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Pathways to justice: the role of non-legal services

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This paper examines one of the key themes emerging from a number of quantitative and qualitative studies in the Foundation's Access to Justice and Legal Needs research program. Most people who have legal problems do not go straight to a lawyer for help. If they do seek help at all, they tend to turn to non-legal sources, such as friends, government agencies, welfare agencies and other professionals such as teachers and doctors. This paper explores the challenges and implications of people going through non- legal sources as a pathway to justice. It argues for a greater recognition of and support for non-legal services as key pathways used by people to get legal help.

INTRODUCTION

When people face legal problems, most do not go directly to a lawyer for assistance. Rather, some people do nothing, some deal with the issue themselves and some seek advice and assistance from non-legal sources and services.

This paper explores the prevalence of non-legal services as the 'first port of call' for socially or economically disadvantaged people with legal problems. It looks at why disadvantaged people with legal problems seek help from non-legal services and explores how non-legal services respond to the legal needs of their clients. This bulletin also identifies challenges non-legal services face in assisting clients with legal problems and suggests strategies to facilitate non-legal services as effective pathways to legal assistance. It examines ways in which legal practitioners and services can support non-legal services in this role, in order to improve access to justice and legal assistance for disadvantaged people.

Information in this paper is drawn from the Law and Justice Foundation's Access to Justice and Legal Needs (A2JLN) research program. In a number of separate but related projects, the program has employed a mix of methodologies: quantitative, qualitative and analyses of service usage data to explore the legal needs and access to justice issues facing disadvantaged people in New South Wales (NSW). The specific reports referred to are listed on page 11.

SEEKING ASSISTANCE

The A2JLN research indicates that people do not necessarily seek help when they have a legal problem. In *Justice Made to Measure*, which reports on a survey of over 2400 people in NSW, participants indicated that they had sought help for their legal problems in only about half of the events reported (51%).[1] The reasons that so many people did not seek any help at all will be discussed in a later paper.

Of those who *did* seek assistance when they had legal issues, few sought help from lawyers. Indeed, legal services were approached in only 12 per cent of events where help was sought (see Table 1). In another 7 per cent of cases, the participant approached a friend or relative who was a lawyer, while 'published information' (mainly the internet) was used in another 8 per cent of events. In contrast, general non-legal services were approached in 56 per cent of events, 'government' agencies or MPs in 20 per cent of events, and friends and relatives who were not lawyers in a further 16 per cent of events.[2]

As can be seen in Table 1, the range of non-legal advisers approached is broad and includes professionals such as doctors, psychologists and accountants, and agencies such as insurance companies, banks, trade unions and government organisations. This broad range may be partly attributed to people approaching the source of assistance which is most directly related to their legal issue, for example people approaching their employer or trade union regarding problems at work, or Centrelink about a social security problem. Similarly, people contacted the police in 5 per cent of events, an obvious and sensible course of action for people who have been a victim of or witness to a crime.

However, evidence from the Foundation's qualitative studies indicates that people also seek help for legal problems from the people and the services – legal and otherwise – that they happen to be *in contact with*. As one *On the Edge of Justice* participant with a mental illness said when asked who they would go to for help with a legal problem:

> Oh, with the pensions, with more like legal [problems] and… bureaucracy, I'd go and talk to my caseworker.[3]

TABLE 1: TYPE OF ADVISER USED, ALL SIX LGAS, 2003

Type of adviser	No. of events
LEGAL ADVISER	
Traditional legal:	**180**
Private solicitor/barrister	143
Local court	21
Legal Aid NSW	18
LawAccess NSW	3
Aboriginal legal services	1
CLCs	5
Lawyer friend/relative	**105**
Published:	**120**
Internet	110
Self-help source	13
NON-LEGAL ADVISER	
Other friend/relative	**232**
Government:	**294**
Government organisation	228
Local council	68
Member of parliament	21
Police/complaint handling:	**82**
Police	77
Industry complaint handling body[a]	5
Other:	**829**
Other professional[b]	367
School/school counsellor/teacher	85
Non-legal community group	56
Private agency/organisation[c]	70
Company/business/bank	61
Insurance company/broker	88
Trade union/professional body	96
Library	7
Employer	63
Other tribunal	5
Unclassified	**3**
Total	**1495[d]**

a Includes Banking Ombudsman, Insurance Complaints Scheme.
b Includes doctor, accountant, psychologist, counsellor, etc.
c Includes debt collection agency, employment agency, real estate agent.
d Information on adviser was missing for one event where help was sought.

Adviser used	Rank
% of events where help sought	
12.0	
9.6	4
1.4	16
1.2	18
0.2	24
0.1	25
0.3	21
7.0	**6**
8.0	
7.4	5
0.9	19
15.5	**2**
19.7	
15.3	3
4.5	12
1.4	16
5.5	
5.2	10
0.3	21
55.5	
24.5	1
5.7	9
3.7	15
4.7	11
4.1	14
5.9	8
6.4	7
0.5	20
4.2	13
0.3	21
0.2	
100.0	

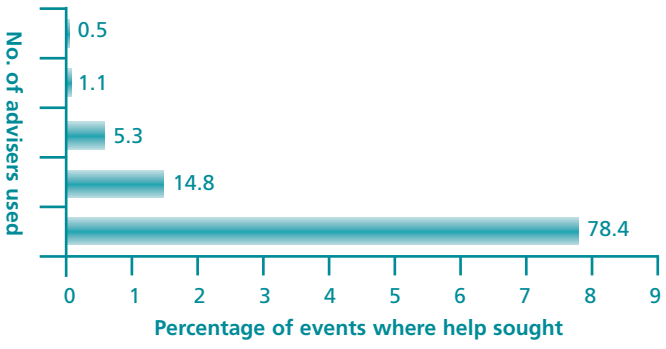
Notes: Multiple advisers were sometimes used for the same event. Advisers were classified as legal advisers only if one of their primary roles is to provide legal information, advice, assistance or representation. Individuals and organisations who sometimes provide legal information or advice as a subsidiary activity are classified as non-legal advisers.
Sub-totals show the number of events where at least one of that type of adviser was used. e.g. One or more traditional legal advisers were used in 180 events.
Source: Justice Made to Measure, p. 104

The types of services that people are in contact with will in turn depend upon their geographic location, their circumstances and other needs. For instance, in *No Home, No Justice?* people at risk of homelessness or newly homeless were reported to turn to family and friends, schools, doctors, community health workers, youth workers, tenancy workers, welfare workers, domestic violence workers, refuge staff, housing workers and Centrelink. However, as people become entrenched in homelessness, they may lose contact with friends and family, leave school and move away from support networks and services that had previously helped them. These people may have more contact with police and Supported Accommodation Assistance Program (SAAP) services.[4] In other A2JLN studies, older people were reported to rely on informal resources such as family and friends and established contacts such as doctors, while people with a mental illness reported getting assistance from friends or family, social workers, mental health workers and church-run welfare groups.[5]

Number of agencies approached

In considering pathways to legal assistance, it is important to note that people rarely seek assistance from more than one source for each legal issue. *Justice Made to Measure* reported that in 78 per cent of legal events where help was sought, the individual only went to one service or adviser. Two services or advisers were approached in only 15 per cent of legal events (Figure 1). The average number of services or advisers approached was 1.3.[6] The implication of this is that ideally, the first service or adviser approached should connect the client with the legal service that they require.

FIGURE 1: NUMBER OF ADVISERS USED PER LEGAL EVENT, ALL SIX LGAS, 2003



Source: Justice Made to Measure, p. 102

WHY NON-LEGAL SERVICES ARE APPROACHED BY PEOPLE WITH LEGAL PROBLEMS

As indicated above, the A2JLN research suggests that some people seek assistance from services or advisers they are already in contact with. Such services may not necessarily be the source of advice most relevant to the issue nor be best equipped to deal with the legal issue. There are several reasons that people turn to these services, including that the service is familiar, it is known or trusted or that it is perceived to be accessible and approachable. In some cases people simply seek help from the service or worker who they are in contact with when a crisis hits or a problem arises. However people will also approach non-legal services to address the non-legal aspect of the problem they are facing (e.g. a doctor about an injury). The legal aspect of the issue (e.g. seeking victim's compensation for the injury) may remain unaddressed.[7]

Some people were also reported to turn to friends, family and non-legal services because they simply did not know where to go for legal assistance. For instance, some older people 'do not understand their rights, what legal avenues of redress are available to them, or the kinds of alternative assistance that are offered'.[8]

Thus, even when a non-legal service or an individual has no particular role or capacity to assist a client with their legal issue, they may remain the first 'port of call' for disadvantaged people facing legal problems.

TYPES OF ASSISTANCE NON-LEGAL SERVICES PROVIDE

While non-legal services are commonly approached by people who have legal issues, the type of assistance they actually provide varies considerably.[9] The capacity and preparedness of a service to provide assistance to clients with legal problems – and the type and quality of assistance actually given – depends on the role and skills of workers and their knowledge of legal issues. For example, a doctor or teacher who has no particular link to legal systems and services may become aware that their client has a legal problem but not know how to help or where to refer the client. Furthermore, this type of assistance may be, or may be seen to be, beyond their role. Other workers and services may only be able to assist within their areas of expertise. For instance, while a tenancy worker will be able to assist and advocate for a client with a housing issue, they may not be able to assist the client with a family law issue or fine-related debt.

However, the A2JLN research indicates that many welfare-related services in particular, play a very direct and active role in assisting clients with legal issues. The following discussion outlines the various ways that some non-legal services – particularly welfare related services – provide or link clients with legal assistance. These include:

- helping the client to identify the problem
- providing referrals to legal services
- providing legal information
- assisting with documentation
- accompanying clients to appointments and assisting in communication with lawyers
- advocacy
- assisting clients through the legal process.

For some welfare agencies, a combination of the above tasks is part of their 'case management' role. This refers to the support role they play in assisting disadvantaged clients, particularly those with complex needs, to manage or regain control of their lives. For instance, the primary aim of homelessness services is to:

> assist people who are homeless or at risk of becoming homeless to achieve the maximum possible degree of self-reliance and independence by providing transitional supported accommodation and a range of related support services.[10]

For some non-legal services, addressing legal need can be part of this multi-faceted support. This is reflected in data collected by homelessness (SAAP) agencies and collated by the Australian Institute of Health and Welfare (AIHW). The AIHW reports that approximately 11 per cent of all support periods[11] to all SAAP clients in 2004-05 involved assistance with legal issues or court support. For some groups, the level of legal support required is even higher. Nearly a quarter (23%) of support periods to female clients with children (often seeking assistance from SAAP for domestic violence issues) involved assistance with a legal issue. In addition to providing 'assistance with

legal issue or court support', 'advocacy or liaison' on behalf of the client was provided in 34 per cent of all support periods to clients in the 2004-05 year.[12]

In other cases, workers and services may provide case management involving assistance with legal issues when they are not trained or funded to do so, out of a desire to provide clients with the support they need, even when resources are not allocated for such support.

The specific tasks that non-legal workers reported undertaking to assist clients with legal problems are outlined below.

Identifying the Problem

> The pathway to a lawyer is the person who will advise them that they need a lawyer. (Service provider, *The Legal Needs of Older People)*

The A2JLN research suggests that 'frontline' non-legal service providers may be the first to identify that a client has a problem that requires legal advice or assistance, even when a client approaches the service about other issues. For example, a youth worker assisting a client to find accommodation may discover that the client has large amounts of fine-related debt. Similarly, a doctor may identify that a patient is a victim of domestic violence or elder abuse when they present with certain injuries.

Services that have a 'case management' role with clients, such as youth and homeless workers, specifically identify 'assessment and referral' – the identification of issues facing their client and referral to appropriate support – as part of their role. A homelessness worker stated:

> our role is primarily talking to the client, finding out what the problem is, and making the appropriate referral.[13]

This may directly result in a referral to a legal service. A lawyer acting for a young man with a mental illness observed:

> The only reason we are acting for him is that he has been linked in with us through a youth service that we have very good contact with. So he has accessed a service that is able to identify this as a legal problem and send him over to us and we are able to assist him, otherwise he would just be falling through the net.[14]

Referral to legal services

> … They give out free lunches, you go into the hall, have lunch, have a chat. If you have a problem you go to the office, you tell them what your problem is at the reception, like, 'I've got a legal issue' and they say, 'Sit down, we'll go and get our legal person on for you.' From there, they refer you either to Legal Aid or somebody else who will tell you what your options are, and you take it from there. (Homeless participant, *No Home, No Justice?*)

In a number of the A2JLN studies, non-legal services reported referring clients to legal services and legal services reported receiving referred clients. As one legal service provider reflected:

> If you think in your mind now about all the clients that you have currently with mental health issues, mine are all referrals. They are not walking into the centre, they are coming from youth centres.[15]

In some cases this is simply a 'cold referral': providing information about another agency or service so that the client can contact them. In other cases, the referral is more proactive, a 'warm referral'.[16] A 'warm referral' involves contacting another service on the client's behalf and may also involve writing a report or case history on the client for the legal service and/or attending the service with the client. This may be effective for clients who are hesitant to contact other services or who may not have the means – such as a telephone – to contact the other agency. One mental health service provider commented:

> I think it is incredibly easy just to refer them out. But I think with mental illness, or anyone that is seriously disadvantaged, that is not going to work because they won't [take] the referral. So there needs to be more hand-holding. So that means possibly people being able to go between

> a number of resources and act as a central coordinator to assist that person instead of just a referral. They don't just ring… [they] make sure they don't fall through the cracks.[17]

A service may use both types of referral, depending on the time available to them and the needs of each individual client.[18] While many people with legal problems may only need to be informed about which service to contact, the research suggests that people with complex needs may require more intensive support.

The level of referrals between services was reflected in statistical data, such as that collected from homelessness services (SAAP data) and reported by the AIHW. SAAP data indicate that in approximately 25 per cent of the support periods where the client requested help with a legal issue or court support, the service referred the client to another service (such as a lawyer) to address at least part of the issue.[19]

Providing Legal Information

Non-legal service providers are often asked for legal information or advice. Non-legal workers reported providing their clients with preliminary *information* about a legal issue and the process of resolving it, including information about how particular legal processes work, what happens at court, what documents they need and how to dress to appear in court.[20] Legal information may be provided verbally, or in the form of pamphlets or other published legal information (e.g. videos, posters and booklets). However, there can be risks in people who are not lawyers or legally trained in giving legal *advice*. The advice they give may be wrong and they may not be covered by appropriate insurance. For these reasons, organisations – both legal and non-legal – may prohibit workers who do not have legal training or a solicitor's practicing certificate from giving legal advice to clients.[21] Some of the problems workers face in distinguishing between legal information and legal advice are discussed later in this paper.

Assisting with documentation

Dealing with government agencies (e.g. for income or housing) often involves processes which rely heavily on written correspondence, the completion of forms and the provision of documents such as those required to prove identity or place of residence. These processes can pose significant challenges for people using these services, particularly for those with complex needs or particular disadvantage (e.g. intellectual disability, mental health issues, homelessness, or limited literacy and comprehension skills). For instance, people with cognitive impairment reported difficulties in managing their affairs, communicating with lawyers, understanding legal documents and articulating their complaints.[22] These difficulties can place a considerable burden on non-legal workers to assist these clients to participate in these processes and understand their legal rights and obligations. A number of non-legal workers reported completing court forms and divorce forms for clients and helping them write letters.[23] A homelessness worker commented:

> We take them to Centrelink, we take them to the Department of Housing. We sit down with them and you have to explain to them what the questions are on the Department of Housing form or the Centrelink form or the Legal Aid form.[24]

Supporting clients in appointments with lawyers/explaining processes

> We find that sometimes we don't have the manpower to go with somebody to an appointment and they won't sit through that appointment, they'll lose their temper halfway through that appointment. Even if you are just there to say, you know just hear what this person has to say, that can help them too, because they don't really want to walk out of the appointment and they just can't keep it together. (Homelessness worker, *No Home, No Justice?*)

Depending upon the clients' needs, workers may accompany clients to legal appointments to ensure that they attend, to provide support during the appointment and, in some cases, to later more fully explain what it is the lawyer has told the client. Both disadvantaged people and workers interviewed for the A2JLN studies identified the role of non-legal support people in assisting homeless people to keep calm and focussed during appointments with legal practitioners. As one homelessness worker noted:

> … they are so stressed out and they are trying so hard to keep it cool, 'this ain't affecting me one bit' … and after a couple of hours they will come to me and say, 'What did he say?' It is not only the fact that they can't read but the comprehension levels sometimes too, especially when with high stress levels, you do not comprehend as much as at other times … So everything you are telling them is going in one ear and out the other. They are saying, 'Yep, understand it, yep, not a problem.' But you know they are not taking anything in.[25]

This support can be particularly beneficial to people experiencing mental health issues or communication barriers.

Advocacy

Advocacy is speaking on behalf of someone or helping them to speak for themselves by offering support and assistance. For example, a worker may advocate for a client by contacting the Department of Housing to discuss the client's options and needs in relation to government housing. Non-legal workers commonly reported advocating for clients by engaging directly with government agencies or other services such as Centrelink or the State Debt Recovery Office. For instance, in the 2004-05 financial year, 34 per cent of all SAAP support periods involved 'advocacy or liaison on behalf of the client'. A further 20 per cent of support periods involved 'assistance to obtain or maintain independent housing' and 8 per cent involved 'assistance to obtain or remain on government benefits'.[26] One homeless person described the benefits, as he saw it, of this support:

> I took [caseworker] with me when I was having a problem down at Centrelink and that was unbelievable how quick it got fixed up! Because [the caseworker] was with me![27]

Assisting clients through the legal process

Some non-legal services and workers also support clients, particularly vulnerable clients or clients with complex needs, once they become involved in legal processes. For instance, homelessness workers reported assisting clients by:

- assisting them to get documentation together for court
- explaining court processes
- reminding them that they are required in court and sometimes providing transport to court
- providing clothing to wear to court
- attending court as a support person and, if necessary, explaining what has happened in court that day
- assisting them to adhere to any legal outcomes, such as bail conditions.[28]

CHALLENGES FOR NON-LEGAL SERVICES

While non-legal services are often the 'first port of call' for legal information or assistance, non-legal services and workers – particularly those supporting clients with complex legal and other needs – face a number of challenges in assisting clients to meet their legal needs, including:

- limited resources available to provide this assistance
- varying capacity of workers and services to assist clients with legal problems
- confusion about the appropriate level of assistance to provide
- knowing where to refer people with legal problems.

Resourcing

Some services reported that providing the level of assistance that clients with legal problems require, was beyond their resource capacity. Non-profit agencies may experience a tension between the desire to provide appropriate services and the lack of adequate resources to deliver these services.[29] Services and workers may find themselves doing work for which they are not funded, paid or trained. One non-legal homelessness service commented:

> Well, we actually keep ourselves short in the office department by sending people out to appointments with Centrelink or legal or any appointment so that's the way to give them their cases, we do the same. We're certainly not funded to do that, we don't have the capacity to do that.[30]

It was also reported that non-legal agencies are not always funded to provide the level of assistance required by people with a mental illness who have a legal problem. Workers suggested that the level of assistance services could provide these clients had reduced as a result of the current levels of funding experienced by mental health care services generally.[31]

The capacity of services to assist clients with legal problems

Lack of knowledge of legal issues and sources of assistance among frontline non-legal workers will affect the quality of the information and referrals that non-legal services can provide. Consultations with service providers suggest that the level of knowledge among non-legal workers and organisations about what information/advice they can or cannot give, and where to refer clients with legal problems, varies considerably with some non-legal agencies lacking sufficient legal knowledge to effectively assist clients with legal problems.[32] High staff turnover within services that support and assist disadvantaged people can make it difficult to keep all non-legal workers informed and up-to-date in relation to relevant legal information and legal services.[33] Furthermore, the *Gateways to the Law* study reported that 'knowledge of other agencies appeared to be gained on the job and in an ad hoc way'.[34]

While some workers may benefit from more appropriate and formal training, some participants commented that many community organisations do not have room in their budget to provide training for staff and that staff do not have the time to attend training sessions.[35]

Confusion about the level of assistance to provide

It can be difficult for workers to know what they can and can't do for clients with legal problems. For instance, while non-legal workers can pass on legal 'information' (e.g. give out a brochure), many are told – for good reasons – that they cannot give legal 'advice'. In reality the boundaries between these two are blurred. Some non-legal workers interviewed reported a tension between what the worker is allowed to do and the desire to respond to clients' needs. Workers reported feeling stressed about providing legal information, doubting their own knowledge, fearing that it may cross the boundary to 'advice' or may be inaccurate in some way.[36] These concerns may prevent some non-legal workers from providing any kind of assistance to clients with legal problems.

Inappropriate referral

As discussed earlier, individuals will often not go to more than one assistance agency, making appropriate referral from the first agency essential. Some legal services reported that they had received inappropriate referrals from other services and that referred clients were 'often confused and frustrated when they did not receive the service they expected'.[37] Some non-legal services reported difficulty referring clients to legal assistance because an appropriate legal service was not available. Participants in the public consultations for the A2JLN program also commented on the level of funding to Legal Aid NSW and Community Legal Centres (CLCs) as affecting both referral options and the level of assistance services are able to offer on receiving a referred client.[38]

IMPLICATIONS FOR LEGAL SERVICES

Non-legal services are often the 'first port of call' for people with legal needs, irrespective of their capacity to provide legal information or assistance. The way a non-legal service responds to a client's legal problem depends upon the role of the worker and that worker's knowledge of available legal assistance services or options and their own resource capacity to support the client. Non-legal workers also report concern about inadvertently providing legal 'advice' they are not allowed to provide, rather than information.

However, the prevalence of non-legal services as a source of advice for legal problems suggests that it would be beneficial to equip non-legal workers to at least be able to appropriately refer clients who have legal problems to legal assistance services. Recognising the diversity of non-legal services approached by people with legal needs, a range of strategies is required to support non-legal agencies. Strategies that A2JLN research suggests may support

non-legal services to assist clients with legal problems are discussed below. These include:

- having a widely recognised, well resourced single contact point for legal assistance and referral
- providing training to relevant non-legal workers on how to identify legal issues and appropriately refer or provide legal information to clients
- providing non-legal workers with direct access to legal information and assistance
- increasing inter-sector networks
- legal and non-legal services forming relationships in order to provide a case-managed, coordinated approach to the legal needs of disadvantaged people
- increasing awareness among legal services of the role played by non-legal services.

Referral Information

Given the range of non-legal services that people turn to for help, ideally all service providers should be made aware of where to refer a client who has a legal issue. A2JLN data suggests that information about where to refer clients with legal problems needs to be as simple but as widely known as possible. For instance, distributing the LawAccess NSW phone number to services that different disadvantaged groups commonly access (e.g. community health staff, school counsellors, doctors, Centrelink offices) may improve the link between disadvantaged clients and appropriate legal assistance.[39] LawAccess NSW helps people to assess their legal issue, provides legal information and, in some cases, legal advice and has the capacity to refer clients to other appropriate legal services (e.g. specialist services, or services which are local to the caller). While telephone based advice may not suit all clients (e.g. people with very complex needs or people with no access to a telephone), such advice may be a particularly effective tool in assisting those people who have the ability to resolve their own legal problems if provided with appropriate information and given some direction. Widely communicating a single contact number for legal assistance potentially increases the range of services that appropriately refer disadvantaged clients to legal support.

Referral Training

Workers who have a specific role in providing general assistance to clients (e.g. case workers, welfare staff) may benefit from regular and affordable training to improve their knowledge of legal services and effective referral practices. The NSW Legal Information and Referral Forum has prepared a set of competencies for effective referral.[40] These have been used as the basis for the referral video and manual, *Getting off the Referral Roundabout*, produced by Kingsford Legal Centre.[41]

Training for non-legal workers could also focus on equipping workers to identify clients' legal problems and preparing clients for what the legal service may or not be able to do for them. Training may also clarify for workers the difference between information and advice, and boost their confidence to provide information and referrals. It should be noted, however, that high staff turnover can make it difficult for agencies to keep their staff trained up about addressing legal issues.

Models where non-legal workers are provided with the necessary training and form alliances with specialist legal services whom they can later contact for guidance, may also be effective. In *Gateways* examples are provided of relationships between legal services and non-legal service such as financial counsellors and tenancy workers.[42]

Legal assistance for non-legal workers

Caseworker specific legal 'hotlines' can be useful to non-legal workers when assisting clients with urgent legal needs. They provide non-legal workers with ready access to appropriate legal information when a client comes to them with a legal problem. Such hotlines already exist. For instance, the Consumer Credit Legal Centre Caseworker telephone legal advice line allows community workers to obtain information on behalf of their clients or guidance as to how they can assist the client through their own service.[43] Non-legal workers can also contact LawAccess NSW for information about a legal issue, or put their client on the phone to LawAccess. However, the A2JLN studies suggest that knowledge of such services among non-legal workers varies. Again, it is a challenge to ensure that broad awareness of these services is maintained in sectors where there is high staff turnover.

Inter-sector support and networking

Service providers and workers who participated in the A2JLN research commonly reported the value for both non-legal workers and legal workers of networking between the sectors, potentially improving both legal and non-legal service provision to disadvantaged clients. Potential benefits include increased non-legal worker knowledge of the law, increased knowledge among legal service providers of the services provided by other agencies, clarification of roles, more efficient use of resources and a greater ability to deliver services to clients, particularly in rural areas.[44]

Providing a coordinated response

Formalising referral agreements and networks between services and recognising the role of non-legal services as 'gateways into legal services' has a strong potential to assist disadvantaged people to receive more appropriate and timely legal assistance. For clients with particularly complex or interrelated legal and non-legal needs (e.g. homeless people), a case-managed, holistic or 'co-ordinated response' may involve a team of legal and non-legal services working together to assist those clients.[45] There are a number of models of service coordination with varying levels of coordination and autonomy between the services. A possible model is that of the 'service hub' or 'one-stop-shop' where services are located near one another to improve client convenience and facilitate better referrals and coordination between the services.[46]

Recognition of the role of non-legal services as a pathway to legal support

Increased awareness among legal service providers and the legal sector of the role played by non-legal workers may also improve the way legal services meet the needs of disadvantaged people. A non-legal worker acting as a support person should be seen as an ally who can make the role of the legal practitioner more effective. Legal service providers interviewed suggested that a non-legal worker in the capacity of support person could provide relevant information on the client's life circumstances and advise legal workers as to the best way to communicate with the client.[47] At the same time legal practitioners and services can support non-legal services and workers by providing them with legal education/training and, at times, advice.

CONCLUSION

Only a small proportion of disadvantaged people with legal problems go to a lawyer or legal service for help. People are far more likely to seek advice from family and friends, or a broad range of non-legal services including doctors, accountants, teachers, homeless people's services, government organisations, social workers and youth workers. To improve people's access to justice and legal service provision, it is essential to recognise that non-legal services are often the first point of contact for many people with legal needs and to facilitate this as an effective pathway to legal assistance.

There are a number of good reasons why disadvantaged people in particular turn to non-legal services for assistance including familiarity with the service, convenience and not knowing where else to go. In some cases, disadvantaged people prioritise their non-legal needs over their legal needs and it may be a non-legal worker who tells them the problem they face is a legal one or has a legal implication. However, in some cases, the non-legal worker will have no more knowledge than the client about what to do or where to go for legal help. Having a widely recognised, well resourced single contact point for legal referral and advice may help remedy this situation.

Workers with a more direct support role to disadvantaged clients report assisting clients with legal problems in numerous ways. These include helping clients to identify the problem, referring them to legal services, filling out forms and helping to obtain documentation, accompanying clients to appointments, advocacy and assisting clients through legal processes. However, without appropriate resources, and knowledge of and support from legal services, it can be difficult for non-legal services and workers to provide appropriate assistance to clients with legal problems. Workers may undertake work they are not paid or trained to do, further stretching already insufficient resources. In turn, clients may receive wrong information or advice and inappropriate referrals, preventing them from receiving the appropriate and timely legal assistance that they need.

To increase the access of disadvantaged people to appropriate and timely legal assistance, it would be mutually beneficial for links to be formed between legal and non-legal services and workers. The nature of these links will clearly vary with the capacity and role of the organisations involved. Some non-legal services may only be in a position to provide clients with a phone number for a legal assistance service such as LawAccess NSW, while others may be in a position to build networks with local legal services in order to facilitate better referrals and establish mutual training and advice arrangements. For clients with more complex needs, it may be appropriate for non-legal and legal services to be coordinated to a larger extent, for example through the establishment of service hubs.

Building relationships between the legal and non-legal sectors, which recognise the key role of non-legal workers as a pathway to justice, has potential to improve the access to justice for socially and disadvantaged people, particularly those with complex needs, including sometimes overwhelming legal and non-legal problems.

FURTHER QUESTIONS

This paper has canvassed the assistance seeking behaviour of disadvantaged people with legal problems and the role non-legal services often play in response to this behaviour as revealed by the A2JLN research program. It has highlighted the dangers and difficulties of non-legal workers and services filling such a role, and offered strategies with the potential to address such dangers and increase the effectiveness of non-legal services as a gateway to legal assistance. However, the research has raised a number of questions that remain unanswered. These include:

- what is the cost of undertaking these strategies (both staffing and funding costs)?
- do such strategies have the potential to reduce the cost of providing legal assistance to disadvantaged people?
- do such strategies have the potential to improve the legal outcomes for disadvantaged people with legal problems?
- will there be sufficient support among both legal and non-legal workers and services to implement such strategies in an effective and worthwhile way?

The Access to Justice and Legal Needs Program

The Law and Justice Foundation of NSW has undertaken the Access to Justice and Legal Needs (A2JLN) Research Program to identify the access to justice and legal needs of disadvantaged people in NSW. The objectives of the program are to examine the ability of disadvantaged people to:

- obtain legal assistance (including legal information, advice, assistance and representation),
- participate effectively in the legal system,
- obtain assistance from non-legal advocacy and support,
- participate effectively in law reform processes.

The program employs three methodological streams to address these objectives:

- the analysis of legal service usage data, giving particular insight into *expressed* legal need;
- original quantitative legal need surveys, giving insight into expressed and unexpressed/unmet legal need;
- in-depth qualitative research into the needs of particular disadvantaged groups.

Specific research published as part of this program to date includes:

Public Consultations: a summary of the submissions received from organisations and individuals as part of the initial consultation process for the A2JLN Research Program.

The Data Digest: The Data Digest is a database for examining expressed legal need as identified through inquiries handled by public legal services. It currently includes legal inquiries to the Legal Aid Commission of NSW, LawAccess NSW, and community legal centres in NSW. The inaugural Data Digest report, published in 2004, presents service usage data from 1999–2002.

Justice Made to Measure: NSW Legal Needs Survey in Disadvantaged Areas: a quantitative survey of legal needs in six 'disadvantaged' regions of NSW, measuring a wide range of legal events, including those where help is sought from legal or non-legal advisers (expressed legal need), those handled without outside help and events where no action is taken (unmet legal need).

The Bega Valley Pilot Survey: a quantitative survey of the legal needs of 306 people conducted via telephone in Bega Valley. This was the pilot survey undertaken for the survey reported in Justice Made to Measure.

The Legal Needs of Older People in NSW: a qualitative study into the legal issues commonly experienced by older people in NSW and the barriers faced by older people in accessing services to resolve legal issues.

No Home, No Justice? The legal needs of homeless people in NSW: a qualitative study into the capacity of homeless people in NSW to obtain legal assistance, participate effectively in the legal system and obtain assistance from non-legal advocacy and support agencies. The study also details the legal issues commonly experienced by homeless people.

On the Edge of Justice: The legal needs of people with a mental illness in NSW: a qualitative study into the legal issues faced by people with a mental illness in NSW, their capacity to obtain legal assistance, participate effectively in the legal system and obtain assistance from non-legal advocacy and support agencies.

Pathways to justice: the role of non-legal services
Current at May 2007

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