level of Education**

- Primary (4%)
- Year 9 (4%)
- Year 10 (23%)
- Year 11 (11%)
- Year 12 (23%)
- TAFE (8%)
- University (27%)

**Disabilities**

- Yes (25%)
- No (58%)
- Not prepared to say (15%)

Questions + Responses given (9 November 2011 – 23 November 2011 – as % out of 26 responses)	Demonstrate /indicate
<b>1. How did you know about LAACT?</b> <b>a. previous client (23%)</b> <b>b. friend/family member (38%)</b> <b>c. worker at organisation told you (%11) Which organisation? Family Relationships Australia (1)</b> <b>d. Referred or assisted by a worker</b> <b>e. Pamphlet/ web site</b> <b>f. Legal education session</b> <b>g. Do not know (8%)</b> <b>h. Other? (11%)</b>	<b>Accessibility</b> <b>Advice –seeking</b> <b>behaviour</b> <b>Coordination</b> <b>Joined Up Services</b>
<b>2. Which service/s at LAACT helped you?</b> <b>a. Helpline (15%)</b> <b>b. Civil – tenancy (4%), debt, mental health issue, credit, consumer, health (4%), discrimination (4%), Centrelink (12%), domestic violence (8), finances (8%)</b> <b>c. Duty Lawyer Domestic Violence (4%)</b> <b>d. Duty Lawyer Mental Health (4%)</b> <b>e. Duty lawyer Criminal (8%)</b> <b>f. Criminal Practice (15%)</b> <b>g. Family Practice (27%)</b> <b>h. CLE/Knowledge Services</b>	<b>Coordination</b> <b>Joined Up Services</b>

<p><b>3. What was the nature of your legal issue?</b></p> <p>Blood Alcohol, drive whilst disqualified, power of attorney &amp; Centrelink, finances, child custody, finance &amp; child contact, representation in court &amp; criminal process, Centrelink, Family, Divorce (2), Property Settlement &amp; entitlements, theft, child custody &amp; mediation, discrimination in ACT housing, compensation, 'being bad', AVO, Neighbourhood dispute, Debt, drive whilst suspended.</p>	
<p><b>4. The LAACT service (indicate which): receptionists (12%) , a paralegal (4%), or a lawyer (85%) listened to me when I explained my situation</b></p> <p><b>Strongly Agree (46%) Agree (38%) Don't Agree (0) Strongly Disagree (4%)</b></p>	<p>Quality Service Responsiveness Client Centred Good practice Problem ID</p>
<p><b>5. The service was responsive to my individual circumstances</b></p> <p><b>Strongly Agree (50%) Agree (38%) Don't Agree (0%) Strongly Disagree (4%)</b> <b>No answer (11%)</b></p>	<p>Responsiveness Client Centred Problem ID Social Inclusion Quality Service Good Practice</p>
<p><b>6. The service understood my problem</b></p> <p><b>Strongly Agree (54%) Agree (38%) Don't Agree (0%) Strongly Disagree (4%)</b> <b>No answer (11%)</b></p>	<p>Quality Service Responsiveness Client Centred Problem ID Complexity Targeted</p>
<p><b>7. The service assisted me with the problem I had</b></p> <p><b>Strongly Agree (54%) Agree (31%) Don't Agree (0) Strongly Disagree (4%)</b> <b>No answer (11%)</b></p> <p>– By? 'Providing me very helpful information'; 'giving me the right advice and which way to go about it'; 'understanding all aspects'</p>	<p>Quality Service Responsiveness Client Centred Problem ID Targeted</p>
<p><b>8. The service explained things to me in a way I understood</b></p> <p><b>Strongly Agree (50%) Agree (38%) Don't Agree (0) Strongly Disagree (4%)</b> <b>No answer 12%</b></p>	<p>Quality Service Responsiveness Client Centred Targeted Good Practice</p>
<p><b>9. The service's lawyers were experienced and competent</b></p> <p><b>Strongly Agree (50%) Agree (50%) Don't Agree (0) Strongly Disagree (4%)</b> <b>No answer 23%</b></p>	<p>Quality Service Professionalism Good Practice Responsiveness Client Centred</p>
<p><b>10. There are questions still unanswered</b></p> <p><b>Strongly Agree (0%) Agree (23%) Don't Agree (46%) Strongly Disagree (19%)</b> <b>No answer 12%</b> <b>- What are they?</b></p>	<p>Responsiveness Good Interview</p>

<p><b>11. If appropriate, the service returned my calls promptly</b></p> <p><b>Strongly Agree (35%) Agree (38%) Don't Agree (4%) Strongly Disagree (4%)</b>  <b>No answer (19%) n/a (1)</b></p>	<p><b>Quality Service</b>  <b>Responsiveness</b>  <b>Client Centred</b></p>
<p><b>12. The service treated me with understanding and respect.</b></p> <p><b>Strongly Agree (38%) Agree (35%) Don't Agree (0) Strongly Disagree (4%)</b>  <b>No answer (11%)</b>  <b>If so how? If not why not? No answers</b></p>	<p><b>Quality Service</b>  <b>Good Practice</b>  <b>Social Inclusion</b>  <b>Responsiveness</b>  <b>Client Centred</b></p>
<p><b>13. The lawyer explained options in a way I could understand</b></p> <p><b>Strongly Agree (46%) Agree (46%) Don't Agree (0%) Strongly Disagree (4%)</b>  <b>No answer (15%)</b></p>	<p><b>Quality Service</b>  <b>Good Practice</b>  <b>Responsiveness</b>  <b>Client Centred</b></p>
<p><b>14. The service assisted me with gaining help from other agencies where appropriate.</b></p> <p><b>Strongly Agree (46%) Agree (31%) Don't Agree (0%) Strongly Disagree (4%)</b></p>	<p><b>Responsiveness</b>  <b>Client Centred</b>  <b>Seamless referral</b>  <b>Social Inclusion</b></p>
<p><b>15. I have a better sense of what to do, how the law operates and its applicability to my case than I did before I contacted LAACT.</b></p> <p><b>Strongly Agree (46%) Agree (50%) Don't Agree (0%) Strongly Disagree (4%)</b>  <b>No answer (11%)</b></p>	<p><b>Outcome –</b>  <b>empowerment</b>  <b>Early Intervention</b>  <b>Prevention</b>  <b>Social Inclusion</b></p>
<p><b>16. If this problem came up again, I would know what steps to take because the lawyers gave me information and advice that I would need.</b></p> <p><b>Strongly Agree (46%) Agree (50%) Don't Agree (0%) Strongly Disagree (4%)</b>  <b>No answer (11%)</b></p>	<p><b>Outcome –</b>  <b>empowerment</b>  <b>Early Intervention</b>  <b>Prevention</b>  <b>Social Inclusion</b></p>
<p><b>17. Based on your experience today, if you had another legal problem would you seek assistance:</b></p> <p><b>a. from LAACT (50%)</b>  <b>b. earlier than you did this time (23%)</b>  <b>c. know better what to do than last time (50%)</b>  <b>d. if it happened to a friend/family member recommend Legal Aid to someone else (27%)</b>  <b>No answer (11%)</b></p>	<p><b>Outcome –</b>  <b>empowerment</b>  <b>Early Intervention</b>  <b>Prevention</b>  <b>Good Practice</b>  <b>Social Inclusion</b></p>
<p><b>18. If you were not eligible this time for legal assistance, the reasons and alternatives were clearly explained.</b></p> <p><b>Strongly Agree (15%) Agree (35%) Don't Agree (4%) Strongly Disagree (4%)</b>  <b>No answer (31%)</b></p>	<p><b>Good practice</b>  <b>Quality of Service</b>  <b>Professionalism</b></p>
<p><b>19. Open Question, what do you think would have happened in your situation without the assistance of LAACT?</b></p> <p><b>'I don't know, probably lose my case'</b>  <b>'I would have told everyone off in court'</b>  <b>'Would not respond, worse'</b>  <b>'I would not have been able to afford to live'</b></p>	<p><b>Outcome</b></p>

<p>'Wouldn't have known what steps to take'.</p> <p>'Would get help earlier next time as I know more what to do than last time'</p> <p>'I would have proceeded without knowing my rights and presumably have paid! Accordingly, I am thankful for the experience'</p> <p>'I got help. Now I'm happy for coming here, thanks to Legal Aid, I hope to be good.'</p> <p>'I would have had to represent myself up against ACAT's (tribunal) housing barrister over 3 days.</p> <p>'They gave help, guided me, knew what to recommend, I would know better next time'</p> <p>'I would be left hanging as to whether or not the father would have the children and look after them. Now I know they are safe.'</p> <p>'I felt lost and hopeless. Now I know my rights.'</p> <p>'Gave me advice on where to go for help.'</p> <p>If I had a problem next time I would come back earlier for help.'</p> <p>'Without their help I would have prolonged my legal affairs.'</p> <p>'Without Legal Aid I would be convicted.'</p> <p>'Jail'</p> <p>'My medication affects me, why is everyone so rude and dismissive of me. I felt like I was an inconvenience to the lawyer.'</p> <p>'Without Legal Aid I would be confused and distressed.'</p>	
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## Appendix F: Telephone Survey on Closure of Client File

On the closing of client files six (6) clients were to be phoned over the fortnight by the paralegal closing the file (in the two week trial period) with a request for five minutes of their time to answer some questions on the service they received. A brief summary note on the nature of the file will be kept with each survey response but no client details recorded.

In the event no surveys were completed as, despite numerous calls to clients, contact could not be made in the trial period.

### Instructions:

Paralegal in closing file to ask client if they would mind answering nine quick questions on the service they received in order to assist the service in how it is tracking and how it might be improved. You will need to indicate all information obtained will be de-identified.

It should be noted on the file that the client consents to the completion of this survey if they do.

### Demographic information (amend as previously)

- Postcode
- Age: 18-24, 25-34, 35-44, 45-54, 55-64, 65+
- Gender: Male, Female, Other/Not given
- Birth date:
- Income: Health Care Card, No Income, Employed (Part Time, Casual, Full Time), Retirement Funds
- Country of Birth:
- Main Language spoken at home:
- ATSI:
- Highest Level of Education:
- Disabilities: Yes, No, Not prepared to say

Questions	Demonstrate/indicate
1. Was your matter handled by an in-house lawyer at LAACT or by a private lawyer funded by legal aid?  Yes, No	
2. During my case/matter the lawyer /paralegal listened and responded to my concerns with respect, directness and honesty.  Strongly Agree, Agree, Don't Agree, Strongly Disagree  Why? Why not?	Quality Service Responsiveness Client Centred Social Inclusion Good Practice
3. The lawyer was knowledgeable and professional	Quality Service Good Practice

Strongly Agree, Agree, Don't Agree, Strongly Disagree	
<p>4. During my case/matter the lawyer/paralegal gave me information about other services I needed and linked me into other legal and non legal services or made appointment for me with them if appropriate.</p> <p>Strongly Agree, Agree, Don't Agree, Strongly Disagree</p>	<p>Quality Service Responsiveness Client Centred Collaboration (joined up) Information Sharing Holistic Social Inclusion</p>
<p>10. You were informed and kept up to date on the progress of your case.</p> <p>Strongly Agree, Agree, Don't Agree, Strongly Disagree</p>	<p>Quality Service Legal professionalism Good Practice</p>
<p>11. Was legal aid a help to you in resolving the problem by any of the following ( indicate the most appropriate response/s):</p> <p>a. I got a lawyer to represent me and my legal problem was resolved.</p> <p>b. I got a lawyer to represent me and I didn't have to go to court alone.</p> <p>c. I got a lawyer to represent me and my side of the story was told.</p> <p>d. I got a lawyer to represent me and my problem was partly resolved.</p> <p>e. I got a lawyer to represent me and other authorities were held to account in how they dealt with me.</p> <p>f. I got a lawyer to represent me and although I didn't get the result I wanted I was treated fairly in the process.</p> <p>g. I received the legal information or advice I needed.</p> <p>h. The lawyer explained options I did not know about and in a way I could understand.</p> <p>i. Referring me to the relevant agencies who was able/not able to help</p>	<p>Quality Service Voice Holding authorities to account Questioning to broaden considerations Responsiveness Client Centred Collaboration (joined up) Problem identification ADR Client Need Client Focus Rule of Law Seamless referral</p>
<p>12. If a problem like this one occurred again would you:</p> <p>a. Have a better idea of what steps to take if the situation arose again</p> <p>b. Know better how to prevent the situation</p> <p>c. Know better how to stop the situation from getting worse?</p> <p>d. Seek help with such a problem earlier</p>	<p>Early intervention Empowerment Prevention Client Managing Own Affairs</p>
<p>13. What might have happened in your case/matter if you had not had the assistance of LAACT?</p>	<p>Outcome.</p>
<p>14. Is there anything you would like to add?</p>	

## Appendix G: Stakeholder Interview Questionnaire

Stakeholders identified by the participating practice areas in the trial were interviewed (if they consented to being interviewed). In addition, ANU was interviewed as they are a key partner with LAACT in delivering client services and CLE to law students.

Questions	Demonstrate/indicate
i. What are the key aspects of the partnership/interactions with LAACT that you value – Why?	Responsiveness Quality legal Service Good Practice Client centred Holistic Collaboration Joined-up
ii. Clients/community members are involved with LAACT's [name of division] – What specifically do you see are the benefits to clients from their involvement with the service and LAACT?	Responsiveness Quality legal Service Good Practice Client centred Holistic
iii. Are there areas where you think that LAACT could enhance its service to clients/community? If so, what areas and how?	Responsiveness Quality legal Service Good Practice Client centred Holistic Early Intervention Prevention ADR Flexibility
iv. Are there areas where you think that LAACT could enhance its relationship with your agency? If so, what areas and how?	Responsiveness Information Sharing Training and support needs Early Intervention Prevention ADR Flexibility
v. What are the overall strengths of your relationship with LAACT?	Responsiveness Good Practice Client centred Holistic Collaboration Joined -up

## Appendix H: Legal Aid Helpline Phone Back Survey

This survey was not used during the two week trial period.

### Demographic information

- Postcode
- Age: 18-24, 25-34, 35-44, 45-54, 55-64, 65+
- Gender: Male, Female, Other/Not given
- Birth date:
- Income: Health Care Card, No Income, Employed (Part Time, Casual, Full Time), Retirement Funds
- Country of Birth:
- Main Language spoken at home:
- ATSI:
- Highest Level of Education:
- Disabilities: Yes, No, Not prepared to say

Questions	Demonstrate/indicate
<b>How did you know about LAACT?</b> i. previous client j. friend/family member k. worker at organisation told you Which organisation? l. Referred or assisted by a worker m. Pamphlet/ web site n. Legal education session o. Do not know p. Other?	<b>Advice- seeking behaviour Accessibility</b>
<b>1. I was listened to while I explained my situation</b>  <b>Strongly Agree, Agree, Don't Agree, Strongly Disagree</b>	<b>Quality Service Good Practice Responsiveness Client Centred Problem ID Social Inclusion</b>
<b>2. The waiting time was OK.</b>  <b>Strongly Agree, Agree, Don't Agree, Strongly Disagree</b>	<b>Quality Service Responsiveness Client Centred</b>
<b>3. I was given information in a clear and understandable format.</b>  <b>Strongly Agree, Agree, Don't Agree, Strongly Disagree</b>	<b>Quality Service Responsiveness Client Centred</b>
<b>4. I was given time to ask questions and or clarify the information.</b>  <b>Strongly Agree, Agree, Don't Agree, Strongly Disagree</b>	<b>Quality Service Responsiveness Client Centred</b>



<p><b>5. I understood the information and it was pertinent.</b></p> <p><b>Strongly Agree, Agree, Don't Agree, Strongly Disagree</b></p>	<p><b>Quality Service Responsiveness Client Centred Problem Identification Good Practice</b></p>
<p><b>6. The person was knowledgeable and easy to understand.</b></p> <p><b>Strongly Agree, Agree, Don't Agree, Strongly Disagree</b></p>	<p><b>Quality Service</b></p>
<p><b>7. I was treated with respect</b></p> <p><b>Strongly Agree, Agree, Don't Agree, Strongly Disagree</b></p>	<p><b>Social Inclusion</b></p>
<p><b>8. Overall, my question was answered or problem was resolved.</b></p> <p><b>Strongly Agree, Agree, Don't Agree, Strongly Disagree</b></p> <p><b>If it wasn't, were you referred to another agency or given an appointment with a LAACT lawyer?</b></p>	<p><b>Collaboration Networks Referral (joined up) Information Sharing ADR</b></p>
<p><b>9. The information was helpful</b></p> <p><b>Strongly Agree, Agree, Don't Agree, Strongly Disagree</b></p>	<p><b>Quality Service Responsiveness Targeted</b></p>
<p><b>10. I know what to do next and who to contact for assistance</b></p> <p><b>Strongly Agree, Agree, Don't Agree, Strongly Disagree</b></p>	<p><b>Prevention Early Intervention Joined Up Networks Referral Empowerment Seamless referral</b></p>

## Appendix I: Information and Consent Form

For the researcher's interviews of clients after legal interview with lawyer. The same information was provided/read to client feedback survey recipients.

### **Project: LAACT: Demonstrating and Ensuring Quality Service to Clients**

Thank you for your valuable time.

Legal Aid ACT (LAACT) is conducting research from Monday 7 November 2011 until 18 November into its services and wants to receive feedback from its clients to see how it is tracking, check the client's experience of its impact, how it might improve and to assist its staff.

In order to ensure our service is responsive we need to have feedback from our clients. This is your chance to have input but we want your participation to be voluntary. LAACT has retained Dr Liz Curran to undertake this research in collaboration with clients and staff of LAACT and agencies it works with.

The research is also to be contained in a broader report for LAACT management and to its funders and this may be discussed in the broader community.

All your details will be de-identified so you can feel to inform us of your story and experiences of the services that legal has provided.

**[For 'Interview with Client after lawyer Interview' only:** If you agree to participate in this research and sign this Consent Form we will keep the Consent Form with your name on it in a separate research file and separate it from your responses to the questions you will answer which will be given a number so that none of your personal details will be disclosed.]

### **Consent Form**

I agree to participate in the research of LAACT entitled 'LAACT: Demonstrating and Ensuring Quality Service to Clients' into its services and how they are delivered so as to inform LAACT as to how it is tracking and to ensure it is responsive to clients.

I note that my details will be de-identified and that, once de-identified, the data/information may be used in a report and for community discussion and to inform funders of the service.

I \_\_\_\_\_

of \_\_\_\_\_

Voluntarily agree and consent to participate in the research of LAACT

Signed \_\_\_\_\_

Print Name\_\_\_\_\_

Office Use: Number\_\_\_\_\_ (for de-identification purposes) This form is to be kept separately to the signatories answers to questions so they cannot be identified.

## **Appendix J: Analysis of ANU Intern Evaluation Forms**

Evaluation of ANU Students' Experience of Clinical Program at LAACT Semester 2, 2011 following from Focus Group and Stakeholder Interviews with ANU in this Report.

### **LEGAL AID CLINIC - SEMESTER TWO, 2011 ANALYSIS OF INTERN EVALUATION FORMS**

#### **1. INTERN INFORMATION**

##### **1.1 Interns who had visited a legal office**

Yes 11 No 3

- I worked for a month in a law firm in Ottawa, Canada
- Work at a small office
- I have been doing volunteer work with the Night Time Legal Advice Service, + the Tenants Union in Sydney. I also work as a Tenancy Consultant with South West Tenants Advice Service.
- Previous experience in Legal Aid – Alice Springs
- Legal Aid Darwin for Criminal Practice Course. Tour of the office
- As a client for legal advice

##### **1.2 Interns who had visited a legal aid office or community legal centre**

Yes 8 No 6

- In my last JD semester, I did a legal internship with Legal Aid. It was research-based and I learned more about legal research.
- Helped with archiving @ Legal Aid
- Interviewing, appearance in Consents, file work

##### **1.3 Interns who had done a student placement in a legal office**

Yes 7 No 7

- In my month in Canada, I learned how to research cases, appear in bail matters, appear in adjournments and how to file documents.
- SMLS, MOLS
- Writing legal advices, setting/managing client expectations

##### **1.4 Interns who had worked in a legal office or in a legal environment**

Yes 11 No 3

- This was also my time in Ottawa.
- See above, drafted pleadings + corro
- Hansteins Belconnen
- Client interviewing skills, writing submissions for tribunal, negotiating with parties, advocating for tenants in tribunal

- AFP
- With governmental services
- Client pre-interviewing
- I was a legal researcher – research, drafting precedents, agreements, advice, letters, etc

### 1.5 University Law School attended by Interns

- Australian National University (6)
- University of Canberra (5)
- Charles Darwin University (1)
- Monash University (1)
- Not stated (1)

### 1.6 Interns who did clinical legal work as a course requirement for their law degree

Yes 5 No 9

- I did this for legal placement for GDLP. Skills: interviewing, file review, presenting arguments in court, legal research
- Part of my GDLP

### 1.7 If “Yes”, Explanation of skills gained

- SMLS, MOLS
- Part of LPE requirements for the GDLP
- Client interviewing, court observations
- ACT Youth Law Centre
- As per above re: student placement

## 2. PREPARATORY WORKSHOP

### 2.1 How useful was the Preparatory Workshop for you?

0      0      1      3      9  
 |-----|-----|  
 Not Useful      Fairly Useful      Very Useful

### 2.2 Suggestions about how the Preparatory Workshop could be improved

- Maybe offer a list of all areas to be covered
- Make certain that participants know that some matters are very emotionally intense.
- High Court, Fair Work Australia
- Maybe sit in on some Legal Aid planning meetings
- Be responsible for all interview & advice under supervision per MOLS/SMLS. Work for full-time M-F (Finding supervising SOL is a problem I know)
- Perhaps improve instructions for where to go/who to contact upon arrival in mornings
- The course guide is great. More contact info for the Legal Aid section
- No (x2)

### 3. LAC ON-SITE PROGRAM

[The LAC On-Site Program comprises 4 days or 8 days of on-site observation, learning and practice]

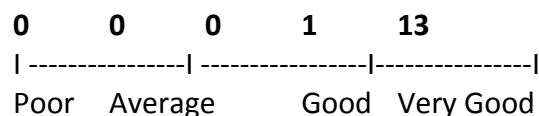
**Eight day LAC Program 14**

**Four Day LAC Program 0**

#### 3.1 What skills did you learn or practice?

- |                             |    |
|-----------------------------|----|
| • Interviewing              | 14 |
| • Providing information     | 11 |
| • Work organisation         | 3  |
| • Drafting correspondence   | 11 |
| • Drafting court documents  | 2  |
| • Other drafting            | 3  |
| • Phone calls               | 6  |
| • Organising legal material | 2  |
| • Negotiating               | 2  |
| • Managing clients          | 5  |
| • Court attendance          | 13 |
| • Administrative tasks      | 5  |
| • Research                  | 11 |
| • Other                     | 0  |

#### 3.2 How would you rate the LAC Program as a learning experience for you?



#### 3.3 Do you have any suggestions about how the LAC On-Site Program could be improved?

- Flexibility to follow cases
- Have the roster done before the Program starts so everyone knows where they have to be every week from the start
- Nothing to improve
- Perhaps including a civil law component. More advice giving role for students
- The family law section said they weren't expecting me on one day and said they would have liked to be notified so they could prepare work for me to do.
- Less visiting/overlap with observing ACAT, and more interviewing. Greater encouragement of critical reflection & learnings (rather than re-counting of factual scenarios) in the de-brief).

## 4. ABOUT SPECIFIC COMPONENTS OF LAC

### 4.1 Main LAC Program at Civic LAO

#### 4.1.1 How did you generally find the following?

	Poor	Average	Good	Very Good
i. Assistance/ direction in relation to tasks	0	1	6	7
ii. Feedback from instructors	0	1	5	8
iii. Adequacy of supervision	0	1	7	6
iv. Adequacy of resources on-site	0	4	4	6

#### 4.1.2 How would you rate the Main LAC Program as a learning experience for you?

**0      0      1      1      12**  
 |-----|-----|-----|  
 Poor   Average      Good   Very Good

#### 4.1.3 Comments

- I found this very informative
- I like the idea of getting exposure to many areas
- It was great to have the opportunity to attend so many different courts and tribunals and count it as days towards legal placement! I really enjoyed doing the client interview + I think I learned a lot!
- Great opportunity for interviewing clients, providing minor assistance & drafting correspondence. Would appreciate more of the practical instead of court observations
- Really enjoyed giving interviews and info but would prefer to be more involved in advice giving process
- The LAC experience has been extremely helpful to my learning. I appreciate the exposure to different areas of law in practice

I learnt so much through the interviewing and this really facilitated skill development.

### 4.2 Domestic Violence Duty Service

#### 4.2.1 Did you attend the Domestic Violence Duty Service?

Yes 13   No 1

#### 4.2.2 If yes, how would you rate the DVDS as a learning experience for you?

**1      1      1      1      2      7**  
 |-----|-----|-----|  
 Poor   Average      Good   Very Good

#### 4.2.3 Comments

- Eye-opening.
- I didn't realize how much back-and-forth there is.
- Very interesting but I still wouldn't do DV as a career.
- Agatha and Emma were very helpful. I was able to sit in on three interviews and watch several interim and final order applications.
- There wasn't a lot to get involved in on the day.
- Due to fam Law Client response I was late & missed the event.. I went & observed other courts & I have enrolled in Legal Aid DV training in October
- Only one client – ten minute conference – little benefit.
- Was not very busy, and did not have much opportunity to learn.
- I was lucky to observe a number of clients in DVDS including a traumatic case and an interim DVO hearing. Seeing such a fearful woman display such strength was a fantastic reality check.
- The experience at DV helped me to understand why client return conference (DV – client) is very important
- More difficult to get hands on approach at DVU due to nature of work and clients sensitivity.
- Duty solicitor was very helpful – she was happy to discuss & answer any questions.

#### 4.3 ACAT Hearings

##### 4.3.1 Did you attend a Hearing of the Mental Health List of ACAT?

Yes 12 No 2

##### 4.3.2 Did you attend any other ACAT Hearings?

Yes 13 No 1

- |                          |   |
|--------------------------|---|
| • Residential tenancies  | 4 |
| • Discipline             | 3 |
| • Guardianship           | 2 |
| • Discrimination         | 2 |
| • Civil disputes/General | 6 |

##### 4.3.3 If yes, how would you rate the ACAT observations as a learning experience for you?

<b>0</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>8</b>
----- ----- -----				
Poor	Average	Good	Very Good	

##### 4.3.4 Comments:

- Interesting to see a quasi-court environment.
- I felt I learned a great deal about how non-judicial tribunals work.
- My experience there made think about working for/at ACAT.
- Time as an associate was brilliant!



- I felt a bit like I was intruding on people's personal affairs, even though tribunals are open to the public.
- Member took two hours to talk to us & we learnt heaps. Very accommodating (Alan Anforth).
- Mental health – excellent opportunity for students to see what happens. Some background info on why people are there, what orders are used for GTC.
- Was not aware of ACAT until after LAC. Great experience at Mental Health list Hearing. Esp. interacting with tribunal member after hearing.
- Good to go for observations but things that can be learnt may be limited. Perhaps if assisting with the members for a day at ACAT can give a better learning experience.
- Great to attend the mental health list of the ACAT and guardianship – very different to general court observations.
- One day of observing ACAT would have been sufficient for me. The opportunity to see the mental health list was invaluable (rare opportunity).

## **5. OVERALL**

### **5.1 Aspects of LAC Which Interns Found Most Useful/Instructive**

- All of it
- Interviews (x2).
- Talking with Matt O'Brien about criminal matters.
- Interviews, doing the work, finding and observing in each court/tribunal, advice of all solicitor's was outstanding.
- Interview clients was great experience. Also a good way to learn/be exposed to diff areas of law.
- Interviews, research, drafting, correspondence, ACAT Mental Health List
- I think I benefitted most from the experience of interviewing clients and minor assistance. Gaining hands-on experience is most crucial to me although I enjoyed and benefitted from the critical observation of legal realities.
- Court observations, ACAT/mental health, client interviewing.
- Doing interviews, learning to deal with clients and working with the solicitors to give advice. Criminal law & family sessions (esp when more hands on work).
- Attending court with the solicitors and discussing the matters with them.
- The interviews! I learnt so much though trial and error and observing different styles of advising.

### **5.2 Aspects of LAC Which Interns Found Least Useful/Instructive**

- I honestly found all rotations really beneficial.
- I think it was all useful & instructive.
- Not taking ownership of files, computers not linked to printer.
- Court observation.
- Court observations, DVU.
- One can observe too many hearings. I would have loved to do more hands-on work.
- All the LAC aspects were very helpful for me.
- The benefit of the court observations varied greatly depending on the matters and the extent to which the legal aid officer (where relevant) 'mentored' the student.

### **5.3 Would you recommend participation in LAC to other Legal Workshop students?**

Yes 13 No 0

### **5.4 Any other comments?**

- Thank you!
- Thank you!! 😊
- Thank you to all the staff & Legal Aid solicitors.
- No.
- This was a very productive experience for me.
- Thank you for providing this opportunity.

### **Comments made elsewhere in the forms**

- Maybe allow some paralegal work.
- Maybe have a 2-week intensive option.
- Maybe allow for more time, more than 8 days.
- Generally I found the legal workshop experience very useful and helpful in my professional/legal development.