

**ACCESS
ALL
AREAS**

**Specialist Services
Accessibility Project**
FINAL REPORT

June 2014



Queensland Association of
Independent Legal Services Inc



Queensland Advocacy Incorporated (QAI) is a community legal centre whose mission is to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland. QAI does this by engaging in systems advocacy work, and through the provision of individual legal advocacy in support of persons whose disability is at the centre of their legal issue.

QAI operates the Mental Health Legal Service (**MHLS**), a specialist legal service dedicated to providing free legal assistance in relation to mental health law in Queensland governed by the *Mental Health Act 2000* (Qld).



Queensland Association of Independent Legal Services (QAILS) is the peak body for community legal centres in Queensland and its vision is for a fair and just Queensland. To achieve this, QAILS supports and develops community legal centres to provide effective, high quality services to their communities, and leads to unite its members and be a leading voice for social justice.

In its work, QAILS values:

- the voices of marginalised and disadvantaged people
- working cooperatively and collaboratively
- the diversity of our members and their clients.

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Queensland Government

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Executive Summary

This report considers the interface between generalist and specialist community legal centres (CLCs) in Queensland, in an endeavour to identify ways to support Queensland CLCs to work more effectively together to deliver equitable and accessible specialist legal services in the public interest.

In its review of the Legal Practitioner Interest on Trust Account Fund (LPITAF), the Department of Justice and Attorney General endorsed a mixed model of generalist and specialist CLCs, provided the services operate cohesively within a unified cooperative service delivery framework. A core focus of the LPITAF Report was the promotion of equitable access to specialist legal assistance services throughout Queensland. This report responds to this call, developing a framework of options aimed at enhancing access to specialised legal services.

This report identifies the difference between ‘specialist’ and ‘generalist’ community legal centres, and the context in which they operate. It identifies the challenges for providing equitable access to services in a vast and decentralised state like Queensland, and discusses some of the alternative frameworks and models that have been developed in other jurisdictions.

This project also focuses on ways in which information and communication technologies can be used to improve access, and an overview of the use of these technologies.

Key options designed to enhance equity of access to specialist services have been developed. For each of these options, this report sets out the supporting research literature. Many of the options were tested in a case study by the Queensland Advocacy Incorporated (QAI) Mental Health Legal Service, and this report describes the case study activities, and reflects on considerations for implementation, before making recommendations for each option. The key options and recommendations are summarised as follows.

Options and Recommendations

1. Appointment of a Specialist Training Officer.
Recommendation: Fund a training officer to coordinate and deliver a range of web-based and face-to-face training opportunities state wide.
2. Mandatory participation in a unified forum.
Recommendation: Support twice-yearly QAILS activities and require CLCs to participate.
3. Development of a central Knowledge Management Database.
Recommendation: Scope and deliver through a one-year project.
4. Establishment of multidisciplinary links between CLCs and other service providers.
Recommendation: Build multidisciplinary partnerships through other options as presented in this paper and existing CLC activities.
5. Development of an independent 'central access point'.
Recommendation: Research a model that delivers maximum accessibility, using NSW LawAccess as a template.
6. Development of toll-free telephone advice services for all specialist CLCs.
Recommendation: Centre-by-centre assessment of appropriateness of expansion of telephone services, investment in technology and marketing where appropriate.
7. Co-delivery of specialist services using telephone and/or video conferencing.
Recommendation: Appropriate where staffing at both services is sufficient; risk management issues need to be addressed.
8. Introduction of a state-wide standard for all generalist CLCs.
Recommendation: Challenges based on Centre size exist, but support for a project to document existing services and draft minimum standards.
9. Development and strengthening of clinical legal education and Practical Legal Training.
Recommendation: Consider developing a PLT RRR program short-term and structural changes to Queensland legal education long-term.

Introduction

Queensland's community legal centres can be categorised as specialist and generalist centres. Specialist CLCs offer legal advice on a particular area of law or for a particular target group. Generalist CLCs are located throughout the state and offer legal advice and assistance to people within their catchment across a range of legal areas. Some generalist CLCs also offer specialist advice in some areas. Generalist legal services typically offer legal services to a greater body of clients, whilst specialist legal services provide a greater depth of service to those within their area of specialty.¹ The LPITAF Report² provides a helpful summary of the interface between generalist and specialist legal centres in Queensland. Relevantly, the Report notes:

- Generalist CLCs that do not work in an area of specialty all the time will take longer to provide the same (favourable) outcome for a client as the relevant specialist CLC.³
- Some vulnerable clients will be unable to access justice or will attempt to navigate the legal system without assistance if they do not have access to specialist services, which can result in inefficiencies and delays.⁴
- While some specialist advice can be provided by many generalist services, more complicated advice needs to be obtained from a specialist centre (ie generalist services have a limited capacity to conduct intensive specialist casework) – this is due to the lack of detailed knowledge of specialist issues by generalist centres and also due to funding and resourcing issues.⁵
- The greatest economies of scale are achieved when specialist services provide assistance to generalist centres through the provision of materials and training, rather than operating on geographical boundaries.⁶
- Queensland CLCs are effectively managing to avoid, through good networks and communication, duplication of services. Legal Assistance Forums are utilised as a primary mechanism for avoiding duplication and enabling agencies to collaborate on the delivery of legal services.⁷
- Legal Aid Queensland has a central role in coordinating the CLC network.⁸
- QAILS, as the peak CLC body in Queensland, plays a core role in facilitating collaboration between CLCs.⁹

Importantly, the LPITAF Report noted the many strengths of the present framework. The interface between generalist and specialist legal centres in Queensland has many effective

¹ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 18.

² Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report).

³ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 18.

⁴ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 18-19.

⁵ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 19.

⁶ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 20.

⁷ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 21-22.

⁸ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 22.

⁹ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 22.

features, including the level of training and support provided by specialist to generalist services and the collaborative relationships between the centres.¹⁰

Given the 'clustered' nature of the problems experienced by many clients of CLCs, with the same client or family simultaneously experiencing a number of different problems, it is arguable that there are many benefits to be gained by enabling generalist CLCs to provide specialist advice wherever possible. This is reflected in the findings of the Bazley Report:¹¹

With its focus on legal representation, the legal aid system tends to look at problems one case at a time. There is a role, especially at an early information and advice stage, for the legal aid system to help people resolve groups of problems. One submission noted this in relation to women who have been victims of domestic violence: ... 'there are often many areas of unmet legal need in families where abuse occurs. Women may need help with tenancy claims caused by damage to houses, with claims from Work and Income, they may have criminal charges themselves as a result of being forced into criminal activity, have debt related to gambling or financial abuse, or they may have employment problems as a result of their partner continuing to harass and abuse them at work. It would be useful if these issues could be referred to a Community Law Service so that women can try and solve a number of legal problems at the same time. This would make their lives less complicated and stressful and would allow women more energy to concentrate on recovering and remaining free from abuse.

The core of this research involves an exploration of the interaction between generalist and specialist CLCs in Queensland, with a view to identifying ways to support CLCs to work effectively together in delivering equitable and accessible legal services in the public interest. In particular, the concern is to understand the accessibility, capacity and efficacy of generalist CLCs to deliver specialist services and to refer matters on to specialist centres where appropriate and necessary.

This research aims to better understand the inter-relationship between generalist and specialist CLCs in Queensland in effectively assisting clients in the public interest. This research considers the relevant research literature to draw inspiration from the frameworks and practices of community legal services in other jurisdictions.

Understanding this report in context

Before commencing this examination, it is trite but relevant to note that a significant limitation impacting upon the ability of CLCs in Queensland to effectively and comprehensively provide legal services to their clients is the restricted financial resources under which they operate. As Regan states:¹²

Centres have always argued that they do not have sufficient money to do all the work required. This remains a pressing issue. In addition, many are located in low quality buildings and computers and other facilities are often inadequate. The pressure on Centres is also increasing as Legal Aid Commission eligibility criteria exclude more people and cases.

While it is outside the scope of this report to consider this issue in any depth, it is relevant to note that one consequence of the limited financial resources of the community legal sector is

¹⁰ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 19.

¹¹ Bazley, Margaret, *Transforming the Legal Aid System – Final Report and Recommendations*, Ministry of Justice, New Zealand, 2009 (Bazley Report), [237].

¹² Francis Regan, 'Does Recent Empirical Research Shed New Light on Australia's Legal Aid Scheme?' (2003) 52 *University of New Brunswick Law Journal* 123, 130.

that attention has not been placed upon adequately documenting the referral protocols and networks that exist between the different generalist and specialist community legal centres in Queensland.

A further issue that must be recognised at the outset is the difficulty (indeed, impossibility) of comprehensively documenting the level of need in this area. The McCamus Report clearly documents that the need for 'core-area poverty law services' is increasing, but states:¹³

The determination of current legal needs in the field of poverty law is a complex undertaking. Unlike more 'traditional' fields of legal practice, it is difficult to calculate current needs based only on measures such as expressed demand or numbers of unrepresented litigants. This is the case because many potential poverty law clients are either unaware of their rights or unable to act upon them.

Geographical considerations

In Queensland, a significant portion of the population lives outside a major city or metropolitan area and there is a broad distribution of the population across regional and rural, as well as metropolitan, localities. Queensland is the most decentralised state in Australia, with more than half the population living outside the state capital, Brisbane.¹⁴

The need for enhanced services, including legal services, for rural Australians has been well documented.¹⁵ The economic disadvantage characterising rural communities when contrasted with metropolitan areas is recognised.¹⁶ The lack of specialist legal services is particularly problematic for rural Queenslanders from some groups – women¹⁷ and children¹⁸ have been particularly recognised in this regard. Giddings and associates note:¹⁹

It may well be unrealistic to assume that the full range of specialist expertise required in a rural community can ever be present. The challenge then is to provide a scheme of legal services that appropriately meets the full range of needs within rural communities.

Schetzer asserts:²⁰

[T]he new geography of disadvantage has resulted in place or spatial management emerging as the model by which governments seek to address the problems of disadvantaged people and places. The purpose is to overcome complex, multiple and interdependent problems afflicting specific communities, the causes of which often reside outside those areas, in order to achieve measurable benefits and improved outcomes for people living there.

¹³ Ministry of the Attorney General, Ontario, *A Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services*, 1997 (McCamus Report), 4.

¹⁴ Jeff Giddings and Barbara Hook, 'The Tyranny of Distance: Clinical Legal Education in "The Bush"' (2002) *International Journal of Clinic Legal Education* 64, 64.

¹⁵ In 1995, the *Justice Statement* released by the Keating Labor Government noted that 4.8 million Australians were then living in rural areas and that "[l]ack of services has been identified as a significant rural problem": Commonwealth Attorney-General's Department, *The Justice Statement*, Canberra, 1995 at 1.) Particular mention was made of the need for community-based legal services for women in rural and remote areas: Jeff Giddings, Barbara Hook and Jennifer Nielsen, 'Legal Services in Rural Communities: Issues for Clients and Lawyers' (2001) 26 *Alternative Law Journal* 57, 58.

¹⁶ Jeff Giddings and Barbara Hook, 'The Tyranny of Distance: Clinical Legal Education in "The Bush"' (2002) *International Journal of Clinic Legal Education* 64, 72.

¹⁷ Jeff Giddings, Barbara Hook and Jennifer Nielsen, 'Legal Services in Rural Communities: Issues for Clients and Lawyers' (2001) 26 *Alternative Law Journal* 57, 58.

¹⁸ Jeff Giddings, Barbara Hook and Jennifer Nielsen, 'Legal Services in Rural Communities: Issues for Clients and Lawyers' (2001) 26 *Alternative Law Journal* 57, 59.

¹⁹ Jeff Giddings, Barbara Hook and Jennifer Nielsen, 'Legal Services in Rural Communities: Issues for Clients and Lawyers' (2001) 26 *Alternative Law Journal* 57, 59.

²⁰ Louis Schetzer, 'Community Legal Centres: Resilience and diversity in the face of a changing policy environment' (2006) 31 *Alternative Law Journal* 159, 162.

Giddings' research into the experience of providing community legal services in the Queensland 'bush' also recognises the difficulties for legal practitioners working in rural and remote areas of Queensland, in terms of their isolation and consequently limited ability to develop effective working relationships with specialist advocates, access legal academics, fulfil continuing legal education requirements and network within the legal profession.²¹ He notes: '[t]he impact becomes more severe as the geographic position becomes more isolated'.²² Paul and associates similarly notes.²³

It is a fact that rural people suffer from professional services deprivation relative to their urban counterparts. Access to legal services is one form of this deprivation. Whilst often understood as a workforce problem, the issue has broader implications for the economic and social welfare of communities and the professionals who try to serve their needs. In particular the inability to access sufficient 'knowledge services' lies at the heart of many problems of rural social exclusion, the cost of which falls inevitably on those who are less mobile, or less capable of securing wealth.

A further consideration to note in this context is the heightened potential for conflicts of interest issues arising as a consequence of a smaller pool of practitioners catering to regional, rural and remote areas. This issue can be addressed through increased utilisation of information technology, which is discussed at length below.

Inequality of access

Like the need for additional services for people rural locations, there is recognition that additional, targeted services are required for the small proportion of the population who experience the majority of reported legal problems.

The LPITAF Report²⁴ acknowledges this, citing the LAW Survey finding that self-help services, while an efficient and effective means of providing legal assistance to those with a greater capacity to resolve their legal problems, can be problematic for more vulnerable clients. It recommends:²⁵

[M]ore intensive services such as legal advice and casework should be provided to people who experience greater disadvantage, have less capacity to resolve their own legal problems, and/or who have more complex legal problems (for example, homeless people, people with mental health issues, and people with disability). Investing in more intensive services for vulnerable groups makes economic sense, considering that less than one-quarter (18%) of Queenslanders account for almost nine-tenths (82%) of the legal problems experienced. Those services are often more effective if they are tailored to the needs of disadvantaged groups. This 'two speed' model for delivery of legal services is promoted by the LJF.

²¹ Jeff Giddings and Barbara Hook, 'The Tyranny of Distance: Clinical Legal Education in "The Bush"' (2002) *International Journal of Clinic Legal Education* 64, 72.

²² Jeff Giddings and Barbara Hook, 'The Tyranny of Distance: Clinical Legal Education in "The Bush"' (2002) *International Journal of Clinic Legal Education* 64, 72.

²³ Paul Martin, Jacqueline Williams and Amanda Kennedy, 'Professional Services and Rural Services Poverty' (2011) 16 *Deakin Law Review* 57.

²⁴ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 17-18.

²⁵ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 17-18.

In the LPITAF Report QAILS and the QLS echoed this notion, submitting that a commitment to a substantial increase in funding would be required if specialist services were to be expanded to provide truly equitable access State-wide.²⁶

This report is charged with investigating cost-effective measures to allow for more equitable specialist service delivery, and consequently discussion of proactive outreach service delivery mechanisms is outside its scope. It is worth noting, however, that various forms of outreach aimed at reaching those who experience multiple disadvantage are now being considered in legal research as a result of growing awareness of the need for CLCs to engage with these vulnerable populations.²⁷

An international perspective

This report considers and is informed by alternative frameworks and models that have been developed in other jurisdictions. There are a number of community legal service initiatives adopted in other jurisdictions that are of relevance. In a different legal context, Summers has warned us not to look to other countries for solutions to Australia's problems.²⁸ Yet as Fudge and Owens note, comparative analysis is a common legal tool that can be helpful.²⁹ Jacobs and Gerson similarly recognize the utility of a cross-national perspective in enriching the understanding of the current situation and informing possibilities for improvement.³⁰ The following discussion will thus briefly consider some of the more notable international examples of different initiatives aimed at facilitating greater equality of access to specialist legal services. Some of the frameworks developed in other jurisdictions, such as Ontario's community law clinic model, will be discussed in greater detail later in this report.

The benefits of a cohesive and unified system for the delivery of community legal services are recognised in the international research literature. A recent review of the community legal services framework in Ontario, which is recognised as a leader in the area of community legal service delivery, has culminated in the development of a reform agenda similar to the vision presently being considered in Queensland as a consequence of the LPITAF Report. The most recent Strategic Plan for Ontario, currently in operation, states:³¹

We now need to build on this by working more concertedly as a system. Experience has shown that by working collectively, clinics are better able to address challenges posed by high poverty rates and the racialization of poverty, demographic shifts in the client population, changes in law and policy, limited resources, and the distances to cover in rural and remote communities. Working more as a clinic system will also strengthen our ability to respond to increased expectations to demonstrate the effectiveness of our work and accountability for the expenditure of public funds.

²⁶ Department of Justice and Attorney General, Queensland Government, *Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund*, December 2012 (LPITAF Report), 20

²⁷ Pascoe Pleasence, Christine Coumarelos, Suzie Forrell and Hugh M. Macdonald *Reshaping legal assistance services: building on the evidence base*. (2014) Law and Justice Foundation of NSW, 37-44

²⁸ Summers argues that while it may be that other countries have worked out a better way of enabling women to combine having children with continuing their economic activities but it will be a way that works for them and that we need to devise our own solutions having regard to our own circumstances, history and political and social structure: Anne Summers, *The End of Equality: Work, Babies and Women's Choices in 21st Century Australia* (Random House, 2003), 14-15.

²⁹ Judy Fudge and Rosemary Owens, 'Precarious work, women, and the new economy: The challenge to legal norms', In Judy Fudge and Rosemary Owens (eds), *Precarious work, women, and the new economy: The challenge to legal norms* (Hart Publishing, 2006), 27.

³⁰ Jerry Jacobs and Kathleen Gerson, *The Time Divide: Work, Family and Gender Inequality* (Harvard University Press, 2004), 145-7.

³¹ Ontario Community Legal Clinics Provincial Strategic Plan, 2013-2017, <http://www.aclco.org/>, accessed 26 February 2014, 1-2.

The guiding principle for provincial strategic planning is stated to be: “Clinics work together as a system to make best use of our collective strengths to better serve and empower our clients while maintaining accountability to our individual communities.”³² Four strategic priorities have been identified as part of the strategic plan for Ontario:³³

1. Expanding client access to poverty law services through effective collaboration.
2. Enhancing capacity for systemic work by strengthening the capacity to do preventive and systemic poverty law work.
3. Strengthening community connections, by increasing clinic accountability to the clients and communities and integrating the clinics more effectively within the communities.
4. Enhancing system-wide coordination and support, to enable clinics to collectively provide the highest quality service and to ensure the clinic system is accountable for the services it provides with public funds.

The Trebilcock Report similarly recommends better integration of the various community and non-profit legal services, guided by the goal of holistic client care in Ontario.³⁴ It is argued that systemic barriers to equality are better addressed through a holistic response, which recognises the differences in the reasons for their vulnerability and their multiple and intersecting problems.³⁵

The McCamus Report, which also considered the community legal system in Ontario, made proposals for the completion of the community clinic system by ‘filling the gaps’ in the distribution of general-service clinics in Ontario and, relevantly, expansion of the specialty clinic system.³⁶ The McCamus Report emphasised:³⁷

In an era of capped funding, it is important to be able to coordinate all legal aid services in order to allocate resources in the most effective and efficient manner possible... In a reformed legal aid system, it is clear that individual clinics, the clinic system, and the overall legal aid system should, and could, coordinate their services much better than at present.

New Zealand is another jurisdiction that has recently conducted an extensive review of its community legal sector. The Bazley Report, which culminated from this review, emphasises the importance of the community law sector, particularly in assisting vulnerable members of the community at the early information and advice stage. The findings on the fragmented nature of community legal services resonate with the Queensland experience:³⁸

Initial advice and assistance services are almost exclusively community based. While this means the services are closely linked into their communities, it also means they are fragmented and lack a national overview. The nature of the services provided varies across the country, and there is no real co-ordination within the system to assist anyone moving through it. Services are predominately provided

³² Ontario Community Legal Clinics Provincial Strategic Plan, 2013-2017, <http://www.aclco.org/>, accessed 26 February 2014, 3.

³³ Ontario Community Legal Clinics Provincial Strategic Plan, 2013-2017, <http://www.aclco.org/>, accessed 26 February 2014, 3.

³⁴ Mary Jane Mossman, Karen Schucher and Claudia Schmeing, ‘Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario’ (2010) 29 *Windsor Review of Legal and Social Issues* 149, 152.

³⁵ Mary Jane Mossman, Karen Schucher and Claudia Schmeing, ‘Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario’ (2010) 29 *Windsor Review of Legal and Social Issues* 149, 179.

³⁶ Ministry of the Attorney General, Ontario, *A Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services*, 1997 (McCamus Report), 13.

³⁷ Ministry of the Attorney General, Ontario, *A Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services*, 1997 (McCamus Report), 9-10.

³⁸ Margaret Bazley, *Transforming the Legal Aid System – Final Report and Recommendations*, Ministry of Justice, New Zealand, 2009 (Bazley Report), [243] – [245].

through community law centres, the duty solicitor scheme, and the police detention legal assistance scheme. All three are largely reactive towards the problems that are put before them, although community law centres are able to take a more proactive approach towards early intervention. I am particularly concerned about variation in the kinds and quality of some of the services provided by community law centres. I am also concerned that there is too little cooperation between all services within this area. There is scope for greater coordination and standard-setting in the services provided as well as with the wider social sector to stop problems becoming justice issues.

The Bazley Report proposes that one way to ensure equitable access to community law services across New Zealand is through the institution of a national standard for the services available from community law centres.³⁹ The rationale behind this recommendation is to ensure that all generalist centres in New Zealand are able to offer specialist services, at least to the point of initial advice and assistance, in core areas of law within the family and civil jurisdiction, particularly civil debt and consumer issues.

Other jurisdictions that receive international acclaim for their community legal services include Washington DC, where Equal Justice Works, a non-profit organisation founded by law students and dedicated to 'creating a just society by mobilizing the next generation of lawyers committed to equal justice', effectively provides a highly level of community legal assistance through its Fellowship program, which funds hundreds of public interest attorneys each year to undertake public interest legal work.⁴⁰ It is recognised that a significant part of the value of this program is that 80 per cent of recipients of the fellowships continue to provide pro bono legal assistance after the expiration of the tenure of the fellowship.⁴¹ In New York, Legal Services New York City was established in 1967 (preceding by five years the establishment of the first Australian CLC) and is accorded the full resources of a city-wide organisation, servicing New York City's low-income community at a local level.⁴²

It is therefore apparent that recognition of the value of the services provided by specialist community legal centres, and interest in the development of strategies enabling such services to extend their reach, is not unique to Queensland, but is presently an area of interest amongst countries with a heightened interest in the provision of community legal services, including Canada, the United Kingdom and New Zealand.

³⁹ Margaret Bazley, *Transforming the Legal Aid System – Final Report and Recommendations*, Ministry of Justice, New Zealand, 2009 (Bazley Report), [268].

⁴⁰ Peter Noble, 'The Future of Community Legal Centres' (2012) 37 *Alternative Law Journal* 22, 25.

⁴¹ Peter Noble, 'The Future of Community Legal Centres' (2012) 37 *Alternative Law Journal* 22, 25.

⁴² Peter Noble, 'The Future of Community Legal Centres' (2012) 37 *Alternative Law Journal* 22, 25.

The role of Information Technology in facilitating equitable access to specialist legal services

Queensland community legal centres presently utilise a significant range and diversity of information technology.

QAILS engaged Allens Linklaters to conduct empirical research with Queensland CLCs into their use of technology.⁴³ While the response rate to the questionnaires on which the Report is based was relatively low,⁴⁴ the Allens Report provides a useful snapshot of the use and efficacy of the different forms of technology in delivering legal services in the community legal sector in Queensland. This report will provide a brief synopsis of the key findings from the empirical research conducted by Allens and detailed in the Allens Report that are of present relevance, supplemented by other relevant findings from the research literature.

Telephone

The telephone, both fixed lines and mobile lines, is presently the most widely used form of telecommunications, with an estimated 95.3% of Queensland households having at least one fixed line and 68.2% of adults using a mobile telephone.⁴⁵ It is noted that, of the minority lacking access to a telephone service, a significant portion may comprise homeless or other disadvantaged people.⁴⁶

Telephone services are offered by a majority of Queensland CLCs,⁴⁷ although the features of these services significantly differ, with some providing information only,⁴⁸ some providing information and referral services⁴⁹ and some providing legal advice sessions by telephone.⁵⁰

The perceived benefits of telephone services include lower costs, enhanced convenience for clients and the ability to remotely access the service, particularly by those clients situated in regional, rural and remote areas.⁵¹

The research literature on the efficacy of telephonic services as a means of assisting community legal service clients is mixed in terms of time savings. While some reports suggest that legal advice imparted by telephone is more expeditious than face-to-face advice,⁵² the findings of other reports are in direct opposition.⁵³ The research establishes that the telephone is an effective medium for the provision of information and referrals and

⁴³ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013 ('the Allens Report').

⁴⁴ 17 Queensland CLC responded – 11 generalists and 6 specialists.

⁴⁵ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 8, citing Australian Bureau of Statistics, 'Household Telephone Connections, Queensland Report, 2003'.

⁴⁶ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 8.

⁴⁷ 78% of respondents to the Allens Survey offered a telephone service.

⁴⁸ 43% of the 78% of the respondents that offered a telephone service.

⁴⁹ 28.5% of the 78% of respondents that offered a telephone service.

⁵⁰ 28.5% of the 78% of respondents that offered a telephone service.

⁵¹ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 9.

⁵² Wayne Moore, 'The Future of Legal Aid: Systems', paper submitted to the ILAG Conference (The Hague, June 12-14 2013), 4.

⁵³ Nigel Balmer, et al, 'Just a phone call away: Is telephone advice enough?' *Journal of Social Welfare and Family Law*, 34(1) 63.

more simplistic legal advice, whereas its utility decreases significantly for more complex legal matters or those which require representation or advocacy.⁵⁴

Video conferencing

The Allens Report found that, despite the perceived benefits of utilising video conferencing facilities, particularly for clients in regional, rural and remote areas, this form of technology has not been shown to be beneficial where similar services are or could be offered through alternative technologies. This is so notwithstanding the interest this form of technology has generated for its ability to provide face-to-face advice to clients, particularly those in regional, rural and remote areas.

A recent Australia meta-analysis of the research literature on the efficacy of video conferencing notes the scarcity of research literature on this issue in the area of the provision of legal services. However, it is relevant for noting the low level of usage of video conferencing by service providers to date; the preference of lawyers for face-to-face meetings over video conferencing; and concerns about the availability, quality and reliability of video conferencing facilities.⁵⁵ The meta-analysis also recorded significant client concerns as regards issues of privacy and convenience when using video conferencing (telephone was preferred by many for these reasons).⁵⁶

The Allens Report recommends that any trial of increasing video conferencing use by Queensland CLCs should utilise free web-based applications such as Skype, in the absence of evidence suggesting the efficacy of video conferencing technology. It also notes the potential for the development of this technology in the future with the progress of the Commonwealth National Broadband Network Regional Legal Assistance Program.⁵⁷

The Allens Report has noted that 'adequate technology to attend continuing legal education training through web-based video-conferencing (eg by using the Webex services provided through the National Association of Community Legal Centres (NACLC)) would facilitate the provision of training to CLC staff', proposing that video conferencing technology may allow a more cost effective method of training by reducing administrative and transport costs, enhancing flexibility and providing a simple method of recording training for future reference.⁵⁸

⁵⁴ Julianne Evans, 'LawAccess NSW and its legacy', paper submitted to the ILAG Conference (The Hague, June 12-14 2003), 2; Focus Consultants, 'An Evaluation of Family Legal Services of the Legal Services Society: Final Report for Legal Services Society' (May 2012) *Legal Services Society* 21

⁵⁵ Forell, Laufer and Digiusto Report, in Suzie Forell, et al, 'Legal assistance by video conferencing: what is known?' (November 2011) *Law and the Justice Foundation of New South Wales*.

⁵⁶ Forell, Laufer and Digiusto Report, in Suzie Forell, et al, 'Legal assistance by video conferencing: what is known?' (November 2011) *Law and the Justice Foundation of New South Wales*.

⁵⁷ See <http://www.ag.gov.au/nbnlegalassistance>.

⁵⁸ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 36. See also Catherine Arcabascio, 'The Use of Video-Conferencing Technology in Legal Education: A Practical Guide' 6 (2001) 1 *Virginia Journal of Law and Technology*, <http://www.vjolt.net/vl6/issuel/v6ila05-Arcabascio.html>, which provides practical tips on the use of videoconferencing technology in education and Martin, Peter, 'Distance Learning: The LI's Experience and Future Plans' (1999) www.law.cornell.edu/background/distance/liidistance.htm, which discusses the use of videoconferencing to deliver a copyright class to students at four law schools, including three remote locations, of Cornell Law School.

Alternatives to video-conferencing include Internet Relay Chat,⁵⁹ which may also incorporate of white-board software, by which documents can be simultaneously viewed and discussed along with typed conversation over the internet.

Internet-based technology

In 2011 in Australia, 79% of households had access to the internet,⁶⁰ including many low-income households.⁶¹ It appears that the internet is the 'first port of call' for many people when seeking legal information.⁶² Thus, internet usage is quickly approaching telephone usage in terms of its generic availability, although the same vulnerable demographic groups are likely to be those without access as for telephone usage, discussed above.

The proposed implementation of the National Broadband Network is likely to increase internet usage in Australia for people in regional Australia, although with the recent change of federal government the outcome of this project remains to be seen.⁶³

The benefits of the delivery of legal advice and information through internet-based services and technologies include the provision of remote access to information and access to information outside business hours.⁶⁴ Research has shown the superiority of those online services which provide both general and user-specific information.⁶⁵ The Allens Report proposes the following key points to be considered when developing an online CLC model:

1. The need for a clear strategic purpose and underlying policy.
2. Superior website usability and the development of legal resources in plain language.
3. Online integration with other websites, particularly referral services.⁶⁶

Importantly, the literature distinguishes between access to information and efficacy of information in the context of obtaining legal advice.⁶⁷ It is imperative that legal information available to community legal service clients is presented in a user-friendly, and the limitations of self-help resources are noted and discussed below. The Allens Report identifies four services within the CLC sector that offer a high level of internet resources: LawAssist/LawAccess (NSW), Rechtwijer (Netherlands), Smart Service Queensland and LawHelpNY.⁶⁸ Each of these services will now be briefly discussed.

⁵⁹ Which allows parties to engage in real-time conversation when typing over a computer screen.

⁶⁰ Australia Bureau of Statistics, 'Household use of information technology report, Australia, 2010-2011.

⁶¹ Richard Susskind, *The End of Lawyers? Rethinking the Nature of Legal Service* (Oxford University Press, 2008); Catrina Denvir, et al, 'Surfind the web – Recreation or resource? Exploring how young people in the UK use the internet as an advice portal for problems with a legal dimension' (2011) 23 *Interacting with Computers* 96, 96.

⁶² Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 17.

⁶³ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 17.

⁶⁴ Attorney General and Justice of New South Wales, 'Review of the delivery of legal assistance services to the NSW community' (June 2012).

⁶⁵ Roger Smith, 'Can digital replace personal in the delivery of legal aid?' discussion paper submitted to the ILAG Conference (The Hague, June 12-14 2013), [27].

⁶⁶ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 21-22.

⁶⁷ Catrina Denvir, 'Exploring how older people use the information superhighway' (2013) *March Ageing and Society Journal* 1, 8.

⁶⁸ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 18.

1. LawAssist/LawAccess (NSW)

The LawAccess legal telephone service, discussed below, is complemented by the LawAccess website, which provides internet-based resources including easy-to-read self-help legal resources (such as factsheets, forms and publications from a range of government and non-government services, including Legal Aid NSW, CLCs and courts), and easy to find legal information categorised under a number of subject headings (such as debt, family law and neighbours). The website is designed as the 'starting point', from which users can then access the telephone advisory line. Access is offered to all NSW residents, but specifically targeted at those requiring access to community and government legal services.⁶⁹ Client appraisals of this service have been very favourable.⁷⁰

2. Rechtwijzer (Netherlands)

This is the Dutch equivalent of NSW's LawAssist website, delivering legal information to users by an interactive question-and-answer model. While there is, as yet, no information on its efficacy, it is commended for its succinct, process-oriented approach.⁷¹

3. Queensland Government's Smart Service

This Queensland Government initiative is intended as the primary point of contact for Queenslanders accessing government services. This service does not provide legal advice. It utilises multiple delivery channels, including online services, contact centres, service counters and card and concession services.⁷²

4. LawHelpNY

This is an online tool providing assistance for low-income New Yorkers with their legal problems. It provides information on free legal service projects and organisations, including contact and intake information, self-help resources covering 16 areas of law and extensive links to social service, advocacy and government organisations and information about the court system.⁷³ This service includes an instant messaging service where users can access live contact with a trained specialist who can answer questions and provide links to relevant resources and referrals on the site and, where necessary, provide information by email.⁷⁴

Audio-graphics conferencing

Audio-graphics conferencing is utilised to provide legal services to people in rural and remote areas of Queensland, by which people are able to communicate by telephone at the

⁶⁹ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 19.

⁷⁰ In 2012, LawAccess assisted 198,566 customers and provided 19,159 legal advice sessions and 94.5% of customers rated themselves as being 'highly satisfied' with the service.

⁷¹ Roger Smith, 'Can digital replace personal in the delivery of legal aid?' discussion paper submitted to the ILAG Conference (The Hague, June 12-14 2013), [15], [18].

⁷² Standing Council on Law and Justice, Parliament of Australia, *Harnessing the benefits of technology to improve access to justice* (Commonwealth Government, 2012); Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 20.

⁷³ See <http://lawhelpny.org>.

⁷⁴ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 21.

same time as having joint computer screen access to documents. This technology has been particularly utilised by clinical legal education students working with geographically distant clients preparing court-related documents and correspondence.⁷⁵ The main benefit of using audio-graphic technology is its broad geographical reach, which enables access to legal services to be provided to a larger clientele within a shorter time-frame, whilst minimising or negating travel-related expenses.⁷⁶ It has also been recognised that some clients are more comfortable with telephone- than face-to-face interviewing, particularly as the telephone is such a regular means of communication for those in rural and remote localities.⁷⁷

Summary of information technology usage and the law

Giddings and associates note:⁷⁸

The use of information technology as a means of providing legal services is slowly building momentum. At this stage, such use has tended to be limited to government and not-for-profit services being delivered to rural communities from a metropolitan base. The Internet, email, video and audio-conferencing are slowly starting to challenge the traditional way that lawyers have delivered legal services. Acknowledging the work that has been done in the area by health and education professionals, lawyers are beginning to see non face-to-face services as an option. The challenges that the use of technology has engendered are often common to both lawyers and their clients. For clients, such technology is often unfamiliar and the delivery of non-face to face services may be seen as threatening and unsupportive. Use of computers and the Internet is often not a way of life for rural clients and training, cost and ongoing support may be an issue. For lawyers, looking outside of their own communities for legal work may be unfamiliar, and the clients wary of the technology. For city practitioners, such forays into rural communities may raise legal issues they are not familiar with or are incapable of recognising. This has the potential to operate to the distinct disadvantage of clients. Client confidentiality in the delivery of non-face to face services is also extremely important.

Jenkins notes that, notwithstanding the proliferation of information technology use among professionals, modern law firms and courts generally utilise the 'less sophisticated' technological tools such as word processors, e-mail and instant messaging systems, rather than the more sophisticated analytical tools available. He asserts that the legal profession lags behind other industries, for reasons of scepticism about artificial intelligence applications, technical challenges to implementation and cultural resistance.⁷⁹ Jenkins argues there are 'strong incentives' for lawyers to catch up, particularly in terms of reducing duplication and repetition and significant efficiency gains, in the context of a significant increase in the volume and diversity of data lawyers are managing.⁸⁰ Epstein concurs that lawyers are 'notoriously slow' in adapting technology into their practice.⁸¹ She foreshadows that there will be increasing conflicts between technology and ethics as lawyers increasingly

⁷⁵ Jeff Giddings and Barbara Hook, 'The Tyranny of Distance: Clinical Legal Education in "The Bush"' (2002) *International Journal of Clinic Legal Education* 64, 66.

⁷⁶ Jeff Giddings and Barbara Hook, 'The Tyranny of Distance: Clinical Legal Education in "The Bush"' (2002) *International Journal of Clinic Legal Education* 64, 78.

⁷⁷ Jeff Giddings and Barbara Hook, 'The Tyranny of Distance: Clinical Legal Education in "The Bush"' (2002) *International Journal of Clinic Legal Education* 64, 78.

⁷⁸ Jeff Giddings, Barbara Hook and Jennifer Nielsen, 'Legal Services in Rural Communities: Issues for Clients and Lawyers' (2001) 26 *Alternative Law Journal* 57, 62.

⁷⁹ Johnathan Jenkins, 'What Can Information Technology Do For Law?' 2 (2998) 1 *Harvard Journal of Law & Technology* 589, 589-91.

⁸⁰ Johnathan Jenkins, 'What Can Information Technology Do For Law?' 2 (2998) 1 *Harvard Journal of Law & Technology* 589, 591.

⁸¹ Epstein, Lynn, 'The technology challenge: Lawyers have finally entered the race but will ethical hurdles slow the pace?' (2003-2004) 28 *Nova Law Review* 721, 721.

incorporate technology into their practice and are confronted with new ethical issues arising from the use of such technologies.⁸²

Legal Aid Queensland (LAQ) operates a State-wide call centre, which functions as a service delivery hub for the legal assistance sector through its referral of clients to CLCs.

Australia's position in context

The literature suggests that Australia is behind many other jurisdictions, particularly the United States, in the provision of legal services by telephone.⁸³

The recent Legal Aid Ontario Report, *Technology in Aid of Client Services*, notes that the use of technology has enhanced access to basic legal information in a number of American jurisdictions, with the leading technological tools including:

- centralized, interactive websites, including public legal education and self-help
- document assembly software
- video-based learning
- online application and intake/online self-testing of eligibility, and
- video-conferencing.⁸⁴

Although the report documented a number of these technologies in use in the United States, it has been recognised that technology is generally under-utilised in the community law context in Ontario.⁸⁵

It was considered that the development of a Knowledge Management resource was needed (this proposal is discussed in detail in this report, below).

It was also noted that technology to provide access to legal information and advice would be far more effective as part of a 'seamless justice system': an integrated database for lawyers and the courts, one that 'provides information, but also delivers "real" assistance to clients'.⁸⁶

A caveat - the limitations of technology for vulnerable clients

It is imperative that the limitations of information technology for vulnerable and disadvantaged clients is acknowledged and considered in the development of any initiatives to assist this group. In particular, groups that may require special consideration in implementing information technology initiatives include clients with mental health issues,

⁸² Epstein, Lynn, 'The technology challenge: Lawyers have finally entered the race but will ethical hurdles slow the pace?' (2003-2004) 28 *Nova Law Review* 721, 721.

⁸³ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 9.

⁸⁴ Jeffrey Stutz and Lucille Narun, *Technology in Aid of Client Services* (Report for Legal Aid Ontario, 2008), 2-3.

⁸⁵ Ontario Community Legal Clinics Provincial Strategic Plan, 2013-2017, <http://www.aclco.org/>, accessed 26 February 2014.

⁸⁶ Mary Jane Mossman, Karen Schucher and Claudia Schmeing, 'Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario' (2010) 29 *Windsor Review of Legal and Social Issues* 149, 161-2.

homeless clients, victims of domestic violence, Aboriginal and Torres Strait Islander clients and refugee clients.⁸⁷

As Mossman and associates note:⁸⁸

[T]he use of technology is particularly challenging for the most vulnerable individuals and communities. As the report explained, there are significant issues at the intersection of technology policy and low-income communities. These issues include universal access to the Internet, literacy (including information literacy), training in computer usage, privacy issues, creation of relevant content, and use of technology by government and other service providers...

Mossman and associates acknowledge that 'significant expenditures' would be required to make technology 'effectively and equally available to the most vulnerable individuals and communities'.⁸⁹ They conclude that we must proceed with 'caution' as regards the emphasis placed on the provision of legal information and advice directly to the public:⁹⁰

The United States experience suggests that clients with some education, literacy, language and other skills may be able to utilize quite successfully legal websites, interactive computer fora, and other kinds of technological developments. However, the most vulnerable and disadvantaged will not be able to do so effectively. In this context, it is necessary to be strategic, particularly when funding is scarce, and to ensure that any information or advice programs are clearly responding to a range of clients, particularly those experiencing the effect of systemic problems.

Studies from the United States have established that, in general, telephone services provide less favourable outcomes for the following groups:

- non-English speakers⁹¹
- clients at the lowest education levels⁹²
- unemployed clients⁹³
- clients with complex and/or time-consuming legal problems,⁹⁴ and
- clients with significant learning disabilities, severe mental disabilities and/or limited communication or reading skills.⁹⁵

These findings are supported by forthcoming further examination of the LAW Survey data which indicates that different population groups are associated with different propensities to use different modes of communication. These findings suggest that young people, those with poor English language skills, lower levels of education, mental health problems and the

⁸⁷ See Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 23-34, for a fuller discussion of the specific information technology needs of these groups.

⁸⁸ Mary Jane Mossman, Karen Schucher and Claudia Schmeing, 'Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario' (2010) 29 *Windsor Review of Legal and Social Issues* 149, 161.

⁸⁹ Mary Jane Mossman, Karen Schucher and Claudia Schmeing, 'Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario' (2010) 29 *Windsor Review of Legal and Social Issues* 149, 161.

⁹⁰ Mossman, Mary Jane, Karen Schucher and Claudia Schmeing, 'Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario' (2010) 29 *Windsor Review of Legal and Social Issues* 149, 193.

⁹¹ Jessica Pearson and Lanae Davis, 'The Hotline Outcomes Assessment Study Final Report – Phase III: Full-Scale Telephone Survey' (2002) Center for Policy Research, iii.

⁹² Jessica Pearson and Lanae Davis, 'The Hotline Outcomes Assessment Study Final Report – Phase III: Full-Scale Telephone Survey' (2002) Center for Policy Research, iii.

⁹³ Jessica Pearson and Lanae Davis, 'The Hotline Outcomes Assessment Study Final Report – Phase III: Full-Scale Telephone Survey' (2002) Center for Policy Research, iii.

⁹⁴ Moore, Wayne, 'The Future of Legal Aid: Systems', paper submitted to the ILAG Conference (The Hague, June 12-14 2013), 4.

⁹⁵ Moore, Wayne, 'The Future of Legal Aid: Systems', paper submitted to the ILAG Conference (The Hague, June 12-14 2013), 4.

lowest incomes are all more likely to obtain advice only in-person (as opposed to only using remote forms of communication such as telephone or email).⁹⁶

The next section of the Report, which develops options and recommendations for enhancing equitable access to specialist legal services in Queensland, is cognisant of the unique needs of vulnerable clients.

⁹⁶ Pascoe Pleasence, Christine Coumarelos, Suzie Forrell and Hugh M. Macdonald *Reshaping legal assistance services: building on the evidence base*. (2014) Law and Justice Foundation of NSW, 24

Options for Moving Towards Greater Equity of Access to Specialist Legal Services

This report has considered the efficacy of the present framework in achieving equity of access to specialist legal services in Queensland. The report has found that, while there are a number of excellent mechanisms in place for facilitating the provision of specialist legal services both directly to clients and through the gate-keepers of generalist legal centres, there is potential to improve equity of access to specialist legal services in Queensland.

This section of the report presents a number of key options to enhance more equitable access to specialist legal services in Queensland. The opportunities offered in this section are developed from a critique of the present CLC model and a review of the relevant socio-legal literature. They have been tested by the case study and recommendations based on the testing accompany each of the options.

It is proposed that the following measures and recommendations should be implemented over the next three (3) years:

1. Appointment of a Specialist Training Officer.
Recommendation: Fund a training officer to coordinate and deliver a range of web-based and face-to-face training opportunities state wide.
2. Mandatory participation in a unified forum.
Recommendation: Support twice-yearly QAILS activities and require CLCs to participate.
3. Development of a central Knowledge Management Database.
Recommendation: Scope and deliver through a one-year project.
4. Establishment of multidisciplinary links between CLCs and other service providers.
Recommendation: Build multidisciplinary partnerships through other options as presented in this paper and existing CLC activities.
5. Development of an independent 'central access point'.
Recommendation: Research a model that delivers maximum accessibility, using NSW LawAccess as a template.
6. Development of toll-free telephone advice services for all specialist CLCs.
Recommendation: Centre-by-centre assessment of appropriateness of expansion of telephone services, investment in technology and marketing where appropriate.
7. Co-delivery of specialist services using telephone and/or video conferencing.
Recommendation: Appropriate where staffing at both services is sufficient; risk management issues need to be addressed.
8. Introduction of a state-wide standard for all generalist CLCs.
Recommendation: Challenges based on Centre size exist, but support for a project to document existing services and draft minimum standards.
9. Development and strengthening of clinical legal education and Practical Legal Training.
Recommendation: Consider developing a PLT RRR program short-term and structural changes to Queensland legal education long-term.

It is trite to state that, with the introduction of any new initiatives, it is important to critically consider the long-term feasibility of the proposal from the outset and to ensure that initiatives are sustainable in terms of the money and resources required.⁹⁷ In rural areas in particular, the literature notes the importance of ensuring new initiatives are properly evaluated prior to implementation.⁹⁸ The importance of coordination between any new initiatives is also noted in the literature,⁹⁹ with some scholars calling for improved structures to enable links between different academic disciplines, legal knowledge centres, government institutions and private enterprise.¹⁰⁰

Each of these options will now be considered in detail. Before doing so however, as a precursor to the following discussion, the importance of community consultation in introducing change is emphasised.

Caveat – the importance of community consultation

Scholars note that, in the design of any initiative in the community legal services context, it is of vital importance to consult with the relevant community(ies). As Cook and Calmore emphasise, it is critical that lawyers not presume their right to enter into communities, but rather work to ascertain whether there is an invitation to participate.¹⁰¹ Giddings and associates recognise the importance of firstly acknowledging the work already being carried out in a community and of consultation with local service providers and potential clients.¹⁰² Similarly, Buhler notes the value of ensuring that assistance by CLCs is not a ‘one-way street’ but rather that CLC lawyers seek to learn from their clients and to see law in a broader social context.¹⁰³ She explains:¹⁰⁴

[E]ngagement with the community reveals new insights about access to justice and about the role of lawyers. In particular, it makes clear that an active discussion about justice is underway in low income and marginalized communities, and that there is an invitation for lawyers to become allies in this community justice work. That is, while community groups welcome and often request a legal perspective, they are also actively engaged in defining the issues of substantive justice that are important to them--from housing to poverty and from food security to racism. These issues form the basis of a robust substantive justice agenda, an agenda to which community groups often welcome the participation and contribution of community legal clinics... The recognition that communities, and not lawyers, are in the process of defining a “justice agenda” decentres and de-privileges the focus on access to courts and lawyers and instead invites lawyers to explore the ways in which they can work collaboratively on these issues.

Regan similarly emphasises the importance of those within the community law sector to

⁹⁷ Jeff Giddings, Barbara Hook and Jennifer Nielsen, ‘Legal Services in Rural Communities: Issues for Clients and Lawyers’ (2001) 26 *Alternative Law Journal* 57, 62.

⁹⁸ Jeff Giddings, Barbara Hook and Jennifer Nielsen, ‘Legal Services in Rural Communities: Issues for Clients and Lawyers’ (2001) 26 *Alternative Law Journal* 57, 62.

⁹⁹ Jeff Giddings, Barbara Hook and Jennifer Nielsen, ‘Legal Services in Rural Communities: Issues for Clients and Lawyers’ (2001) 26 *Alternative Law Journal* 57, 62.

¹⁰⁰ Vern Walker, A Durwin, P Hwang, K Langlais and M Boyd, ‘Law schools as knowledge centres in the digital age’ (2012-2013) 88 *Chicago-Kent Law Review* 879, 916.

¹⁰¹ Cited in Sarah Buhler, ‘The View from Here: Access to Justice and Community Legal Clinics’ 63 *University of New Brunswick Law Journal* 427, 427.

¹⁰² Jeff Giddings, Barbara Hook and Jennifer Nielsen, ‘Legal Services in Rural Communities: Issues for Clients and Lawyers’ (2001) 26 *Alternative Law Journal* 57, 62.

¹⁰³ Sarah Buhler, ‘The View from Here: Access to Justice and Community Legal Clinics’ 63 *University of New Brunswick Law Journal* 427, 431.

¹⁰⁴ Sarah Buhler, ‘The View from Here: Access to Justice and Community Legal Clinics’ 63 *University of New Brunswick Law Journal* 427, 431.

learn from 'bottom up' research.¹⁰⁵

Finally, in this context, it is important to recognise that new initiatives, especially those involving IT-based services, will take time to be accepted and utilised, particularly in rural communities and where older people form a significant part of the clientele.¹⁰⁶

¹⁰⁵ Francis Regan, 'Does Recent Empirical Research Shed New Light on Australia's Legal Aid Scheme?' (2003) 52 *University of New Brunswick Law Journal* 123, 132-3.

¹⁰⁶ Jeff Giddings and Barbara Hook, 'The Tyranny of Distance: Clinical Legal Education in "The Bush"' (2002) *International Journal of Clinic Legal Education* 64, 77.

Case study – Queensland Advocacy Incorporated

The practical case study was designed to apply the recommendations to the delivery of mental health legal services by Queensland Advocacy Incorporated (QAI). People with mental and/or intellectual disability, including cognitive impairment, have been identified as a 'high prevalence vulnerable group' with regard to legal need by the Department of Justice and Attorney-General.

The following activities were undertaken by QAI throughout the course of this project:

- Assignment of a Specialist Training Officer delivering training to services in north and central Queensland. Face-to-face training was delivered in Mackay, Townsville, Rockhampton and Cairns.
- Visits to CLCs, advocacy services and mental health facilities in the regional cities.
- Development of a legal information resource aimed at lawyers and advocates titled the *Involuntary Treatment Order Reviews – a guide for advocates in relation to the review of ITOs before the Mental Health Review Tribunal in Queensland*.
- Distribution of legal fact sheets to training participants.
- Service delivery in person.
- Service delivery by telephone.
- Service delivery via videolink.

1. Appointment of a Specialist Training Officer

Background and research

It is envisaged that the Specialist Training Officer will have responsibility for:

- facilitating the induction of all new CLCs lawyers in core areas of specialist law
- arranging regular Continuing Legal Education for all CLC lawyers in core areas of specialist law
- maintaining the Knowledge Management Database.

The training provided to generalist CLC lawyers should be focused on up-skilling these lawyers in specialist legal issues that are both prevalent and relatively simple. The more complex or resource-intensive specialist legal issues must remain the province of the specialist centres and be referred appropriately at the earliest opportunity.

Consistent with the research literature is highly interactive and has a practical, rather than theoretical, focus. It is further proposed that webinars and the use of interactive websites are an appropriate vehicle for training lawyers, as they are practical, both cost- and time-effective and documented to achieve superior results to other forms of training or education. The LPITAF Report recognised the appropriateness of utilising Government Infrastructure for videoconferencing purposes.

Funding for the appointment of this officer would be required and could be sought through LPITAF.

Use of technology in training and inducting CLC lawyers

This report will now consider and critique the different forms of information technology available that may be utilised in training and inducting CLC lawyers. Molina emphasises the importance of developing a strategic plan for information technology in law schools, and proposes the following four elements as critical to a successful plan: vision, mission, goals and objectives.¹⁰⁷

Online training for lawyers

The benefits and difficulties associated with online training for lawyers and law students have recently been debated in the literature. This literature is informative in understanding the potential benefits of utilising online training for CLC lawyers, as well as obstacles to avoid. As part of their continuing professional development requirements, all CLC legal staff are required to undergo regular training.¹⁰⁸ This requirement forms the basis for the continuing legal education model of training proposed.

¹⁰⁷ Pablo G Molina, 'Strategic Planning for Information Technology' 1 (1999) 1 *Journal of Law School Computing*, www.cali.org/jlsc/molina.html.

¹⁰⁸ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 36.

The reported benefits associated with online training include, firstly, that this form of training transcends geographical location and enables training to be conducted in isolated locations, thus saving travel time and expense associated with attending training at a centralised location. A second notable benefit of online training is that the resources can be re-used, which is a significant benefit where training is required to be carried out progressively or repeated periodically. A third benefit associated with online training identified in the literature is of the potential for 'deep learning', which is partially attributed to the flexibility online training offers insofar as students can work at a time that is most suitable for their learning needs.¹⁰⁹ The literature notes that attendance rates do not necessarily correlate with learning outcomes,¹¹⁰ with real learning occurring in the minds of the students.¹¹¹ A further benefit associated with online training is that it can offer students a 'protected place' to share their views on a topic 'without fear of public humiliation', a 'sheltered haven where students can try their wings'.¹¹² A final benefit noted is the enormous potential offered by information technology. Martin summarises this succinctly when he states:¹¹³

[It is now possible] to transcend barriers of time and space in ways unimagined only a few years ago. Almost anything - text, data, images, video, audio - can be delivered electronically, almost anywhere in the world, almost any time and in real time, over the Internet. Imaging and Web-based technologies are also constantly enhancing the potential for two-way communications between and among teachers and students in remote locations.

The perceived difficulties associated with online training include cost, particularly the costs of purchasing and installing the information technology infrastructure necessary to enable the training where sophisticated technology is chosen. There are also initial costs associated with developing the content of online programs, although as noted above this is offset by the fact that the resources can be re-used, in contrast to face-to-face instruction. In the literature, it is noted that the initially high production costs associated with computer-assisted instruction diminish each year that a tutorial is used.¹¹⁴ Young also proposes that time and costs are decreased when resources are collaboratively developed.¹¹⁵ Landsdell notes that, while there are mixed findings from different studies, 'greater support may be found for on-campus modes' than online modes of training.¹¹⁶ She promotes a 'blended learning model', comprised of some face-to-face and some online components, as the ideal model.¹¹⁷ Another disadvantage of online training that is noted in the literature is that it can lead to feelings of isolation amongst students.¹¹⁸ Some commentators also consider online training as less effective in facilitating the development of certain legal skills - in the United States, the MacCrate Report emphasised the importance of addressing and reinforcing substantive legal concepts in 'real' settings in developing skilful and ethical legal practice. This report has

¹⁰⁹ Gaye Lansdell, 'Have we "Pushed the Boat out too far" in Providing Online Practical Legal Training? A Guide to Best Practices for Future Programs' (2009) 19 *Legal Education Review* 149, 157-8.

¹¹⁰ Gaye Lansdell, 'Have we "Pushed the Boat out too far" in Providing Online Practical Legal Training? A Guide to Best Practices for Future Programs' (2009) 19 *Legal Education Review* 149, 157-8.

¹¹¹ Lillian Corbin, 'Learning in Cyberspace: Succession Law Online' [2004] *Murdoch University Electronic Journal of Law* 9, [7].

¹¹² Lillian Corbin, 'Learning in Cyberspace: Succession Law Online' [2004] *Murdoch University Electronic Journal of Law* 9, [18].

¹¹³ Peter Martin, 'Distance Learning: The LI's Experience and Future Plans' (1999) www.law.comell.edu/background/distance/liidistance.htm.

¹¹⁴ Max Young, 'The Cost of CAL' 2 (1993) 2 *Law Technology Journal*, www.law.wanvick.ac.uk/litj/2-2c.html.

¹¹⁵ Max Young, 'The Cost of CAL' 2 (1993) 2 *Law Technology Journal*, www.law.wanvick.ac.uk/litj/2-2c.html.

¹¹⁶ Gaye Lansdell, 'Have we "Pushed the Boat out too far" in Providing Online Practical Legal Training? A Guide to Best Practices for Future Programs' (2009) 19 *Legal Education Review* 149, 157-8.

¹¹⁷ Gaye Lansdell, 'Have we "Pushed the Boat out too far" in Providing Online Practical Legal Training? A Guide to Best Practices for Future Programs' (2009) 19 *Legal Education Review* 149, 157-8.

¹¹⁸ Gaye Lansdell, 'Have we "Pushed the Boat out too far" in Providing Online Practical Legal Training? A Guide to Best Practices for Future Programs' (2009) 19 *Legal Education Review* 149, 160.

led the American Bar Association to adopt the view that online courses are not acceptable as a mode of training leading to admission to practice.¹¹⁹

Arnold argues that, as computers are becoming increasingly essential in legal practice, it is important to teach students to use technology in clinical education programs, with technology providing improved planning, information management, quality control and productivity.¹²⁰

To harness the benefits of online training whilst overcoming the reported obstacles to this training, it is proposed that the following factors are important:

- The technology utilised for online training is accessible and not too costly.
- Online courses must be 'learner-centred', enabling students to be discoverers or constructors of knowledge and engaging them to interact with the content, the instructor and their peers.¹²¹
- For more substantive training programs, online training should be blended with face-to-face instruction to reduce feelings of isolation, promote inclusiveness and develop the ability to engage with others, as well as to reduce the quantity of content required to be read online.¹²²
- Ensuring that there is a strong framework for support and guidance.¹²³

There are a number of information technology initiatives presently utilised in law schools that can be adopted in the community law context. Key initiatives of interest are as follows:

- Training in web-based information retrieval methods and core information technology skills.
- Placing subject guides and core materials on an intranet.¹²⁴
- Recording and audio-streaming lectures.
- Self-administered tutorials in subjects such as legal writing.¹²⁵

Development of knowledge centres

One proposal advanced in the literature is of the potential for law schools to become digital 'knowledge centres' for broader society. Walker and associates state:¹²⁶

¹¹⁹ Gaye Lansdell, 'Have we "Pushed the Boat out too far" in Providing Online Practical Legal Training? A Guide to Best Practices for Future Programs' (2009) 19 *Legal Education Review* 149, 154.

¹²⁰ Douglas Arnold, 'The Benefits of Computers in a Legal Clinic' *Software Law Journal* (1988) 2 511.

¹²¹ Lillian Corbin, 'Learning in Cyberspace: Succession Law Online' [2004] *Murdoch University Electronic Journal of Law* 9, [2]; Gaye Lansdell, 'Have we "Pushed the Boat out too far" in Providing Online Practical Legal Training? A Guide to Best Practices for Future Programs' (2009) 19 *Legal Education Review* 149, 166.

¹²² Lillian Corbin, 'Learning in Cyberspace: Succession Law Online' [2004] *Murdoch University Electronic Journal of Law* 9, [11]; Gaye Lansdell, 'Have we "Pushed the Boat out too far" in Providing Online Practical Legal Training? A Guide to Best Practices for Future Programs' (2009) 19 *Legal Education Review* 149, 166.

¹²³ Gaye Lansdell, 'Have we "Pushed the Boat out too far" in Providing Online Practical Legal Training? A Guide to Best Practices for Future Programs' (2009) 19 *Legal Education Review* 149, 167.

¹²⁴ For a discussion of practical and theoretical considerations relevant to the development of electronic course packages for use in legal education, see Collin Scott, 'Law Courseware: The Next Generation' 3 (1994) 2 *Law Technology Journal*, www.law.warwick.ac.uk/ltj/3-2b.html.

¹²⁵ Richard Johnstone, Sumitra Vignaendra and Commonwealth of Australia, *Learning Outcomes and Curriculum Development in Law*, A report commissioned by the Australian Universities Teaching Committee (AUTC), Higher Education Group Department of Education, Science and Training, January 2003, 207-10.

Law schools are uniquely positioned to bring legal knowledge into the digital age, particularly at a time when computer technology and the digital information explosion are creating difficulties in three distinct but related areas: the substantive legal problems of the clients for legal services, the management of law offices and delivery of legal services, and the education of new lawyers for the profession.

They stipulate that the concept of a knowledge centre includes the following components:¹²⁷

- A knowledge centre focuses on solving real problems in society.
- A knowledge centre evaluates knowledge effectiveness.
- A knowledge centre re-conceptualizes knowledge processes and structures.
- A knowledge centre disseminates and implements new knowledge.

Examples of information technology tools that may be helpful

There is a body of research literature that provides in-depth consideration of particular information technology initiatives. Seielstad provides detailed insight into her experience utilising Second Life, a virtual world, for the teaching of a law subject.¹²⁸ She notes the potential of virtual worlds as an innovative and cost-effective way of integrating professional training and skills development in legal education, particularly for developing the legal skills of mediation, dispute resolution and problem-solving skills and states:¹²⁹

Virtual worlds... facilitate collaboration, unbounded by conventional social constructs like geography, discipline, status and personal age and demographic characteristics... Universities and educators from across the world have ventured into virtual worlds, conducting research, offering virtual admissions tours and information, entrance exam preparation courses, lectures, discussions, simulations, review sessions, and engaging students in creative design projects, fieldwork, and other kinds of observational and applied studies... virtual worlds are emerging as fertile grounds for scholarly reflections.

Another innovative approach is to conduct electronic conferences exclusively by e-mail, which can overcome problems of geographical separation and synchronising time. Hardy discusses an electronic conference conducted between professors and participating attorneys exclusively by e-mail and notes that it was successful, as a result of its low cost, convenience and ability to remove many barriers to open discussion.¹³⁰ A similar experiment was conducted at Durham University, with e-mail tutorials replacing face-to-face tutorials. Widdison and Pritchard opine that it was an effective means of utilising technology, although they conclude that a composite model (comprised of a combination of e-mail and face-to-face tutorials) would have been more effective.¹³¹

In exploring the utility of information technology in clinical legal education, Negal notes the efficacy of multi-criteria decision-making software in developing analytical skills (such as

¹²⁶ Vern Walker, A Durwin, P Hwang, K Langlais and M Boyd, 'Law schools as knowledge centres in the digital age' (2012-2013) 88 *Chicago-Kent Law Review* 879, 897.

¹²⁷ Vern Walker, A Durwin, P Hwang, K Langlais and M Boyd, 'Law schools as knowledge centres in the digital age' (2012-2013) 88 *Chicago-Kent Law Review* 879, 880-2.

¹²⁸ Andrea Seielstad, 'Enhancing the Teaching of Lawyering Skills and Perspectives Through Virtual World Engagement' (2012) 7 *University of Massachusetts Law Review* 40.

¹²⁹ Andrea Seielstad, 'Enhancing the Teaching of Lawyering Skills and Perspectives Through Virtual World Engagement' (2012) 7 *University of Massachusetts Law Review* 40, 44, 55-56. See this article for an extensive discussion of the features, and the pros and cons, of virtual worlds.

¹³⁰ Trotter Hardy, 'Electronic Conference: The Report of an Experiment' (1993) 6 *Harvard Journal of Law and Technology* 213.

¹³¹ Robin Widdison and Francis Pritchard, 'An Experiment with Electronic Law Tutorials' 4 (1995) 1 *Law Technology Journal*, www.law.warwick.ac.uk/ljtj/4-lb.html.

case analysis, legal policy evaluation and advocacy) and also interactive skills (those involved in counselling, negotiation and mediation).¹³²

Case study

Training was provided both face-to-face and by webinar throughout the project.

A webinar covering the topic of client representation before the Mental Health Review Tribunal was attended by approximately 20 staff from CLCs and other agencies. The one-hour session provided an introduction to lawyers/advocates to assist clients to assert their rights before the Mental Health Review Tribunal (MHRT). QAI reported that the detached nature of webinars do not lend themselves to engagement of participants over longer stretches of time, however if training material is able to be broken into blocks then it may be appropriate for delivery in webinar format.

At the QAILS Conference, QAI presented a short face-to-face training session on the topic *Mental Health Review Tribunal Hearings* to an audience primarily consisting of CLC workers.

A 3-hour face-to-face training presentation was provided in Townsville, Mackay, Rockhampton and Cairns. The aim of the training was to improve outcomes for all parties involved in MHRT hearings, on the basis that knowledgeable advocates not only enable client views to be heard but support good process for MHRT panels. In QAI's experience, representation at hearings improves patient attendance and understanding of processes and communication with the treating team.

The face-to-face training covered:

- Human Rights in mental health
- Involuntary Treatment Order (ITO) Reviews
- Forensic Order Reviews
- Electroconvulsive Therapy (ECT) applications
- Complaints about psychiatric treatment
- Appearing before the MHRT and hearing process
- Appealing MHRT decisions.

The QAI lawyer who presented the training has over 3 years experience assisting clients subject to involuntary treatment. The lawyer used case studies and mock-ups of documentation such as clinical reports to help deliver the training.

The levels of attendance at the training are as below.

- Townsville 20 people
- Mackay 15 people
- Cairns 8 people.

¹³² Stuart S Nagel, 'Microcomputers as Decision Aids in Practice and Clinical Legal Education: The Poverty Law Perspective' (1988) 2 *Software Law Journal* 167.

The training was attended by representatives from CLCs, Aboriginal and Torres Strait Islander Legal Service (ATSILS), Queensland Health, Department of Public Prosecutions, Legal Aid Queensland and local disability and advocacy groups Independent Advocacy Townsville, Rights in Action (Cairns), Capricorn Citizen Advocacy (Rockhampton) and Mackay Advocacy.

Training participants completed a short survey capturing their understanding of mental health law before and after the training. The survey results offer some insights into the value of participation in training for attendants. Participants reported an increase in their level of knowledge of the Mental Health Act as a result of having participated in the training.

This is demonstrated in Figure 1.1.

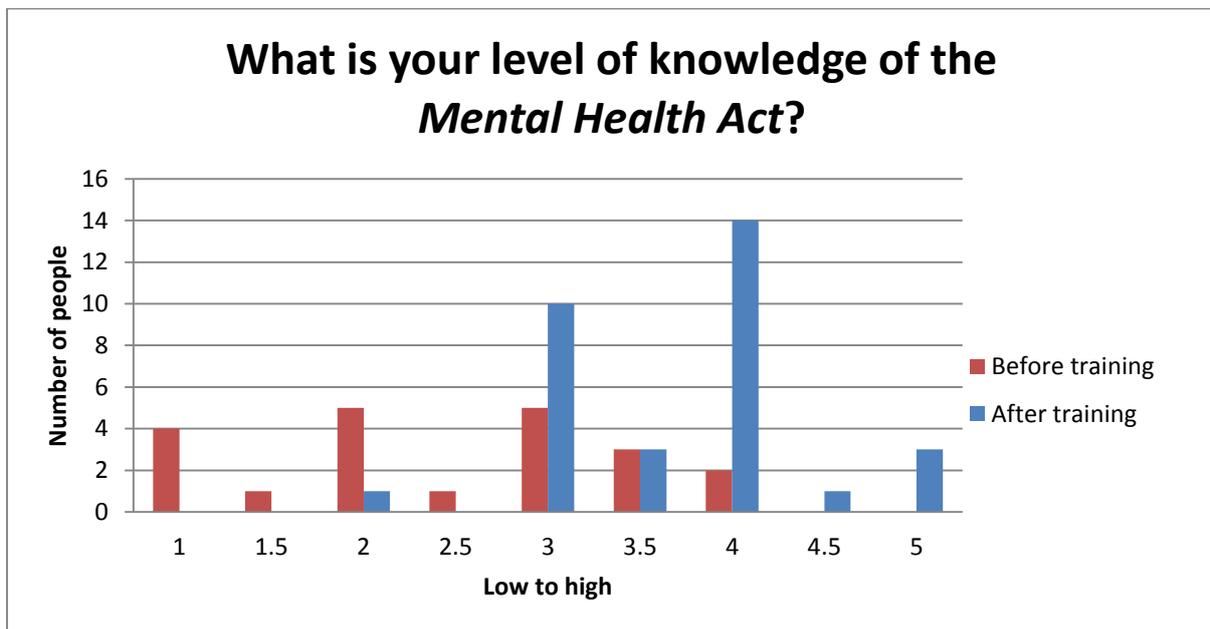


Figure 1.1

Participants were also surveyed on the likelihood of using the knowledge gained at the training upon their return to the workplace. The majority of participants indicated that it was highly likely they would use the training at work, represented in Figure 1.2



Figure 1.2

QAI noted several positive outcomes resulting from the opportunity to deliver training to participants in person.

The visit provided the chance for the QAI lawyer to meet staff at a range of agencies delivering mental health services, some of whom she had previously ‘met’ via videolink. One training participant reported having provided ITO representation for the first time thanks to the training (details below).

The questions and discussion following each training presentation also served as an information gathering exercise for QAI. The service now has a clear understanding of further training needs in the mental health arena – in this case how to best assist clients on involuntary treatment orders who have been changed with a criminal offence. Additionally, QAI has a better understanding of the systemic issues faced by particular regions and has offered their services to help address some of these problems.

Case example

Tony works as a solicitor at a regional legal service. He attended the mental health training because his role entails appearing in the Mental Health Review Tribunal on a regular basis, though he had previously only represented clients in relation to Forensic Orders.

After completing the QAI training Tony represented a client at an ITO review hearing for the first time. Tony said of the training:

“The training offered by Queensland Advocacy Incorporated was a great increase in my skills and understanding of how to better approach MHRT hearings and how to achieve realistic outcomes for clients. After the training, I assisted a young man in his first review of his ITO.

Thanks to the training, I had better questions to ask the client, more useful information for the tribunal to consider, and I made much better submissions to the Tribunal. The training delivered by QAI was invaluable in that I was much more capable of assisting the client to communicate the best information to the tribunal and the tribunal ultimately decided to revoke his order, despite the opposition from his treating team.”

Comment and recommendations

A combination of opportunities for centres to come together at a central point, for trainers to travel to regional and rural locations, and the use of webinars to ‘top up’ legal knowledge offer the greatest potential for spreading skills and relationship building across the state.

1. Adequately resourcing a Specialist Training Officer position.

It is essential that a specialist training officer be adequately resourced to enable the development and delivery of staff training. Due to the short-term nature of this project QAI reallocated an existing staff member to undertake the training preparation and delivery. The staff member continued to carry her usual case load in addition to the training work, with the demands of client service delivery presenting a challenge to the preparation of training. The QAI training was also delivered in one trip taking in Townsville, Mackay and Cairns. The logistics associated with delivering training in three consecutive unfamiliar locations limited the trainer’s capacity to field enquiries and promote the training to the broadest cohort possible of participants. Ideally, visits to regional locations would be spaced out.

Adequately funding a Specialist Training Officer position would enable the development of a training package in specialist legal issues that are both prevalent and relatively simple, for provision to new lawyers working in the sector. Adequate funding would need to take into account the time required to scope and plan training in varied locations.

The Specialist Training Officer would also have responsibility for coordinating training on the more complex or resource-intensive specialist legal issues to be delivered by specialist centres.

2. Use of specialist CLC trainers for complex areas of law.

Given the number of areas of specialisation offered by community legal centres it is not feasible for one training officer to knowledgeably present training across each of them. While a Specialist Training Officer would have responsibility for delivering content on core specialist issues, a need for training delivered by those practised in more complex areas of specialisation remains. Trainers with recent experience are best placed to answer questions and endow trainees with confidence in their own ability to undertake tasks. Practice wisdom in an area such as mental health law constitutes not only knowledge of the relevant laws and systems but also experience in working with clients with a mental illness. These skills are not easily substituted and are of value in presenting credible training, as demonstrated by participant's comments on what they most enjoyed about the training delivered by QAI:

"Relevant and practical. Presented by someone with a lot of knowledge and prepared to answer questions."

"Interactive talk. Audience able to relate practice examples to topics. Useful discussions around case scenarios."

3. Continuation of the QAILS webinar program.

The 2013 QAILS webinar series was very well received by the Queensland legal assistance sector with over 280 different lawyers, volunteers, social workers, admin staff and supporters attending. In an evaluation of the series conducted by QAILS over 90% of respondents either agreed or strongly agreed that 'the webinar technology was adequate and conducive to learning'.¹³³ Additionally, 93% of survey respondents thought that information was presented in a clear and logical manner. Comments such as the one below are characteristic of the feedback given:

"I think they [webinars] are great and should continue as they are an extremely useful tool. They are very helpful and technology makes it so easy to use that you don't waste time travelling to others places to attend a CPD [continuing professional development] session. Thanks so much for organising them!"¹³⁴

4. Establishment of a travel fund to cover centres' travel expenses to access training.

Training opportunities for centres can also be delivered through bringing all Centres to a central point, as occurs twice-yearly at the QAILS Conference and the QAILS Annual General Meeting. Training at these events tends to cover a wide range of topics in a short time, yet they are valued by staff for the opportunities afforded to meet in person.

In NSW, centres meet in Sydney four times each year for 'Quarterlies', covering two days of training, network meetings and sector business. In the context of a recent loss of funding for CLCNSW,¹³⁵ centres have identified maintaining these Quarterlies as a priority. Up until the reduction of funds, \$15,000 per annum was available for regional centres to access for training cost subsidies. This funding was made available through the Public Purpose Fund

¹³³ Queensland Association of Independent Legal Services *QAILS 2013 webinars evaluation*, unpublished, viewed 29 May 2014

¹³⁴ Queensland Association of Independent Legal Services *QAILS 2013 webinars evaluation*, unpublished, viewed 29 May 2014

¹³⁵ Community Legal Centres NSW Inc. (CLCNSW) is the peak body for CLCs in NSW.

(the NSW equivalent of LPITAF) and was available in addition to a \$19, 000 travel subsidy. The NSW rural, regional and remote (RRR) Network also coordinates an annual 'RRR Roadshow', aimed at resourcing RRR services – most recently through the delivery of training from a specialist aged-care service to RRR agencies in Lismore.

2. Mandatory participation in a unified forum

Background and research

It is proposed that all CLCs be required to participate in a unified forum. This option is drawn from Recommendation 5 of LPITAF Report:

5. All community organisations that receive LPITAF funding must commit to and demonstrate participation in the QLAF, RLAF, specialist LAF or other similar group. What constitutes 'participation' will be defined for each individual organisation in the context of which group is most relevant to their service and location and included in their service delivery agreement.

The LPITAF Report recommendation was developed to ensure that there was no duplication of services, but it is equally apposite in the context of ensuring equitable access to specialist services. This proposal is also consistent with a proposal of the Ontario Community Legal Clinics Provincial Strategic Plan to strengthen inter-clinic communication and improve the ability to identify, access and share information about best practices to improve service to clients.

Legal Assistance Forums

In Queensland, there are three categories of legal assistance forums (LAFs):

- Queensland Legal Assistance Forum (QLAF), which 'consider[s] opportunities for improved coordination and targeting of services between legal assistance service providers, as well as the linking of legal aid services with other service providers.....'¹³⁶
- Regional Legal Assistance Forum (RLAF), with 12 forums¹³⁷ across Queensland that aim to 'assist in reducing service duplication, engender partnering relationships between services and the forums also provide feedback to the Queensland Legal Assistance Forum on the needs of disadvantaged people.'¹³⁸ Importantly, there is no RLAF in Brisbane, and it is difficult for many state wide services to participate in all of the RLAFs in which they operate (ie all 12 forums).
- Specialist LAFs, including the:
 - Community Legal Education Assistance Forum (CLEAF) established in June 2011 to promote cooperation and collaboration between legal service providers who are delivering and initiating community legal education

¹³⁶ Queensland Legal Assistance Forum, Who participates in QLAF?, viewed 18 September 2012 <http://qlaf.org.au/>. QLAF membership is comprised of a representative from each of the following organisations: LAQ, BAQ, QLS, Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd (ATSILS), QAILS, QPILCH, Queensland Indigenous Family Violence Legal Service, Commonwealth AGD, and DJAG

¹³⁷ RLAFS have been established in all areas where Legal Aid Queensland has a regional office; Bundaberg, Caboolture, Cairns, Ipswich/Inala, Mackay, Maroochydore, Mount Isa, Rockhampton, Southport, Toowoomba, Townsville and Woodridge.

¹³⁸ <http://qlaf.org.au/regional-forums.php>

activities. The network also seeks to promote and share models of "good practice" in community legal education work.

- Information and Referral Legal Assistance Forum, established in 2013 to 'focus on how the sector can offer a collaborative and connected information and referral service for all Queenslanders, especially the most vulnerable and socially disadvantaged in our communities.'¹³⁹

In response to the LPITAF report, QAILS sought feedback from Brisbane-based community legal centres on their interest in participating in a Brisbane LAF, and interest was low. QAILS members generally sought to have QAILS participate in these meetings, and to share information through its existing mechanisms.

Some state wide services have been 'guest speakers' at RLA Forum meetings, as identified by the RLA Forum Learnings project undertaken by Legal Aid Queensland in 2013:

Many of the forums have invited guest speakers to attend meetings to talk about topics relevant and of interest to the forums. The purpose of the guest speakers has been two-fold:

- to ascertain the needs of the region from a different perspective
- to provide forum participants with a greater knowledge of other services within the region and to assist in developing networks with those services.

While one of the reasons for inviting guest speakers has been to enhance the forum participants' knowledge of other services in the region, this has been a reciprocal arrangement in that the guest speakers have also gained a greater awareness of what services the forum participants provide. This greater mutual understanding of what services can do will assist in developing improved client referrals between agencies, resulting in positive outcomes for targeted clients.

There has been a wide and diverse range of speakers, ranging from other organisations involved in the legal process, to local councils, multicultural agencies and government bodies.

A full list of guest speakers (at February 2013) is provided below:

Region	Guest Speaker organisations
Bundaberg	- QPILCH - Barambah Local Justice Initiative Group
Caboolture	- KYC (Kids, Youth Community) - LAQ Dispute Resolution Services - Family Relationships Centre - Caboolture District Law Association - Community Forensic Mental Health Service - South Pacific Youth Justice Inc
Cairns	- Family Responsibilities Commission
Ipswich/Inala	- Court Support Corrections Liaison Officer - Children of the Dreaming - Ipswich City Council - Local Magistrate - Ipswich Disability Interagency Network - Elorac Place Community Centre - A.C.C.E.S. Services
Mackay	- George Street Neighbourhood Centre - Ideal Placements - QPILCH - Queensland Aged & Disability Advocacy
Maroochydore	- Sunshine Coast Law Association - QPILCH - Office of Fair Trading
Mount Isa	- QPILCH - District Law Association - Domestic Violence Resource Centre - Qld Centre for Domestic Family Violence Research
Rockhampton	- QPILCH - Central Queensland Mental Health Service
Southport	- Gold Coast City Council - Northern Rivers Community Legal Centre - District Law Association - Police Prosecutions - Regional Coordinating Magistrate - Silver Bridle Action Group - Office of Fair Trading - Tenancy Advice & Advocacy Service
Toowoomba	- Officer in Charge, Charleville Police - Registrar, Charleville Court - Cunnamulla Community Justice Group - Roma Youth Justice Service - Disability Services QLD - Community Forensic Mental Health Service
Townsville	- Justice Mediation Program - Palm Island Community Company - Life is More Inc - QCAT - Seniors' Legal & Support Service
Woodridge	- Multilink - Logan Indigenous Community Justice Program - Probation and Parole - Beaucare - Office of Fair Trading

¹³⁹ <http://qlaf.org.au/specialist-forums.php>.

QAILS

Traditionally, QAILS has held two face-to-face meetings of its members each year, providing an opportunity for training and development, networking, collaborative service planning, and other benefits. QAILS also regularly updates its members on service delivery developments, funding issues, external opportunities. Mandatory attendance is required at two professional responsibility seminars each year as part of members' participation in the NACLC risk management scheme.

QAILS also engages with external organisations on behalf of its network, including entering into formal memoranda of understanding, participating in forums and committees, and liaising with governments.

In 2013-14, QAILS developed a Queensland Community Legal Services Plan (QCLSP) with support from the Commonwealth Attorney-General's Department, which identified over 80 actions over the next three years to better coordinate service delivery, improve referrals, increase professional development and training opportunities, and increase and improve the resources available for community legal centres. In June 2014, QAILS adopted a new strategic plan to more clearly identify its role in supporting, developing and leading community legal centres. The plan commits QAILS to:

- Support and develop community legal centres to provide effective, high quality services to their communities.
 - Support and develop the organisational capacity of community legal centres.
 - Support the professional standards of community legal centres, including accreditation and professional indemnity insurance aspects.
 - Encourage and support community legal centres to engage in innovative, collaborative practices to deliver effective, high-quality services.
 - Advocate for resources to address identified unmet legal need.
 - Facilitate information exchange across community legal centres and to QAILS.
 - Facilitate collaboration between community legal centres in the provision of services.
 - Support and develop community legal centres staff including volunteers.
 - Deliver and coordinate training.
 - Connect community legal centres staff to support each other's work through mentoring, networking, peer support and conferences.
 - Provide targeted information to members of the public so legal needs are responded to in a timely way.
 - Respond to enquiries about legal issues and provide appropriate referral advice.
- Lead to unite its members and be a leading voice for social justice.
 - Mature QAILS's role as a peak body for Queensland's community legal centres.
 - Increase knowledge within the wider community about QAILS, roles of community legal centres and issues faced by people they work with.
 - Establish and maintain effective and relevant relationships.
 - Identify and implement member inclusion initiatives.
 - Be a respected and leading voice for community legal centres and social justice.
 - Develop a framework to guide QAILS decision making and priorities in human rights and social justice advocacy.
 - Use the experience, knowledge and ideas of community legal centres and their clients to contribute to policy development and public discussions.

- Deliver clear and transparent governance and operational management.
 - Review and update policies and procedures to meet minimum standards consistent with member community legal centres.
 - Review the QAILS Management Committee governance model and structure including composition, representation and decision making aspects.

QAILS is currently reviewing and updating its membership policies, to ensure full participation by CLCs in its work and to better articulate the support, development and leadership work it undertakes on behalf of its members. Part of this is the establishment of a number of networks in specialist areas to better support workers in those areas, developed as part of the QCLSP.

Case study

QAI does not currently participate in any LAF, although a Disability LAF did exist in the past. Recent CLC sector planning has resulted in the establishment of several new networks based on areas of law, including one which will cover disability and mental health law. The twice-yearly QAILS network events will provide the only opportunities for network participants from around the state to meet face-to-face.

However, QAI does participate in QAILS activities, including delivering information at QAILS state conference and presenting webinars as part of this project (both discussed above in option 1).

Comment and recommendations

While participation in a LAF may be appropriate for many CLCs, it will not be appropriate for every organisation.

However, regional LAFs may invite some services (especially specialist state wide services) to attend as guest speakers. As recommended above in option 1, funding should be made available to allow state wide services to travel to regional areas and deliver training to regional services. Where possible, these should be scheduled to allow these CLCs to present to RLAFs.

For all centres, participation in QAILS activities should be required. Additional funding is required to support face-to-face meetings twice annually, which is the key (and most effective) opportunity to participate in a unified forum.

3. Development of a central Knowledge Management Database

Background and research

This report proposes that there are significant benefits to be obtained from the development of a single information and communications technology system for use by all Queensland CLCs. At present, the knowledge management and information technology systems of the 33 CLCs represented by QAILS are independent. There is limited sharing of resources and

precedents between CLCs. It is considered that there are substantive advantages of developing a centralised and collaborative model of knowledge and resource sharing. This resonates with the empirical findings of the Allens Report.¹⁴⁰

It is envisaged that this database will contain designated resources, including advice protocols, precedents, referral protocols and fact sheets developed on each of the core specialist legal topics, accessible by all Queensland CLCs. Access would be by a shared, password-protected resource repository. While there are presently a number of resources available to CLC lawyers, the resources are often dispersed, not universally available throughout all Queensland CLCs and in varying formats. There are significant benefits in developing resource documents in key areas of law in a consistent, unified format.

It is proposed that each specialist CLC be given responsibility for the development of detailed fact sheets and advice protocols on specialist areas of law that can be used as reference materials for generalist CLCs.

A centralised model is proposed (with the system managed centrally, by a body such as QAILS, rather than by various CLCs). The Allens Report notes:¹⁴¹

Centralised models for the management of information systems generally appear more efficient due to lowered administrative management (and costs) and decreased duplication. Having a single system through which knowledge is shared also promotes ease of access to resources. De-centralised models will allow for more tailored solutions for the needs of the individual organisations using the information system but are generally more expensive.

It is envisaged that a specialist officer would be appointed for this purpose. As the Allens Report recognises, management of such a system would require monitoring and up-dating resources, addressing any concerns relevant to the system provider and addressing any issues around confidentiality, privacy and client conflicts.¹⁴² It is further noted that, consistent with the Allens Report recommendations, QAILS could take advantage of the benefits of both centralised and de-centralised models by allowing for the centralisation of most functions, with some de-centralised management of specified areas by individual CLCs (for example, functions such as monitoring compliance with confidentiality and privacy obligations could be managed by the CLCs).¹⁴³

One consideration that arises when considering the development of a Knowledge Management Database is the issue of client confidentiality and privacy between CLCs. There is, for example, the potential for different CLCs to simultaneously represent opposing parties in the same matter. However, this issue could be managed by deleting any identifying information in documents entered into the database as precedents.

The proposed form of the Knowledge Management Database is a secure, web-based

¹⁴⁰ 41% of respondents to the Allens Report stated that a centralised database of legal information and/or precedents is desired: Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 35.

¹⁴¹ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 36.

¹⁴² Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 36.

¹⁴³ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 36.

intranet. The intranet could be designed in such a way as to allow all CLCs access to generic resources, with restricted access to certain documents as required.

The database should include details of all CLC staff and volunteers and a frequently-updated area of contacts for referrals.

In New South Wales, the NSW Legal Assistance Forum, which is a body established to assist in the delivery of pro bono legal services to disadvantaged people in New South Wales, assists in knowledge management and the coordination of responses to legislative changes across the relevant service providers. A recent review published by the New South Wales Government reported strong support for this initiative.¹⁴⁴

In Ontario, a clinic project entitled 'KnowledgeNow' is presently being developed to enhance knowledge-sharing between community law clinics. This project was born from recognition that a core challenge facing legal clinics is the dispersed nature of knowledge, which can often be duplicated, non-systematic and easily lost. The distinction between explicit or documented knowledge¹⁴⁵ and implicit or tacit knowledge¹⁴⁶ is made; it is recognised that it is the implicit knowledge that is often more valuable. The project plan entails addressing the deficiencies and developing a better knowledge-sharing system, by measures including promoting knowledge sharing, a proposal for e-collaboration space, clinic portal to knowledge-sharing sites, clinic manager's website, and development of another e-resource for clinics.¹⁴⁷ Responses by participants at a Legal Aid Ontario seminar pertaining to the expanded use of information technology records that participants ranked 'creation of a centralized, interactive website highest, equal in value to offering an online application process for legal aid'.¹⁴⁸ Legal Aid Ontario also operates LAO Law, which is a website established by the department of Legal Aid Ontario to provide specialist legal advisory support to lawyers representing legal aid clients, publishing general topic overviews across all areas of law as well as specific issue memoranda addressing discrete legal issues.¹⁴⁹

It is important to note the distinction between the development of knowledge management resources for use by CLC lawyers in providing advice (whether remotely or face-to-face) to clients and the dissemination of 'self-help' resources directly to members of the public. While the former is considered a vital time-saving, efficiency and quality-control measure, the latter should be regarded with caution. As noted at option 5, there is a significant body of literature that documents the fallibility of self-help resources for the more vulnerable, at risk members of the community. Thus, it is important that any measures incorporating the development of fact sheets or other resources of this nature for distribution directly to clients are not considered as a replacement for face-to-face advice.

The database should also contain details of CLC legal practitioners with expertise in each relevant area so that enquiries can be easily and appropriately directed.

¹⁴⁴ Attorney General and Justice of New South Wales, 'Review of the delivery of legal assistance services to the NSW community' (June 2012); Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013, 35.

¹⁴⁵ Knowledge that is articulated, written down, codified and stored, readily transmittable, eg books, manuals, documents and procedures.

¹⁴⁶ Knowledge that people carry in their minds, often difficult to access and transfer.

¹⁴⁷ Ontario Community Legal Clinics Provincial Strategic Plan, 2013-2017, <http://www.aclco.org/>, accessed 26 February 2014.

¹⁴⁸ Jeffrey Stutz and Lucille Narun, *Technology in Aid of Client Services* (Report for Legal Aid Ontario, 2008), 2-3.

¹⁴⁹ See Legal Aid Ontario, <http://www.legalaid.on.ca>, accessed 26 February 2014.

Case study

When surveyed, QAI training participants were supportive of the concept of more written resources being available to assist their service delivery. Survey responses reflected the kinds of documents that would assist, illustrated by the comments below:

“Factsheets, precedents, handbooks – regular training. Handbook would need to straight forward and easy to understand.”

“Factsheets. A handbook – simplistic, easy to understand and informative.”

As part of this project QAI developed a handbook for practitioners titled *Involuntary Treatment Order Reviews – a guide for advocates in relation to the review of ITOs before the Mental Health Review Tribunal in Queensland*. Adapted from a similar publication from Victoria, the Handbook outlines the processes for solicitors or advocates to follow for ITO Hearings, identifies useful contacts and links to web-based resources. It took approximately three weeks of work for QAI to write and sign off on the Handbook. Workers from generalist CLCs and advocacy services were enthusiastic about the usefulness of the resource, and advocacy organisations wanted to ensure they could have access, despite the Handbook being written for a legal audience. They commented:

“Where was that publication when I needed it two years ago!”

“The Guide is a useful and practical tool that would be of great assistance in training and supporting lawyers who are not familiar with the MHRT and its processes.”

QAI and training participants also discussed the value of a referral protocol, and most of the training participants viewed ‘warm’¹⁵⁰ referrals as preferable for mental health clients, discussed below in option 4.

Training participants also identified the usefulness of certain precedents, such as a letter outlining a complaint about a mental health treatment plan.

A challenge present in this model exists as a result of the changing nature of legislation. In May 2014, the Queensland Government released a discussion paper on the review of the *Mental Health Act (Qld) 2000*, foreshadowing a repeal of the existing Act in implementation of extensive changes. The Handbook will require updating when these changes have been completed.

Comment and recommendations

This model has the potential to provide a meaningful resource to CLC practitioners around the state. In time, a Knowledge Management Database could help lawyers to access knowledge developed by specialist programs run by generalist centres (such as disability discrimination and consumer law), making the spread of this knowledge far more accessible

¹⁵⁰ A warm referral involves a staff member from the referring agency contacting the referral point to arrange contact on behalf of the client, as opposed to the referring agency merely providing the client with a contact telephone number for the referral point.

across Queensland than it is at present.

This initiative would require one-year project funding to scope and establish the database (a person with expertise in law, particularly as regards knowledge management, and a person with the appropriate information technology skills would be required to fulfil this position). Development of a protocol outlining responsibility for signing off on material would need to be covered in this initial phase. There would also need to be a process for monitoring content so that currency can be maintained, which would need to be the responsibility of the central agency managing the database rather than the contributing centres.

Thought should be given to the demands on time that creating material for broad consumption would place on contributing centres. The process required by centres to produce material for the public is more onerous than that used to generate individual advices or information, where stricter controls can be exerted. Small grants to each relevant specialist CLC to enable the preparation and provision of detailed fact sheets would be needed. These grants could be packaged with funding for specialists to travel regionally to deliver training, capitalising on the investment in skills development in a given area of specialisation. A shortlist of areas of law with high demand and relatively simple processes would be useful starting points for a pilot project.

Different levels of access to the Knowledge Management Database should be considered, in order to make appropriate materials available to audiences outside the legal assistance sector who could utilise the document in servicing clients.

It is envisaged that, as this proposal is consistent with LPITAF Report recommendations, this funding may be obtainable. The development of Ontario's KnowledgeNow project, referred to above, is funded by a one-year grant from Legal Aid Ontario, overseen by a Project Manager hired to implement the project.

4. Establishment of multidisciplinary links between CLCs and other service providers

Background and research

There has recently been a heightened interest in the development of multidisciplinary services in the context of disadvantaged clients. In the private sector, the benefits of multidisciplinary partnerships (particularly between lawyers, accountants and financial advisers) has long been recognised, and has prompted reforms to restrictive practice requirements that preclude such collaborations.¹⁵¹ Scholars such as Castles have now begun to explore the potential for the adoption of multidisciplinary structures for disadvantaged persons.¹⁵² Trubek and Farnham strongly endorse this model, arguing that collaboration between professionals is 'the only way to practice law to help poor people'.¹⁵³

¹⁵¹ Margaret Castles, 'Possibilities for Multidisciplinary Collaboration in Clinical Practice: Practical Ethical Implications for Lawyers and Clients' (2008) 34 Monash University Law Review 116.

¹⁵² Margaret Castles, 'Possibilities for Multidisciplinary Collaboration in Clinical Practice: Practical Ethical Implications for Lawyers and Clients' (2008) 34 Monash University Law Review 116.

¹⁵³ David Trubek and Jennifer Farnham, 'Social Justice Collaboratives: Multidisciplinary Practices for People' (2000) 7 Clinical Law Review 227, 266.

Similarly, Tames and associates assert that a holistic approach to a client's medical, social and legal problems is a logical and necessary response to crises in poor families.¹⁵⁴

Norwood and Paterson also cite the benefits of holistic management of complex problems in preventing crises.¹⁵⁵

In the United States, the Medical-Legal Partnership movement has explored the potential of such collaborations to overcome barriers to accessible legal services for people experiencing health issues.¹⁵⁶ This movement has accelerated over the past 15 years and is reported to have resulted in significant health benefits associated with effective legal advocacy for clients.¹⁵⁷

Noone states:¹⁵⁸

The research demonstrates that a community for which a legal service is provided is not only the core reason for integrated service delivery but also an active influence of that service. An important ingredient, perhaps the essential ingredient, in the success of integrated legal service delivery is the manner in which community members connect, or do not connect, with a service. To achieve best possible outcomes in addressing multiple, complex and interconnected legal, health and social problems, community-based legal organisations require an understanding of the way their community interacts with services so that they can adapt and develop holistic services and supports which will engage the community.

In July 2013, Victoria's Loddon Campaspe CLC and Bendigo Community Health Services launched Australia's first Advocacy Health Alliance project. Through the project a lawyer works with health professionals to address unmet legal need.¹⁵⁹

As Castles notes, there are presently a number of existing rules of ethical and professional conduct that create significant barriers to truly multidisciplinary practice models.¹⁶⁰ She states:¹⁶¹

My own experience in operating legal advice clinics for refugees, the homeless and the disadvantaged, has reinforced the importance of MDPs for these clients, but has also underlined the acute tension between the perceived need for seamless holistic service delivery and the ethical imperatives that guide lawyers and other professionals in this context.

It is widely recognised among legal researchers that non-legal professionals play a role in directing people to legal services.¹⁶² This is made all the more important by the fact that low levels of knowledge of the existence of CLCs are present in the community with between

¹⁵⁴ Pamela Tames, Paul Tremblay, Thuy Wagner and Ellen Lawton, 'Lawyer Is In: Why Some Doctors are Prescribing Legal Remedies for their Patients and How the Legal Profession can Support This Effort' (2003) 12 Boston University Public Interest Law Journal 505, 505.

¹⁵⁵ Norwood, J Michael and Alan Paterson, 'Problem Solving in a Multidisciplinary Environment? Must Ethics Get in the Way of Holistic Service?' (2002) 9 Clinical Law Review 377, 358.

¹⁵⁶ Peter Noble, 'The Future of Community Legal Centres' (2012) 37 Alternative Law Journal 22, 25.

¹⁵⁷ Peter Noble, 'The Future of Community Legal Centres' (2012) 37 Alternative Law Journal 22, 25.

¹⁵⁸ Mary Anne Noone, 'Integrated Legal Services: Lessons from West Heidelberg CLS' (2012) 37 Alternative Law Journal 26, 30.

¹⁵⁹ *Advocacy Health Alliance* (2013). Retrieved from <http://lcclc.org.au/programs/advocacy-health-alliance/>

¹⁶⁰ Margaret Castles, 'Possibilities for Multidisciplinary Collaboration in Clinical Practice: Practical Ethical Implications for Lawyers and Clients' (2008) 34 Monash University Law Review 116.

¹⁶¹ Margaret Castles, 'Possibilities for Multidisciplinary Collaboration in Clinical Practice: Practical Ethical Implications for Lawyers and Clients' (2008) 34 Monash University Law Review 116, 118-9.

¹⁶² Coumarelos, Christine, et al, 'Legal Australia - Wide Survey: Legal Need in Queensland' (Research Report, No 9) (2012) Law and Justice of New South Wales, 210

one-third and two-fifths of the LAW Survey respondents being aware of CLCs.¹⁶³ It is worth noting that in addition to health and social service providers, police, insurance companies and trade unions are all commonly approached for assistance with legal problems.¹⁶⁴ Community legal centres are aware of this and multidisciplinary partnerships are well established in many services. In a 2011 survey 40% of CLCs cited examples of multidisciplinary partnerships which included outreach to youth and drug programs and working with Family Relationships Centres.¹⁶⁵ The same survey found that more than 85% of CLCs received some client referrals from health services.

However, non-legal professionals are not necessarily well equipped to direct clients towards legal services. Coumarelos writes of these non-legal professionals:¹⁶⁶

They often have limited knowledge of the law, have insufficient knowledge to make appropriate legal referrals, do not have up-to-date legal information, do not have the capacity to provide legal help in addition to their core functions, and do not have well-established links with legal professionals and services.

In the New Zealand context, the Bazley Report noted that anecdotally it seems CLCs already play a role in preventing problems by referring people to social services.

Case study

As a service which sees clients who are detained in mental health facilities as inpatients, for QAI it is essential to connect with non-legal service providers in order to enable clients to access the service. Inpatients at mental health facilities generally do not have direct access to telephones and must go through nursing staff in order to make phone calls, making communication with hospital staff essential in facilitating equitable client access to services.

The preliminary survey completed by QAI training participants sought details of where participants refer clients for assistance with problems covered by the Mental Health Act. Answers identified a range of services both within and outside the CLC sector. These included CLCs in Brisbane and locally, Indigenous community-controlled health services, private solicitors, Legal Aid, disability organisations and community mental health services.

QAI regularly visits mental health facilities in Brisbane to ensure staff have a current understanding of what they offer. During the regional tour, QAI visited several mental health facilities and provided a presentation outlining the range of services delivered and preferred referral process. Visits took place to the mental health units in Mackay and Cairns hospitals, the Charters Towers Rehabilitation Unit and to both the secure and acute mental health units at Townsville Hospital, as well as to the Townsville Community Care and Adolescent units.

The visits provided the opportunity to inform hospital staff of information critical to providing

¹⁶³ Coumarelos, Christine, et al, 'Legal Australia - Wide Survey: Legal Need in Queensland' (Research Report, No 9) (2012) Law and Justice of New South Wales, 202

¹⁶⁴ Pascoe Pleasence, Christine Coumarelos, Suzie Forrell and Hugh M. Macdonald *Reshaping legal assistance services: building on the evidence base*. (2014) Law and Justice Foundation of NSW, 18

¹⁶⁵ Noble, Peter 'Better Health Through Medico-Legal Partnership' (2012) Viewed 11 June 2014 http://advocacyhealthalliances.files.wordpress.com/2012/08/aha-report_general1.pdf, 18

¹⁶⁶ Coumarelos, Christine, et al, 'Legal Australia - Wide Survey: Legal Need in Queensland' (Research Report, No 9) (2012) Law and Justice of New South Wales, 210

good referrals to QAI, including: targeting of the service towards clients rather than family members or treating staff; the prioritisation of clients who are inpatients or subject to electroconvulsive therapy applications and a realistic picture of what a small CLC can offer clients. The visits were also thought to be beneficial in that they enabled hospital staff increase trust in QAI, alleviating fears that the involvement of lawyers may complicate the work of the health professionals.

Non-legal advocates play an important part in assisting clients with mental health legal problems and also regularly refer clients to QAI services, often where:

- Specialist or legal knowledge will be of benefit due to the complexity of the client's matter.
- The client has multiple needs and the advocacy service assists with, for example, housing, while QAI provides legal advice and representation.
- The client requires both specialist knowledge and in-person support from the advocacy service, in which case the advocacy organisation acts as the face-to-face contact for the client while QAI provides assistance by phone or videolink.

These agencies were supportive of using a more formalised referral process when it was raised in the QAI training, and identified the need for their services to be included in any referral protocol rolled out to CLCs. Discussion about the use of a formal referral protocol took place as part of the QAI training. In general, workers were positive towards the concept of a more defined process for referrals between CLCs, noting that the provision of more details about a client's situation are beneficial, as reflected by the comments below.

"I think warm referral process works well for CLCs. However if specialist services had a referral form it would guide other CLC workers in collecting useful info for the referral."

"Formal referral process is usually helpful. Treatment info helpful. Type of legal need helpful."

Staff at QAI are conscious that clients may be dissuaded from accessing treatment and support from a range of services because of the stigma attached to disability and mental illness. Multidisciplinary links can offer multiple pathways to the same service.

Other examples of this work being done in CLCs include the Prisoners Legal Service annual 'prisons tour' which brings staff of the service face-to-face with staff and clients in the institutions where services are provided. Queensland Public Interest Law Clearing House also deliver training on identifying legal need to case workers as part of both their Homeless Persons Legal Clinic and Mental Health Law Practice.

Comment and recommendations

There are many forms which multidisciplinary links can take and further exploration of which of these offer the most effective methods of assisting clients is warranted.

From within the options discussed here the following could be used to expand relationships

with other service providers:

1. Inclusion of a level of access for non-legal service providers to a Knowledge Management Database (see option 3).
2. Scoping the ways in which legal and community services could join together to facilitate access to central access point (option 5).
3. Funding CLCs to travel in order to deliver training and inviting varied agencies to attend (option 1).
4. Extending the practice of connecting clients to specialist services via technology, where the client has an existing relationship with a regional service provider who is able to offer ongoing face-to-face support (option 7).

QAILS is exploring other ways in which links with multidisciplinary services can expand, such as through consideration of a broader membership pool. In 2013, QAILS also targeted its annual conference to a wider audience, resulting in attendance by a number of complementary services.

5. Development of an independent 'central access point'

Background and research

One proposal for enhancing access to specialist legal services that has some precedent, both within other states of Australia and overseas, is the development of an independent central access point, which acts as the first point of contact for community legal centre clients. Such an access point, which could be in the form of a website and/or toll-free telephone number, can function as a filter for categorising those matters requiring specialist legal assistance and assessing whether such matters are able to be addressed within a generalist CLC or require referral to a specialist CLC. Literature from the United Kingdom proposes utilising data about justiciable problems to identify vulnerable groups requiring enhanced services and to develop diagnostic tools for advice providers. It is considered that this process would also enhance the services provided to existing client communities. In Ontario, the collection of a significant body of sophisticated data about how legal problems can cluster or cascade for poor clients in relation to particular legal areas has led to the development by many community law clinics of specialised diagnostic tools and coordinated services to meet the breadth and variety of problems faced by their clientele.¹⁶⁷

Key features proposed for inclusion in the access point are:

- Effective screening protocols, to identify those matters that require immediate transfer to a lawyer and if so, whether to a generalist or to an appropriate specialist, those matters for which Legal Aid funding may be available and those that do not fall within the ambit of community law services.
- Ensuring the service engages appropriately qualified and trained staff.¹⁶⁸

¹⁶⁷ Mary Jane Mossman, Karen Schucher and Claudia Schmeing, 'Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario' (2010) 29 *Windsor Review of Legal and Social Issues* 149, 187-8.

¹⁶⁸ It has been noted that recruiting the 'right' people and providing them with the requisite training and development is one of the keys to LawAccess NSW's success: Julianne Evans, 'LawAccess NSW and its legacy', paper submitted to the ILAG Conference (The Hague, June 12-14 2003), 2.

- Ensuring staff of the service are supported by access to a Knowledge Management Database, which includes appropriate information to enable effective referrals to be made (this is discussed as a separate proposal, above).¹⁶⁹
- Implementation of follow-up procedures, such as written correspondence or telephone calls.¹⁷⁰
- Distribution of fact sheets, forms and other relevant materials, where appropriate.
- Effective advertisement and promotion of the service.¹⁷¹

In both New Zealand and Ontario, a proposal for designating the relevant Legal Aid Organisation as the 'lead agency' and endowing it with responsibility for coordinating all access to legal information for the public has been discussed in the literature. In the Canadian context, the Trebilcock Report proposes designating Legal Aid Ontario as the lead agency with responsibility not only for the provision of legal services but also for the coordination and integration of social and legal services.¹⁷² It is suggested that Legal Aid Ontario could coordinate the dissemination of information about legal rights and processes directly to the public, and also act as the point of referral where further assistance is warranted.¹⁷³

In New Zealand, the Bazley Report proposed the development of a service delivery mechanism, such as a single web- or telephone-based service provided on a national basis.¹⁷⁴ The Bazley Report also notes: '[s]trengthening some of the services at the early end of the continuum could benefit a wider group of people than the current population eligible for legal aid, in a cost effective way.'¹⁷⁵

There are a number of resources in currently in existence which could feed into a central access point including:

- The *Legal Information* page of the Queensland Legal Assistance Forum website which hosts links to legal self-help material from a range of CLCs and Legal Aid.
- The Legal Aid Queensland website which provides legal information on a range of areas that align with Legal Aid areas of practice.
- The QAILS website, which holds a listing for each member community legal centre.

¹⁶⁹ Note that the failure to support staff with appropriate access to resources was identified as a key failing of the now defunct Western Queensland Justice Network's Family Law Hotline and Regional Law Hotline: Cate Banks et al, 'Australian innovations in Legal Aid Services: Balancing cost and client needs', Socio-Legal Research School, Griffith University, 226.

¹⁷⁰ Jessica Pearson and Lanae Davis, 'The Hotline Outcomes Assessment Study Final Report – Phase III: Full-Scale Telephone Survey' (2002) Center for Policy Research, ii.

¹⁷¹ Cate Banks et al, 'Australian innovations in Legal Aid Services: Balancing cost and client needs', Socio-Legal Research School, Griffith University, 223.

¹⁷² Mary Jane Mossman, Karen Schucher and Claudia Schmeing, 'Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario' (2010) 29 *Windsor Review of Legal and Social Issues* 149, 169.

¹⁷³ Mary Jane Mossman, Karen Schucher and Claudia Schmeing, 'Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario' (2010) 29 *Windsor Review of Legal and Social Issues* 149, 181.

¹⁷⁴ Margaret Bazley, *Transforming the Legal Aid System – Final Report and Recommendations*, Ministry of Justice, New Zealand, 2009 (Bazley Report), [268].

¹⁷⁵ Margaret Bazley, *Transforming the Legal Aid System – Final Report and Recommendations*, Ministry of Justice, New Zealand, 2009 (Bazley Report), [236].

'Self-help' legal materials

In Australia, empirical research informs us that what people need most often is legal advice, education and information about how they can respond to common, everyday civil and family law problems.¹⁷⁶ Regan states that her research establishes:¹⁷⁷

[T]he profound need for knowledge and advice about obligations, rights, remedies, and procedures for resolving justiciable problems. This is a need that exists to varying degrees across all social, educational, and cultural boundaries and for all types of justiciable problem(s).

Community legal education is an important function of the work of CLCs, with informing members of their legal rights and empowering people to deal with their legal problems important facets of the work of CLCs.¹⁷⁸ Legal Aid Queensland also provides a number of self-help legal resources, including publications that can be downloaded from the internet or requested and obtained in hardcopy, which assists those without the financial means to access legal advice to assert and defend their legal rights. However, the efficacy of self-help legal measures varies considerably depending upon the client. In the context of CLCs, it is important to emphasise the vulnerability and disempowerment of many of the clients.

In the United Kingdom, the Legal Services Commission invests considerable energy and resources in the provision of legal information to the general public, with a correlated emphasis on individual responsibility for acting on this advice to overcome 'social exclusion'.¹⁷⁹ This latter feature is problematic insofar as it covers the most vulnerable and disadvantaged members of any society, who generally lack the resources and ability to seek the assistance they require. As Levitas argues, there is some evidence that structural inequalities within society may preclude the success of individuals' efforts to overcome 'social exclusion' and accordingly, the provision of legal information, particularly when the provision of this information relies on technology, may offer little assistance to the poorest and most vulnerable individuals in overcoming systemic barriers.¹⁸⁰ This is a compelling argument, as is the associated point that proactive assistance may be required for such clients. This creates the necessity to distinguish between different groups of potential clients (both individuals and communities) and recognise those which have the skills and ability to render them likely to benefit from generic legal information (made available through formats such as telephone advice, websites, fact sheets, etc), and those that require more sustained and interactive advice and assistance.

In Australia, initiatives to develop self-help legal materials that can be helpful in a community law context commenced in 1977 with the first issue of the *Law Handbook* published by the Fitzroy Legal Service in Victoria.¹⁸¹ In recent years, there has been a significant growth in the

¹⁷⁶ Francis Regan, 'Does Recent Empirical Research Shed New Light on Australia's Legal Aid Scheme?' (2003) 52 *University of New Brunswick Law Journal* 123, 123.

¹⁷⁷ Francis Regan, 'Does Recent Empirical Research Shed New Light on Australia's Legal Aid Scheme?' (2003) 52 *University of New Brunswick Law Journal* 123, 127.

¹⁷⁸ Sam Biondo and Chris Field, 'Back to the Future: 25 Years of the Fitzroy Legal Service' (1997) 22 *Alternative Law Journal* 282, 285.

¹⁷⁹ Mary Jane Mossman, Karen Schucher and Claudia Schmeing, 'Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario' (2010) 29 *Windsor Review of Legal and Social Issues* 149, 181.

¹⁸⁰ Mary Jane Mossman, Karen Schucher and Claudia Schmeing, 'Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario' (2010) 29 *Windsor Review of Legal and Social Issues* 149, 181.

¹⁸¹ Robin Inglis and Marlena Pitrone, 'It's Your Bloomin' Law: The Law Handbook Sets Down New Roots' 17 (2009) 3 *Australian Law Librarian* 173, 173. The *Law Handbook* is now a comprehensive guide to the law in Victoria and includes a website covering over 70 areas of the law: see www.lawhandbook.org.au.

availability of self-help legal materials and resources.¹⁸² However, as Giddings and associates warn:¹⁸³

Too much emphasis is being placed on the capacity of consumers to help themselves without really knowing that they are able to do so. Far more information is needed about who is best able to benefit from these services, and under what circumstances.

Giddings and associates also note the significant variety in the types of materials provided under the spectrum of self-help legal materials.¹⁸⁴

[W]e prefer the view that legal information supply on its own is better not regarded as a legal self-help service. In our view, legal self-help involves a consumer engaging in a transaction that is directed towards a particular legal outcome. A self-help service is one that facilitates such a transaction: it is directed towards assisting the legal consumer to complete defined legal tasks. The mere supply of general legal information, in the abstract, is in most circumstances unlikely to achieve such an outcome. In other words, general legal information is of limited utility in dealing with specific and pressing legal problems faced by needy consumers. By contrast, the supply of specific and timely legal advice or 'coaching' does, as we suggest below, potentially play an important if not crucial role in facilitating legal self-help.

Lawler and associates conducted four in-depth case studies, as part of a three year qualitative research study, as a means of studying the opportunities and limitations associated with the provision of self-help legal resources to citizens in need in Queensland.¹⁸⁵ They found that the objectives of providers and the needs of consumers of such resources do not necessarily align, with key factors influencing the utility of the resource the nature of the legal work, the context in which it is attempted and the abilities of the individuals involved.¹⁸⁶ Importantly, Lawler and associates warn:¹⁸⁷

[S]ervice providers may unwittingly and, despite their very best intentions, be acting as gatekeepers to the legal system, ensuring that only those self-helpers with sufficient legal knowledge and legal skill are permitted entry and are able to navigate that system successfully.

They conclude that careful evaluation of the reasons why, and methods by which, self-help resources are developed and delivered is imperative.¹⁸⁸

Many clients of CLCs, particularly those who are illiterate, have language difficulties, are disabled or from another disadvantaged group, or are experiencing a multitude of problems simultaneously, are ill-equipped to effectively utilise self-help resources.¹⁸⁹ This is particularly

¹⁸² Jeff Giddings, and Michael Robertson, "Law People, For God's Sake! Surely I should be Dealing with Lawyers?": Towards an Assessment of Self-help Legal Services in Australia' 11 (2002) 2 *Griffith Law Review* 436, 436.

¹⁸³ Jeff Giddings and Michael Robertson, "Law People, For God's Sake! Surely I should be Dealing with Lawyers?": Towards an Assessment of Self-help Legal Services in Australia' 11 (2002) 2 *Griffith Law Review* 436, 437.

¹⁸⁴ Jeff Giddings and Michael Robertson, "Law People, For God's Sake! Surely I should be Dealing with Lawyers?": Towards an Assessment of Self-help Legal Services in Australia' 11 (2002) 2 *Griffith Law Review* 436, 443-4.

¹⁸⁵ Merran Lawler, Jeff Giddings and Michael Robertson, 'Opportunities and Limitations in the Provision of Self-help Legal Resources to Citizens in Need' (2012) 30 *Windsor Yearbook of Access to Justice* 185.

¹⁸⁶ Merran Lawler, Jeff Giddings and Michael Robertson, 'Opportunities and Limitations in the Provision of Self-help Legal Resources to Citizens in Need' (2012) 30 *Windsor Yearbook of Access to Justice* 185, 186, 226.

¹⁸⁷ Merran Lawler, Jeff Giddings and Michael Robertson, 'Opportunities and Limitations in the Provision of Self-help Legal Resources to Citizens in Need' (2012) 30 *Windsor Yearbook of Access to Justice* 185, 186.

¹⁸⁸ Merran Lawler, Jeff Giddings and Michael Robertson, 'Opportunities and Limitations in the Provision of Self-help Legal Resources to Citizens in Need' (2012) 30 *Windsor Yearbook of Access to Justice* 185, 226.

¹⁸⁹ Hazel Genn, *Paths to Justice: What People Do and Think About Going to Law* (Hart Publishing, 1999); Jeff Giddings and Michael Robertson, "Law People, For God's Sake! Surely I should be Dealing with Lawyers?": Towards an Assessment of Self-help Legal Services in Australia' 11 (2002) 2 *Griffith Law Review* 436, 452.

so when utilisation of the resources requires access to, or skills in using, information technology that may be unavailable to those requiring assistance.¹⁹⁰

As Mossman and associates aptly conclude:¹⁹¹

[T]he ability to utilize telephone or computer hotlines may differ for individuals seeking information or advice about legal problems... advice will often be more helpful to those who are less vulnerable individuals or groups, by contrast with those who have problems with literacy, language, mental or ill health, or cultural or geographic isolation. To repeat Lynn Mather's critique, self-help is not a panacea: "for some people and some problems, self-help suggests abandonment, not empowerment."

Furthermore, Mossman and associates warn that care must be taken to ensure that the development of any centralised body for legal advice and referrals does not divert scarce resources from individuals and communities who are the most vulnerable and disadvantaged.¹⁹²

In the Queensland context, the most appropriate lesson to be learnt from this body of literature is of the need to ensure that any service initiatives target the most vulnerable members of society. The development of a central access point for the provision of information and referral is proposed, provided that safeguards are put in place to ensure that the more vulnerable and disempowered clients are proactively engaged and provided with the face-to-face advice and assistance they require from the appropriate legal service. As discussed above, in the context of the proposed development of a Knowledge Management Database, the development of legal resources for use between generalist and specialist CLCs is considered to be a better use of resources than the development of fact sheets and self-help legal resources for dissemination directly to the public.

Examples of similar services to the proposed central access point

In New South Wales, the State Government operates LawAccess NSW, which is a free government telephone service providing legal information, referrals and, in some cases, advice for people who have a legal problem in NSW. The service explicitly states that it is a starting point, rather than a comprehensive solution, to the legal problems faced by its residents.¹⁹³

A significant body of advice is provided in the form of Fact Sheets, which are expressed in plain English and easily accessible through the LawAccess Website, by selecting topics from an increasingly detailed list of subject areas. The website also offers step-by-step guides to running a case, instructions for filling out court forms, checklists and frequently asked questions and information on alternatives to court.

¹⁹⁰ Jeff Giddings and Barbara Hook, 'The Tyranny of Distance: Clinical Legal Education in "The Bush"' (2002) *International Journal of Clinic Legal Education* 64, 79-80.

¹⁹¹ Mary Jane Mossman, Karen Schucher and Claudia Schmeing, 'Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario' (2010) 29 *Windsor Review of Legal and Social Issues* 149, 181-7.

¹⁹² Mary Jane Mossman, Karen Schucher and Claudia Schmeing, 'Comparing and Understanding Legal Aid Priorities: A Paper Prepared for Legal Aid Ontario' (2010) 29 *Windsor Review of Legal and Social Issues* 149, 187.

¹⁹³ See www.lawaccess.nsw.gov.au.

A toll-free telephone line is also operated during normal business hours and includes interpreter and relay services for those requiring it. The phone line offers the following services:

- The provision of legal information
- The provision of legal advice by lawyers
- Acting as a point of contact to request provision of information, such as fact sheets, forms and publications
- Referrals for legal advice (including to community legal services, Legal Aid or a private solicitor), and
- Specialist legal advice for Aboriginal or Torres Strait Islander persons.

LawAccess seeks to assist specific target groups of clients, with recognised vulnerabilities, by offering a translating and interpreting service, access to an Aboriginal customer service officer and access to the National Relay Service. Priority is given to disadvantaged clients in allocating the legal advice services available within LawAccess. It also provides direct referrals, whereby the client is transferred directly to a referral service during the call.¹⁹⁴

Another similar model is Family LawLINE, a telephone service operated by British Columbia's Legal Services Society, which is limited to giving 'brief next step' advice in the family law jurisdiction.¹⁹⁵ This service includes a 'screening process', whereby appropriate matters are referred directly to a lawyer.¹⁹⁶

The establishment and maintenance of a lead agency would require significant investment by the Queensland Government.

The quality of the service provided by LawAccess now is the result of significant time, work and resources that were dedicated to establishment and further development. This should not be underestimated. In terms of ongoing resources, in 2011-2012 LawAccess' total funding was approximately \$5,739,851 and it had 60.4 full time equivalent staff, including a large pool of casual staff.¹⁹⁷

Law Access also maintains a referrals database that requires ongoing resources to ensure that it is up-to-date and appropriate. Its single search engine LawAccess Online only has content that has been reviewed by LawAccess NSW. Only with this level of commitment and resources can a legal information website and a legal information and advice service be effective.

There are also people for whom telephone or website information services are not accessible or appropriate.¹⁹⁸ Importantly, not all people have access to a telephone, or

¹⁹⁴ Julianne Evans, 'LawAccess NSW and its legacy', paper submitted to the ILAG Conference (The Hague, June 12-14 2003), 1.

¹⁹⁵ See http://www.lss.bc.ca/legal/legal_aid/FamilyLawLINE.php.

¹⁹⁶ Focus Consultants, 'An Evaluation of Family Legal Services of the Legal Services Society: Final Report for Legal Services Society' (May 2012) *Legal Services Society* 21.

¹⁹⁷ NSW Department of Attorney General and Justice, 'Review of the delivery of legal assistance services to the NSW community', June 2012, http://www.lpcldr.lawlink.nsw.gov.au/agdbasev7wr/lpcldr/documents/pdf/delivery_of_legal_assistance_services_report_final.pdf, 19.

¹⁹⁸ National Association of Community Legal Centres, Submission to Productivity Commission Access to Justice Arrangements, May 2014 http://www.pc.gov.au/__data/assets/pdf_file/0003/137532/subdr268-access-justice.pdf, 164

telephone credit, or to the Internet. In the case of Law Access, not all languages and dialects are available through the telephone services. In some instances, people are likely to continue to directly contact legal assistance providers because they are known and trusted in the community.

Another factor contributing to Law Access's effectiveness is that it is a joint initiative of, and maintains its connection with, government, Legal Aid NSW, the private profession bodies and the NSW state CLC association. It also works to connect with and raise its profile in the community, including for example by regularly visiting and delivering presentations to government and community service providers and participating in events such as festivals, conferences and expos. Its board includes representatives from state government, Legal Aid NSW, the Law Society, the Bar Association and the state CLCs association. A number of CLC lawyers are involved in training Law Access workers. In turn Law Access delivers information sessions and educates other providers about its services. There are many reasons why these connections are important but ensuring well-informed and effective referrals is one of them.

Case study

Given the breadth of the 'central access point' concept it falls beyond the ambit of this project to test. However, QAI sought feedback on and holds existing practice knowledge about the efficacy of self-help material.

QAI's experience reflects the concerns outlined above on the limited utility of self-help materials for vulnerable clients. Clients who are experiencing a mental illness may find the organisational skills required to access and make use of legal self-help material beyond their capacity.

Literacy presents another challenge to the useful provision of self-help material. Many of QAI's Aboriginal and Torres Strait Islander clients do not speak English as a first language and do not have high levels of comprehension of written English. Participants in QAI's training appear to have similar experiences, with one stressing the need for less written information, and another stating:

"Most of my clients can't read so factsheets don't work."

Several training participants identified the need for information to be presented in video form and The Mental Health Review Tribunal currently publishes 3 DVDs about its processes. DVDs are advantageous in their portability and audio-visual format, yet are also a relatively expensive manner of providing legal information in an environment where changes occur frequently.

Comment and recommendations

The development of a central access point would be a significant undertaking and assessing the costs involved for such a project is worth pursuing.

As discussed above, the limitations of technology for vulnerable clients are real, and the investment in a suite of resources that require clients to identify their own legal needs, have access to telephones and computers, and read and write in English risks further marginalising these individuals.

Strategies which would assist a central access point to be as broadly accessible as possible include:

- The appointment of a network of regionally based community resource officers tasked with linking the central access point to both legal and community based agencies within a geographic area. These officers could be accommodated within existing CLC infrastructure.
- The employment of specialist access officers for identified groups of target clients. These officers would be charged with networking and outreach to relevant organisations to facilitate referral of clients to the service.

Both of these roles could cover relationship building with police and health providers in order to enhance pathways into the service.

Given that some non-legal services provide similar assistance to clients as legal services (such as advocacy before the MHRT) it would be necessary to determine the sorts of matters best suited to a lay or legal advocate so that they can be appropriately referred.

Use of a cross-agency governance model with contribution by government, Legal Aid, CLCs and the private profession is recommended.

6. Development of toll-free telephone advice services for all specialist CLCs

Background and research

As documented by the empirical research in the Allens Report,¹⁹⁹ a majority of CLCs in Queensland already have telephone and internet services available to clients. QAILS surveyed 29 community legal centres in late 2013, and responses indicate that all existing specialist services currently provide services by telephone, represented below in Figure 1.3.²⁰⁰ However, the coverage is not comprehensive and the scope of services offered significantly varies, with some centres only providing advice by phone as a last resort.

¹⁹⁹ Allens Linklaters, *Literature Review: The Use of Technology by Community Legal Centres*, Report to the Queensland Association of Independent Legal Services, 14 October 2013.

²⁰⁰ Queensland Association of Independent Legal Services QAILS 2013 webinars evaluation, unpublished, viewed 29 May 2014

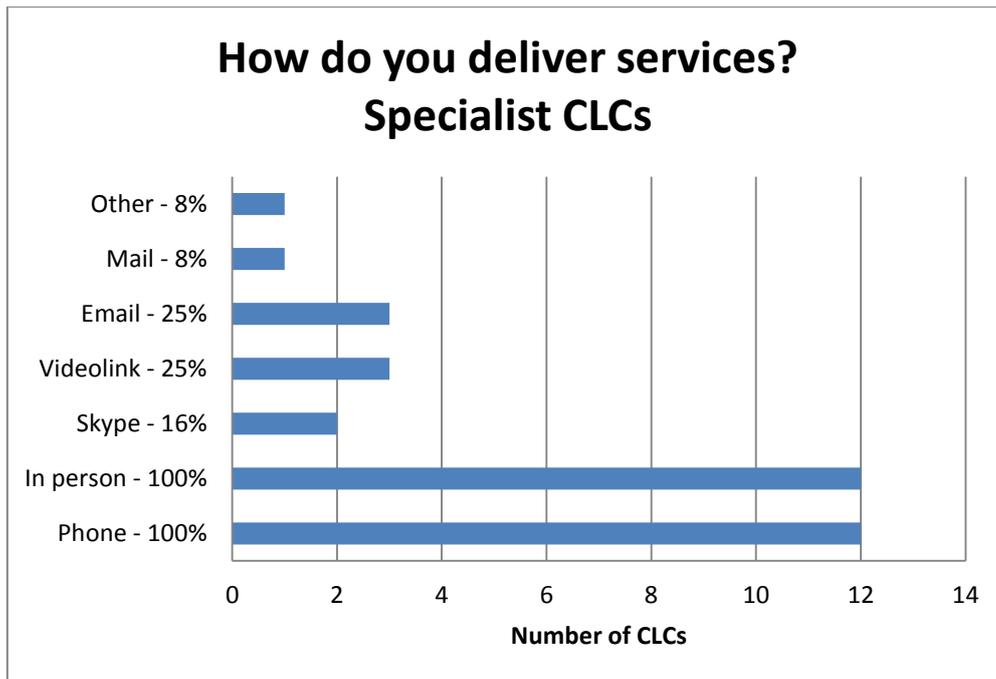


Figure 1.3

As discussed above, New South Wales' LawAccess service has been considered to be a highly effective and positive resource for that state. The Bazley Report (in the New Zealand context) recommends the establishment of a single phone or web-based service that would be available across New Zealand.

In order to be accessible thought must be given to the promotion of the telephone services. Low levels of recognition of CLCs in Queensland – just 32.5 per cent of people recognised a CLC name when it was provided to them in a 2012 report²⁰¹ – suggest that a significant proportion of people for whom a service may be relevant will not be aware of its existence.

Case study

Provision of advice and casework by telephone is common practice for QAI given that a large number of clients are inpatients. For the majority of clients this is an effective means of service delivery. However, consistent with the research, in certain circumstances QAI deems telephone advice inappropriate, and travels to the client. These include when:

- Clients require interpreting services
- A client's illness or medication is affecting their ability to process information, impacting upon normal conversational flow and limiting the lawyers chance to check that information is being correctly interpreted
- There is a particular need to build trust with the client
- Where the details of a matter or advice required are particularly complex.

²⁰¹ Coumarelos, Christine, et al, 'Legal Australia - Wide Survey: Legal Need in Queensland' (Research Report, No 9) (2012) Law and Justice of New South Wales,, 202

Conversations with clients at mental health facilities also indicate that some clients have a preference for communicating face-to-face and may not take up a service if it is not available this way.

Service promotion is necessary to ensure that clients and staff at other agencies are aware of QAI services. In addition to the contact made with service providers on the regional tour, QAI has in the past taken up the opportunity to visit regional services, such as when travelling to Cairns for the NACLIC Conference. Service promotion through posting brochures to CLCs and advocacy groups has also occurred.

Comment and recommendations

This recommendation is consistent with the LPITAF Report recommendation to build upon existing, cost-effective initiatives. Most specialists already deliver advice by telephone and analysis should take place on a case-by-case basis as to whether it is appropriate for individual centres to invest more in delivering services by phone. Some specialist centres are likely to identify that telephone is inappropriate as a medium for increased service delivery based on who their client group is and an investment in phone facilities and promotion of a telephone based service would not translate into greater accessibility for those services. Other specialists may benefit from more a formalised telephone service delivery system.

Delivery of advice over the phone would require the reallocation of staff away from delivering face-to-face advice or completing community legal education if no additional funding for staffing was provided.

It is recognised that this proposal would require funding, both to initially establish the technology in those CLCs that presently lack appropriate facilities and to maintain the services, advertise the services and cover the usage charges. Funding for this service is consistent with LPITAF's envisaged expenditure in this area.

7. Co-delivery of specialist services using telephone and/or video-conferencing

Background and research

It is recognised that there are significant geographical factors that presently hinder the provision of specialist legal advice. In many cases, specialist advice will be unable to be provided either in the form of face-to-face advice by the specialist centre directly to the relevant client, or by a generalist CLC to the client (even with the assistance of the specialist resources, including the proposed Knowledge Management Database). To facilitate the provision of specialist legal advice to those that may otherwise fall through these cracks, it is an option for each specialist CLC in Queensland to maintain a telephone and/or video-conferencing service, which is operated in partnership with generalist CLCs. In this way, clients could attend the geographically closest generalist CLC and be put in contact with a specialist legal adviser. The information technology infrastructure of the generalist CLC would be available, thus overcoming difficulties for those clients without access, or

appropriate skills to utilise, the technology. The presence (either participating in the conference in the most complex or sensitive of cases, or as a background presence) of staff of the generalist CLC would also ensure that a referral that may otherwise not successfully transmit is effectively referred.

The literature acknowledges that most individuals do not have access to video conferencing facilities, and therefore 'hub and spoke' models have been developed, whereby the video conferencing system is useful to connect the office at which a client attends with another office where the lawyer or service provider is located.²⁰²

This proposal acknowledges that for many clients, due to the type of problem, their vulnerability or the number different issues simultaneously affecting them,²⁰³ it may be preferable that they are assisted directly by a specialist CLC.²⁰⁴

The Department of Justice and Attorney-General noted that the most cost effective way of allocating funding for the delivery of legal assistance services is to build on existing service structure where possible and only fund the establishment of separate new services if necessary. Correspondingly, Legal Aid Queensland identified that smaller services can struggle to remain viable,²⁰⁵ which is consistent with NACLC funding principles suggesting a minimum base funding level (based on 5 full time equivalent workers) is required for CLCs (generalist and specialist) to meet NACLC's proposed Strategic Service Delivery Model and operate efficiently, effectively and safely.²⁰⁶

Thus, this proposal is considered an appropriate alternative to attempting to duplicate specialist services at pressure-points or gaps throughout Queensland and is consistent with the LPITAF Report recommendations.

This proposal is consistent with core recommendation of the Ontario Community Legal Clinics Provincial Strategic Plan 2013-2017, to:

- Explore new and emerging technologies that will complement but not replace local delivery of poverty law services, help to address the barrier of distance, and enable information and tools to be shared among clinics,^[5] and
- Reinforce and expand the role of specialty clinics and provincial clinic networks working in partnership with local clinics and other networks to coordinate and prioritize test cases and systemic work.^[6]

²⁰² Suzie Forell et al, 'Legal assistance by video conferencing: what is known?' (November 2011) Law and the Justice Foundation of New South Wales, 10

²⁰³ Examples of groups include children, victims of domestic violence and indigenous persons.

²⁰⁴ Ustina Dolgopol, 'Justice for Children: The Obligations of Society, Lawyers and Law Schools' (1997) 1 Flinders Journal of Law Reform 297, 302.

²⁰⁵ Department of Justice and Attorney General, Queensland Government, Review of the Allocation of Funds from the Legal Practitioner Interest on Trust Accounts Fund, December 2012 (LPITAF Report).

²⁰⁶ National Association of Community Legal Centres, *NACLC Principles for Commonwealth Community Legal Services Program (CCLSP) Funding 2013- 2016* (November 2013).

^[5] Ontario Community Legal Clinics Provincial Strategic Plan, 2013-2017, <http://www.aclco.org/>, accessed 26 February 2014, 4.

^[6] Ontario Community Legal Clinics Provincial Strategic Plan, 2013-2017, <http://www.aclco.org/>, accessed 26 February 2014, 5.

Case study

QAI provides legal advice via phone or videolink to other services using the model outlined above in conjunction with advocacy organisations.

A number of characteristics exist in this arrangement with non-legal advocacy services which enable its success:

- The advocacy service acts as a gateway to QAI, providing the referral and arranging the legal advice appointment.
- The client has an existing rapport with the advocacy service, encouraging trust in the legal service.
- The advocacy organisation staff member sits in on the advice and is able to ask for clarification where they observe that the client requires further information.
- The advocacy staff member is able to assist the client to follow through on the advice given, with the benefit of having heard the advice themselves.

From the perspective of each service the client is considered 'their client' and counted for reporting purposes. This system benefits clients, who are able to access specialist legal knowledge in the context of receiving broader ongoing face-to-face support. An additional benefit is the increase in the advocacy service's knowledge base through exposure to legal advice, effectively 'helping the helper'. However, given that assistance is provided by more than one service provider, this may be seen as less efficient than other service delivery methods.

On occasion, QAI has also provided advice to a client in conjunction with another legal service using this model where QAI's specialist legal knowledge was required. This involved QAI appearing at the MHRT in person on a one-off occasion and then ceasing involvement in order to avoid duplicating services. This allowed the other legal service to learn practical skills on how to appear at MHRT hearings.

In QAI's experience, provision of service to clients with a mental illness is preferably delivered face-to-face or via videolink (as opposed to telephone) in order to effectively communicate with clients, including responding to body language cues. However, due to limited resources and the travelling distance required to attend mental health facilities it is difficult to provide face-to-face advice.

In addition to providing legal advice, QAI staff members sometimes travel to use videolink facilities when representing clients at MHRT Hearings, at the MHRT or Department of Justice and Attorney-General offices. QAI does not have its own videolink facilities (other than limited access to Skype), so using these services is beneficial, and requires the support and partnership of these agencies. Legal Aid Queensland has also offered the use of their videolink equipment.

Comment and recommendations

Given the success of the QAI model described above, a similar model may be appropriate for generalist and specialist services. While this option proposes that in some instances a generalist CLC would provide the technology and then merely a background presence while the client receives advice, it is worth remembering that specialist CLCs are targeted to vulnerable clients who would likely require assistance to understand and make use of advice provided over distance. The presence of a staff member at the generalist location to assist the client is considered essential, and social workers or paralegals could fulfil this role.

Lawyers at the specialist CLC might also require copies of documents to provide advice, which is common in CLC advice sessions. Any host site would require access to a scanner or other technology to ensure that specialist CLCs can 'see' clients' documents.

This model does have the ancillary advantage of providing training for generalist CLC solicitors, who may initially observe specialist advices, and transition to providing advice themselves under the specialist's supervision. This could be a useful step to build upon the skills delivered in training (see option 1 above) and upskill generalist solicitors in specialist areas of law. The use of dual solicitors could also be perceived as service duplication.

If a lawyer at the specialist centre is 'supervising' the work of a lawyer at a generalist CLC, or where the advice is provided with both of these lawyers present, it is important to determine whether the service user is a 'client' of the generalist CLC, the specialist CLC, or both, to ensure clients' interests are protected, that lawyers are meeting their professional obligations, and that any risks are effectively managed. An agreement between each specialist and generalist partnership is required to clarify these issues; recent advice on the NALC insurance policy (which covers all centres) identifies an exclusion where another CLC is a client or two CLCs provide a client with professional services. QAILS is working on a template agreement to try and comply with these professional obligations and insurance requirements.

The initial establishment and co-ordination of this service would require a small investment of time and expenditure as the majority of CLCs do not currently own the relevant technology. Funding would also be required to cover the relevant tolls of telephone conferencing and the maintenance of equipment.

Continuing resource implications will exist for generalist centres' staff, who will be responsible for making appointments and undertaking other administrative tasks. However, there will be some efficiencies for specialist centres receiving 'warm referrals' with appropriate preparation work having been completed.

8. Introduction of a state-wide standard for all generalist CLCs

Background and research

Based on our review of the literature, we propose the introduction of a state-wide standard for all generalist and specialist CLCs in terms of services available, to include initial advice

and assistance services in core specialty areas and appropriate training in these areas. Each CLC could report back on their progress and any difficulties at the relevant Forum (see 2, above). This recommendation is aimed at addressing the variety of services offered by different generalist and specialist CLCs, with a view to ensuring all clients are provided with a minimum array of services. In conjunction with the other options, discussed above, this proposal will help to close gaps in the services provided by CLCs throughout Queensland and increase the accessibility of specialist legal services.

In 2011, the Federation of Community Legal Centres (the Victorian peak body for community legal centres) developed a series of core competencies for lawyers in its member centres undertaking its graduate development program:

Fundamental Skills for the CLC Sector	Substantive law: Fundamental	Substantive law: Advanced
<p>1. Ethics & professional responsibility</p> <p>1.1. Confidentiality and avoiding conflicts of interest</p> <p>1.2. Complaints against lawyers (mechanisms)</p> <p>2. Professional skills</p> <p>2.1. Managing client expectations</p> <p>2.2. Appropriate, respectful and safe CLC client skills</p> <p>2.3. Legal referral</p> <p>2.4. Court advocacy</p> <p>2.5. Public speaking & media (advanced)</p> <p>2.6. Vicarious trauma: awareness and self-referral</p> <p>2.7. CLC legal resources</p> <p>3. Practice management</p> <p>3.1. File management in a CLC</p> <p>3.2. Data collection (CLCIS or equivalent)</p> <p>3.3. Working with volunteers (advanced)</p>	<ul style="list-style-type: none"> • General <ul style="list-style-type: none"> ○ Limitation dates and identifying causes of action • Crime <ul style="list-style-type: none"> ○ Infringements <ul style="list-style-type: none"> ▪ Revocation and special circumstances ○ Crime <ul style="list-style-type: none"> ▪ Summary crime ▪ Diversion • Family <ul style="list-style-type: none"> ○ Family breakdown <ul style="list-style-type: none"> ▪ Divorce ▪ Parenting and child custody ○ Property and maintenance <ul style="list-style-type: none"> ▪ Family violence ▪ Intervention orders • Civil and administrative <ul style="list-style-type: none"> ○ Credit and debt 	<p>Family</p> <ul style="list-style-type: none"> • Family breakdown <ul style="list-style-type: none"> ○ Child support • Child protection <p>Civil and administrative</p> <ul style="list-style-type: none"> • Credit and debt <ul style="list-style-type: none"> ○ Bankruptcy ○ Credit code and complaint mechanisms • Motor vehicles <ul style="list-style-type: none"> ○ Licensing ○ Drink driving • Neighbourhood disputes <ul style="list-style-type: none"> ○ Stalking • Personal Injury <ul style="list-style-type: none"> ○ Transport accident scheme ○ Workers compensation scheme • Housing

4. Substantive law (see next)	<ul style="list-style-type: none"> ▪ Protected income and assets 	<ul style="list-style-type: none"> ○ Mortgage
5. Community development (educating, enabling, empowering) ¹	<ul style="list-style-type: none"> ▪ Judgment enforcement 	<ul style="list-style-type: none"> • Consumer protection
5.1. Theory and practice of community development	<ul style="list-style-type: none"> ○ Motor vehicles 	<ul style="list-style-type: none"> • Employment
5.2. Non-legal referral	<ul style="list-style-type: none"> ▪ Accidents 	<ul style="list-style-type: none"> ○ Dismissal
5.3. Working with clients with mental illness and disability	<ul style="list-style-type: none"> ▪ Insurance 	<ul style="list-style-type: none"> ○ Recovering wages and entitlements
5.4. Working with interpreters	<ul style="list-style-type: none"> • Neighbourhood disputes 	<ul style="list-style-type: none"> ○ Superannuation
5.5. Working with migrant and refugee clients	<ul style="list-style-type: none"> ○ Fencing 	<ul style="list-style-type: none"> • Human rights and discrimination
5.6. Working with indigenous clients	<ul style="list-style-type: none"> ○ Nuisance 	<ul style="list-style-type: none"> ○ Discrimination
6. Policy development and advocacy	<ul style="list-style-type: none"> • Personal Injury 	<ul style="list-style-type: none"> • Social security
7. CLC philosophy, history and development	<ul style="list-style-type: none"> ○ Civil actions 	<ul style="list-style-type: none"> • Wills and probate
	<ul style="list-style-type: none"> ○ Crimes compensation and sentencing legislation 	<ul style="list-style-type: none"> • Police powers and complaints
	<ul style="list-style-type: none"> • Housing 	<ul style="list-style-type: none"> • Freedom of information and privacy
	<ul style="list-style-type: none"> ○ Residential tenancy 	<ul style="list-style-type: none"> • Prison law
	<ul style="list-style-type: none"> • Human rights and discrimination 	<ul style="list-style-type: none"> • Anti-terrorism laws
	<ul style="list-style-type: none"> ○ Victorian human rights charter 	<ul style="list-style-type: none"> • Immigration (issues & assessment)
	<ul style="list-style-type: none"> • Guardianship & Administration 	<ul style="list-style-type: none"> • Mental health review board
	<ul style="list-style-type: none"> • Powers of attorney 	<p>Substantive Law: Specialist</p>
	<ul style="list-style-type: none"> • Mental health review board 	<ul style="list-style-type: none"> • Environmental issues
		<ul style="list-style-type: none"> ○ Planning
		<ul style="list-style-type: none"> • Immigration

We note that the participants in this program were based in a structured, intensive graduate development program that included classroom and on-the-job learning, rotations through multiple CLCs, and formal assessment.

In New South Wales, the College of Law partners with Community Legal Centres NSW to deliver a tailored practice management course (a mandatory requirement for lawyers

seeking principal practicing certificates in New South Wales), which includes the following modules:

- An introduction to CLCs: Strategic service delivery
- Managing people
- Insurance, risk and work management
- Management challenges for CLC managers
- Trust account issues
- Ethics, professional responsibility and management in a community based legal practice
- Financial management
- Managing difficult clients – a “tool kit”
- Understanding governance and management
- Justice sector partnerships for CLCs
- Time and personal work management
- Running a successful volunteer program
- Managing stress.

The NSW program focuses more on the ‘management’ aspects for senior lawyers, rather than substantive areas of law or fundamental skills for entry-level lawyers.

Western Australia’s Community Legal Centres Association (CLCA) has developed an online learning platform called Community Legal Centres Access to kNowledge Delivered Online (CAnDO). This site and the induction resources were part of CLCA’s Governance and Management Project (GAMP) jointly funded by Lotteries West and the Commonwealth Attorney Generals Department in 2011 - 2012.

CAnDO uses open sourced software and a Learning Management Platform known as MOODLE. It provides three induction programs:

1. Community Legal Sector Induction Module 1: CLC 101, which provides new staff with a clear understanding of:
 - their workplace and where they fit
 - their CLC and where it fits in the State and National CLC picture
 - the proud and inspiring history of CLCs, and
 - the values and vision of their organisation and the Community Legal Sector as a whole.²⁰⁷
2. Community Legal Sector Induction Module 2: Board Induction, which covers information to perform duties as a Management Committee/Board Member and assist in meeting both legislated and ethical minimum standards.
3. Community Legal Sector Induction Module 3: Managers Induction, with topics including The Manager's Role, Human Resources, Planning, Financial and Risk Management, Funding, Communication, Promotion and Representation, Setting Standards, and Accreditation.

²⁰⁷ QAILS provides a similar induction with its bi-annual ‘CLC101’ webinars.

Case study

We note that several generalist community legal centres do provide advice and representation before the MHRT (particularly Toowoomba's The Advocacy and Support Centre and Townsville Community Legal Service). Where there are specialist non-legal advocacy groups, local CLCs refer clients to these services (eg in Cairns, to the Cairns Advocacy group). All QAILS members are required to have written guidelines and procedures about the type of work (advice and casework, community legal education and law reform) the centre will and will not take on and ensure that workers and management committee members are familiar with these.²⁰⁸ The National Accreditation Scheme reviews these guidelines.

After consulting with several regional CLCs, QAI has identified some limited areas in mental health law that could be included as a core competency for generalist community legal centres, including:

- advice to clients about first-time application for review of an Involuntary Treatment Order
- rights as an involuntary patient, and
- complaints about treatment and diagnosis.

However, a full review of the areas of law to be included in these standards, with appropriate consultation with generalist and specialist services, would be required before a full set of standards could be developed.

Comment and recommendations

Given the variation in community legal centres' operations, there are significant barriers to implementing this recommendation, including:

- The inadequate resources in many generalist centres means that, given their staff size, it might not be realistic to expect that one part-time lawyer can be adequately skilled in all areas of competency. However, for larger centres, this may be a realistic expectation. By way of illustration, according to the 2013 NACLC Census of Queensland's community legal centre, the majority of Queensland CLCs had less than four full-time staff, and less than three part-time staff, as set out below in Figure 1.4:

²⁰⁸ National Association of Community Legal Centres (December 2012) *Risk Management Guide*, mandatory standards 5.1, 16.

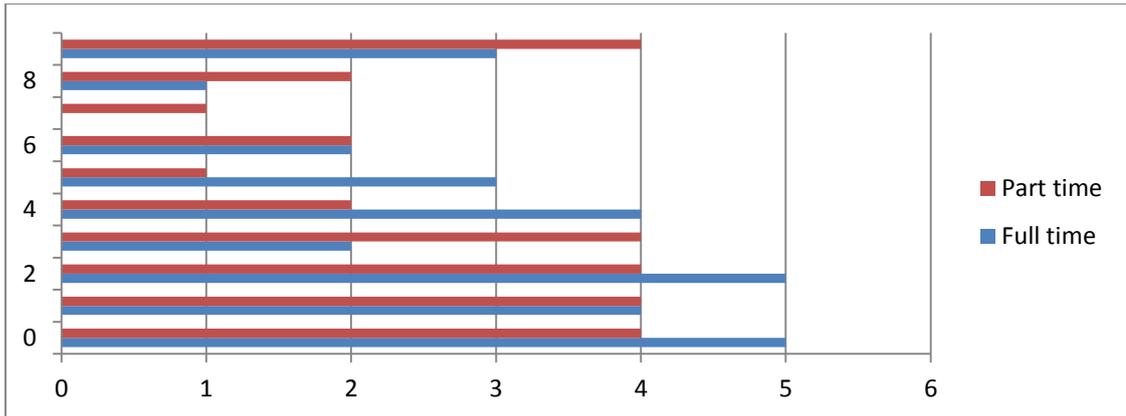


Figure 1.4

- It is unrealistic to have volunteers meet all of these core competencies, and for those centres that rely entirely on volunteer lawyers, it may not be possible to ensure that all areas are covered.
- Requiring all generalist centres to comply with these standard may undermine their independence and priorities, and fail to meet the needs of their client communities.

These are not insurmountable barriers, but will cause some significant difficulty in implementing a core set of competencies.

This proposal will require funding to support a Project Officer to document the present services offered by each CLC in Queensland, to draft an appropriate standard and to oversee implementation and periodic review of compliance with the standard. In addition, regular induction training for new lawyers, the development and continuous review of online learning modules for staff will be required.

Option 1 above requires the appointment of a specialist training officer, and it could be part of this person's role to develop and deliver (or assist in the delivery) of this induction training and continuing development to ensure the effective introduction of a state-wide standard for all generalist and specialist CLCs in terms of services available, to include initial advice and assistance services in core specialty areas and appropriate training in these areas.

Another avenue through which core skills could be taught is via delivery of a practice management course tailored to community legal centres, such as the NSW College of Law Program outlined above.

We also suggest that QAILS consult with NACLC on the updating of standards under the National Accreditation Scheme to include a new standard to encourage compliance, with monitoring and support provided by the Regional Accreditation Coordinator.

9. Development of clinical legal education and Practical Legal Training

Background and research

There is an extensive research literature discussing the dominant model of legal training provided to law students in Queensland, and a more limited body of literature that considers the continuing legal education of lawyers in this jurisdiction. This report will now briefly discuss key features of the hegemonic model of legal pedagogy, as this is of relevance when considering the initial induction and training of CLC lawyers in specialist legal areas and the continuing education and training of these lawyers.

Overview of the present dominant model of legal pedagogy

The literature on law pedagogy in Australia generally paints a dim picture of the education provided to emergent lawyers, both in terms of the analytical and problem-solving skills developed among students and in the degree to which it readies students for legal practice. Johnstone, in a sentiment that echoes many of the commentators in this area, bluntly states: 'Law teaching seems to have somehow ignored developments in educational theory, particularly in instructional psychology'.²⁰⁹

In 2000, a review by the Australian Law Reform Commission called for a significant broadening of professional skills training for lawyers, emphasising that legal education should increasingly focus on what lawyers need 'to be able to do', rather than on what lawyers 'need to know'.²¹⁰

Scholars have identified five dominant characteristics of the traditional legal education model:

1. Teacher-focused
2. Significantly concerned with the transmission of content knowledge and, more specifically, with teaching legal rules, particularly those derived from case law
3. Strong conviction that law is 'an autonomous discipline, quasi-scientific in nature'
4. Close links between legal practitioners and the academy, and
5. Law school experience is individualised and isolating for teachers and students alike.²¹¹

In Australia, the primary, and traditional, method of teaching law students is through lectures, whereby the teacher fulfils an 'expert and authoritarian' role. The students are taught 'what the law is', with the expectation that they will then be able to 'apply' the law to a set of facts

²⁰⁹ Richard Johnstone, 'Rethinking the Teaching of Law' (1992) 3 *Legal Education Review* 17, 20.

²¹⁰ Richard Johnstone, Sumitra Vignaendra and Commonwealth of Australia, *Learning Outcomes and Curriculum Development in Law*, A report commissioned by the Australian Universities Teaching Committee (AUTC), Higher Education Group Department of Education, Science and Training, January 2003, 14-16.

²¹¹ Mary Keyes and Richard Johnstone, 'Changing Legal Education: Rhetoric, Reality, and Prospects for the Future' (2004) 26 *Sydney Law Review* 537, 539-43.

in an end-of-semester examination and, ultimately, in practice.²¹² Johnstone notes the limitations of this method and proposes his vision of a superior educational model:²¹³

Classroom teaching methods need to be aimed at ensuring that students learn through activity inside and outside the classroom, and indeed, actively learn by problem solving, discussion, experimentation, reflection, observation, intuition, as well as abstract thought.

Macfarlane similarly critiques the lecture method, considering it to reinforce the view of legal knowledge as facts and linking it to the focus of law school syllabuses on information content, rather than broader aims and objectives. Macfarlane notes:²¹⁴

Mere acquisition of legal knowledge in law school is of little value to a practitioner because that knowledge (a) can only be a tiny part of the whole (b) can be understood only superficially (c) is easily forgotten or only partially or inaccurately remembered (d) is rarely needed in practice in the form in which it is learned (e) is likely to be quickly outmoded and thus dangerous to rely on and (f) is of little use where new problems arise to be solved.

An alternative method of instruction that is gaining momentum in Australian law schools is problem-based learning. Macfarlane and Manwaring explain problem-based learning (PBL) in the following way:²¹⁵

Problem-based learning (PBL) is a teaching and learning method which reverses the traditional ordering in which didactic instruction is followed by some (often limited) application of taught principles. Instead, PBL begins with a problem or set of problems which the student is asked to solve - usually deploying the combined resources of a small, co-operative team to research, assimilate and evaluate relevant data. PBL is becoming widely used in medical, nursing and management education but is still exceptional in legal education, despite its apparent benefits for developing research, analysis and problem-solving skills.

Macfarlane notes that PBL encourages group-work, co-operative work and information sharing and enhances opportunities to think critically about the potential of the law to solve individual and systemic problems.²¹⁶

Macfarlane praises PBL as a means of promoting group-work and co-operative learning, rather than individualism.²¹⁷ She notes that PBL, along with legal skills education and clinical legal education, are effective types of experiential pedagogy that can be used to teach law students.²¹⁸

Practical legal training

The practical legal training (PLT) model is based on simulated exercises conducted in a classroom setting, designed to provide students with experience interacting in a setting akin

²¹² Richard Johnstone, 'Rethinking the Teaching of Law' (1992) 3 *Legal Education Review* 17, 19-20.

²¹³ Richard Johnstone, 'Rethinking the Teaching of Law' (1992) 3 *Legal Education Review* 17, 57.

²¹⁴ Julie Macfarlane, 'Look Before You Leap: Knowledge and Learning in Legal Skills Education' 19 (1992) 3 *Journal of Law and Society* 293, 299.

²¹⁵ Julie Macfarlane and John Manwaring, 'Using Problem-Based Learning to Teach First Year Contracts' (1998) 16 *Journal of Professional Legal Education* 271.

²¹⁶ Julie Macfarlane, 'What does the changing culture of legal practice mean for legal education?' (2001) 20 *Windsor Yearbook of Access to Justice* 191, 203-5.

²¹⁷ Julie Macfarlane, 'What does the changing culture of legal practice mean for legal education?' (2001) 20 *Windsor Yearbook of Access to Justice* 191, 203-5.

²¹⁸ Julie Macfarlane, 'A Feminist Perspective on Experience-Based Learning and Curriculum Change' (1994) 26 *Ottawa Law Review* 357, 273.

to a real legal environment.²¹⁹ PLT was devised as a way to bridge the gap between the theoretical learning offered at university, discussed above, and the practical requirements of legal practice.²²⁰ Consistent with other forms of skills education, PLT emphasises learning by doing, or experiential learning.²²¹ The literature of practical legal training is presently limited, as Boersig states: 'there is far too little theory about practical legal training'.²²²

Macfarlane and Boyle have provided a detailed overview of a year-long PLT program in Hong Kong.²²³ They have provided a favourable review of the benefits of this program, which are attributed to, relevantly, high levels of inter-student communication, group problem-solving work and the highly practical nature of the program.²²⁴ Macfarlane and Mayer note:²²⁵

Our premise is that training is the arena in which theory is most often translated into usable advice for practitioners, because theory is always implicitly present in the tools and approaches trainers choose to include in their programs. In our report, we conclude that the relationship between theory and practice can be strengthened by conceptualizing theory as derived from and grounded in practical experience, and by translating theoretical writings into formats and language more easily used in training exercises and presentations.

Macfarlane and Manwaring note:²²⁶

We have found PBL to be the most effective pedagogy for achieving a synthesis between theory and practice in student learning. PBL provides a learning model which explicitly illustrates the process of relating theory to practice and back again, and - perhaps most important of all - one which students themselves can recognise.

There are a number of links between clinical legal education and practical legal training.²²⁷ The clinical legal model as one form of practical legal training will now be discussed in detail.

Community law clinics and clinical legal education

One means by which some jurisdictions have sought to improve the clinical legal skills of emerging lawyers is through the development of Community Law Clinics operated in partnership with university law schools. Clinical legal education is a legal practice-based method of legal education whereby students assume to role of a lawyer and take on responsibility for providing legal services to real clients, under supervision.²²⁸ Clinical training

²¹⁹ John Boersig, James Marshall and Georgia Seaton, 'Teaching Law and Legal Practice in a Live Client Clinic' (2002) 6 *New Castle Law Review* 51, 56.

²²⁰ Gaye Lansdell, 'Have we "Pushed the Boat out too far" in Providing Online Practical Legal Training? A Guide to Best Practices for Future Programs' (2009) 19 *Legal Education Review* 149, 152.

²²¹ Julie Macfarlane, 'Look Before You Leap: Knowledge and Learning in Legal Skills Education' 19 (1992) 3 *Journal of Law and Society* 293, 303.

²²² John Boersig, James Marshall and Georgia Seaton, 'Teaching Law and Legal Practice in a Live Client Clinic' (2002) 6 *New Castle Law Review* 51, 59.

²²³ Julie Macfarlane and Pat Boyle, 'Instructional Design and Student Learning in Professional Legal Education' (1993) 4 *Legal Education Review* 63.

²²⁴ Julie Macfarlane and Pat Boyle, 'Instructional Design and Student Learning in Professional Legal Education' (1993) 4 *Legal Education Review* 63, 87.

²²⁵ Julie Macfarlane and Bernard Mayer, 'What's the use of theory? Integrating theory and research into training' (2005-2006) 12 *Dispute Resolution Magazine* 5, 5.

²²⁶ Julie Macfarlane and John Manwaring, 'Using Problem-Based Learning to Teach First Year Contracts' (1998) 16 *Journal of Professional Legal Education* 271, 292-3.

²²⁷ See John Boersig, James Marshall and Georgia Seaton, 'Teaching Law and Legal Practice in a Live Client Clinic' (2002) 6 *New Castle Law Review* 51, 56, for a discussion of this issue.

²²⁸ Judith Dickson, '25 Years of Clinical Legal Education at LaTrobe Uni: Keeping the community in legal education' (2004) 29 *Alternative Law Journal* 41, 41.

is not unique to the legal discipline, but is utilised in many other professions. Indeed, Giddings notes that legal education is the 'odd one out' as a profession that has not emphasised clinical training.²²⁹ The Carnegie Report notes.²³⁰

Compared with the centrality of supervised practice, with mentoring and feedback, in the education of physicians and nurses or the importance of supervised practice in the preparation of teachers or social workers, the relative marginality of clinical training in law schools is striking.

Ontario is recognised as the trailblazer in this area. Other jurisdictions delivering services using a model similar to Ontario's community clinics include British Columbia, Quebec, England and Wales and Australia.²³¹

The Ontario model

Ontario has led the way in developing, over the past three decades, a strong clinic system, in partnership between the community and the universities, that has received international accolades for its benefits both in terms of the pedagogy of its law students and the provision of poverty law assistance to those in need.²³² The impact of the clinics in Ontario has been significant; the clinic movement has been credited with the development of poverty law services, as their starting point was to focus on the gaps in legal aid services in Ontario (ie focusing on the needs of the poor, rather than on the existing needs of fee-paying clinics).²³³ As Mossman states:²³⁴

The specialized function of Ontario clinics and their clear mandate to advocate for equal justice for the poor make them unique as legal aid clinics. They are also somewhat unique because the scope of services they offer was not actively designed, but rather grew out of the desire to respond to unmet needs of the judicare system.

A total of 77 community legal clinics, comprised of 60 geographic and 17 specialist clinics are presently in operation in Ontario, assisted by a provincial association and inter-clinic working groups.²³⁵ The clinics are funded and significantly supported by Legal Aid Ontario, which also maintains LAO Law, which operates under the mandate of providing 'high-quality and accessible legal research and resources'.²³⁶

One feature of the Ontario community law clinics that stands them apart from others is their use of a broad array of services. The clinics provide an extensive range of services as part of a well-coordinated, holistic response to the needs of disadvantaged and vulnerable clients. The services offered include individual casework, referrals, provision of legal advice,

²²⁹ Giddings, Jeff, 'Contemplating the Future of Clinical Legal Education' (2008) 17 *Griffith Law Review* 1, 15.

²³⁰ Sullivan, William, Anne Colby, Judith Welch Wegner, Lloyd Bond and Lee S Shulman, *Educating Lawyers: Preparation for the Profession of Law* (The Carnegie Foundation for the Advancement of Teaching, 2000) (Carnegie Report).

²³¹ Ministry of the Attorney General, Ontario, *A Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services*, 1997 (McCamus Report), 4.

²³² Lenny Abramowicz, 'The Critical Characteristics of Community Legal Aid Clinics in Ontario' (2004) 19 *Journal of Law and Social Policy* 70, 70.

²³³ Mary Jane Mossman, 'Community Legal Clinics in Ontario' (1983) 3 *Windsor Yearbook of Access to Justice* 375, 377.

²³⁴ Mary Jane Mossman, 'Community Legal Clinics in Ontario' (1983) 3 *Windsor Yearbook of Access to Justice* 375, 388.

²³⁵ Ontario Community Legal Clinics Provincial Strategic Plan, 2013-2017, <http://www.aclco.org/>, accessed 26 February 2014, 1.

²³⁶ This is discussed further, below.

law reform, community development activities and publication of legal education materials.²³⁷ As Abramowicz states:²³⁸

It is the combination of local community governance, a focus in the area of poverty law, and the utilization of a broad array of services, that have made the Ontario community clinic both unique and successful.

In providing these services, the employment of people outside the law, particularly community legal workers (who lack formal legal training but possess skills in community organizing activities or background working with one of the client groups served by the clinic) has been reportedly beneficial.²³⁹

The Australian model

In Australia, the community law clinics model is still in its infancy, although there is a growing recognition of the benefits of law clinics for the pedagogy of law students, for the legal profession and for the communities they serve. The inaugural Australian clinical program was established at Monash University in 1975.²⁴⁰ Over the past four decades, Australian clinical legal education has been 'quite eclectic, with the stories and experiences varying significantly from state to state, law school to law school.'²⁴¹ The impetus for the establishment of clinical legal education has also varied.²⁴²

The literature on the existence of clinical legal education programs in Australia is limited.²⁴³ A recent study documented that 16 Australian universities currently offer clinical law programs, some of which focus on particular client groups while others work in collaboration with existing community legal centres.²⁴⁴ This translates into clinical legal education being available to students of just over half of Australian universities, although it must be noted that, where programs are available, they are generally only offered to a relatively small proportion of students.²⁴⁵ However, recent research notes that 20 out of the 29 Australian law schools describe themselves as having some form of clinical program in place.²⁴⁶

The Australian clinics have also been predominantly limited to generalist legal advice, although there has been a recent interest in the development of specialised clinics.²⁴⁷ Over the past decade, Monash University has directed considerable attention towards the

²³⁷ Lenny Abramowicz, 'The Critical Characteristics of Community Legal Aid Clinics in Ontario' (2004) 19 *Journal of Law and Social Policy* 70, 79.

²³⁸ Lenny Abramowicz, 'The Critical Characteristics of Community Legal Aid Clinics in Ontario' (2004) 19 *Journal of Law and Social Policy* 70, 80.

²³⁹ Michael Blazer, 'The Community Legal Clinic Movement in Ontario: Practice and Theory, Means and Ends' (1991) 7 *Journal of Law and Social Policy* 49, 55-57.

²⁴⁰ Jeff Giddings, 'Clinical Legal Education in Australia: A Historical Perspective' (2003) 3 *International Journal of Clinical Legal Education* 7, 18.

²⁴¹ Jeff Giddings, 'Clinical Legal Education in Australia: A Historical Perspective' (2003) 3 *International Journal of Clinical Legal Education* 7, 18.

²⁴² Jeff Giddings, 'Clinical Legal Education in Australia: A Historical Perspective' (2003) 3 *International Journal of Clinical Legal Education* 7, 18.

²⁴³ Jeff Giddings, 'A Circle Game: Issues in Australian Clinical Legal Education' (1999) 10 *Legal Education Review* 33, 47.

²⁴⁴ Margaret Castles, 'Possibilities for Multidisciplinary Collaboration in Clinical Practice: Practical Ethical Implications for Lawyers and Clients' (2008) 34 *Monash University Law Review* 116, 116-7.

²⁴⁵ Sebastian De Brennan, 'Rethinking Pro Bono: Students Lending a Legal Hand' (2005) 15 *Legal Education Review* 25, 33.

²⁴⁶ Adrian Evans and Ross Hyams, 'Independent Evaluations of Clinical Legal Education Programs: Appropriate Objectives and Processes in an Australian Setting' (2008) 17 *Griffith Law Review* 52.

²⁴⁷ Susan Campbell and Alan Ray, 'Specialist Clinical Legal Education: An Australian Model' (2003) 3 *International Journal of Clinical Legal Education* 67, 67.

development of specialist clinics.²⁴⁸ The advantages of specialist clinics, both in terms of benefitting particular disadvantaged groups and in enhancing lawyers' preparation for professional responsibilities, has been noted in the literature.²⁴⁹ The clinical legal education model is also developing from a one-on-one client service model, whereby supervised law students provide legal services to real clients, to include placements in outside agencies.²⁵⁰

In Queensland, Griffith Law School operates a more substantial clinical law program than the other Queensland law schools, offering six different clinical courses, emphasising real clinic interaction by students and actively promoting the existence of the clinics.²⁵¹ Along with Monash University, Griffith is the only law school to have established specialist clinics to date.²⁵²

What we can learn from comparable models

The most important lesson we can learn from the international leaders in this area is of the potential for a significant expansion of the clinical legal education model, with likely highly positive results. As De Brennan points out:²⁵³

It is interesting to note that despite the obvious talents and abilities of law students, there have been few concerted efforts to align the law student to the overall provision of justice in Australia. Even today, aside from the Report of the National Pro Bono Task Force in 2001, it is worth noting that very few reports dealing with access to justice advert to the possibility of making greater use of law students vis-a-vis meeting legal needs. In 2001, the National Pro Bono Task Force made apparent: "Very few Australian law schools have a considered or coherent policy in relation to developing pro bono ethos in law students - although there are many scattered courses and programs". Given that law is one of the most competitive Australian courses in terms of entry requirements, this ambivalence is surprising.

Overall, however, the interest in clinical legal education in Australia is growing. The past decade has seen the commencement of a number of new clinical programs at Australian Universities, both as independent initiatives and in collaboration with existing community and government agencies.²⁵⁴

Benefits of the Community Law Clinic model

There are a number of benefits of the community law clinic model canvassed in the literature. Key benefits are:

1. The clinics provide legal advice to those in need, filling gaps in legal aid resources.²⁵⁵

²⁴⁸ Susan Campbell and Alan Ray, 'Specialist Clinical Legal Education: An Australian Model' (2003) 3 *International Journal of Clinical Legal Education* 67, 67-8.

²⁴⁹ Adrian Evans and Ross Hyams, 'Independent Evaluations of Clinical Legal Education Programs: Appropriate Objectives and Processes in an Australian Setting' (2008) 17 *Griffith Law Review* 52, 66-7.

²⁵⁰ Liz Curran, Judith Dickson and Mary Anne Noone, 'Pushing The Boundaries or Preserving the 39. Status Quo? Designing Clinical Programs to Teach Law Students a Deep Understanding of Ethical Practice' (2005) 8 *International Journal of Clinic Legal Education* 104, 107.

²⁵¹ Jeff Giddings, 'Clinical Legal Education in Australia: A Historical Perspective' (2003) 3 *International Journal of Clinical Legal Education* 7, 18.

²⁵² Jeff Giddings, 'A Circle Game: Issues in Australian Clinical Legal Education' (1999) 10 *Legal Education Review* 33, 35-6.

²⁵³ Sebastian De Brennan, 'Rethinking Pro Bono: Students Lending a Legal Hand' (2005) 15 *Legal Education Review* 25, 32.

²⁵⁴ Jeff Giddings, 'Contemplating the Future of Clinical Legal Education' (2008) 17 *Griffith Law Review* 1, 3.

²⁵⁵ Margaret Castles, 'Possibilities for Multidisciplinary Collaboration in Clinical Practice: Practical Ethical Implications for Lawyers and Clients' (2008) 34 *Monash University Law Review* 116, 116-7; Lenny Abramowicz, 'The Critical Characteristics of Community Legal Aid Clinics in Ontario' (2004) 19 *Journal of Law and Social Policy* 70, 78; Jeff Giddings, 'Clinical Legal Education in Australia: A Historical Perspective' (2003) 3 *International Journal of Clinical Legal Education* 7, 19.

2. The clinics centralise pro bono legal resources.²⁵⁶
3. The clinics are not highly demanding in terms of resources, either to the university or the community.²⁵⁷
4. The clinics have many multidisciplinary practices.²⁵⁸
5. The clinics can involve more students than other clinical legal education (CLE) models.²⁵⁹
6. There is a broad geographic reach, as the clinics operate in conjunction with law schools, that are spread throughout the country (although they tend to be based in metropolitan, rather than regional, rural or remote areas).²⁶⁰
7. The clinics help to develop a pro bono ethos in law students before they commence practice.²⁶¹
8. Clinical education is a superior method for the accomplishment of certain educational objects,²⁶² including the development of practical legal skills,²⁶³ and an integral part of a 'full and rounded' legal education,²⁶⁴ including in professional and ethical obligations.²⁶⁵
9. The clinics guide students to critically analyse the application of the law in context, using their personal experiences in the clinics to assess the efficacy of the law and legal processes and to consider the potential for law reform and the power of the law to affect change,²⁶⁶ and to develop empathy with vulnerable clients.²⁶⁷
10. The clinics have generated much of the literature on the topic of community legal services.²⁶⁸

²⁵⁶ Sebastian De Brennan, 'Rethinking Pro Bono: Students Lending a Legal Hand' (2005) 15 *Legal Education Review* 25, 58.

²⁵⁷ Sebastian De Brennan, 'Rethinking Pro Bono: Students Lending a Legal Hand' (2005) 15 *Legal Education Review* 25, 58; M Kathryn Munn, 'Clinical Legal Education Through the Looking-Glass' (1989-1990) 12 *Dalhousie Law Journal* 505, 508.

²⁵⁸ Margaret Margaret, 'Possibilities for Multidisciplinary Collaboration in Clinical Practice: Practical Ethical Implications for Lawyers and Clients' (2008) 34 *Monash University Law Review* 116, 116-7; Sebastian De Brennan, 'Rethinking Pro Bono: Students Lending a Legal Hand' (2005) 15 *Legal Education Review* 25, 58; Rose Voyvodic and Mary Medcalf, 'Advancing Social Justice Through an Interdisciplinary Approach to Clinical Legal Education: The Case of Legal Assistance of Windsor' (2004) 14 *Washington University Journal of Law & Policy* 101, 127.

²⁵⁹ Sebastian De Brennan, 'Rethinking Pro Bono: Students Lending a Legal Hand' (2005) 15 *Legal Education Review* 25, 58.

²⁶⁰ Sebastian De Brennan, 'Rethinking Pro Bono: Students Lending a Legal Hand' (2005) 15 *Legal Education Review* 25, 58.

²⁶¹ Chris Gledhil, 'Establishing An International Human Rights Clinic in the New Zealand Context' (2013) 19 *International Journal of Clinical Legal Education* 295, citing the perspective of the worldwide network, the Global Alliance for Justice Education; Sebastian De Brennan, 'Rethinking Pro Bono: Students Lending a Legal Hand' (2005) 15 *Legal Education Review* 25, 58.

²⁶² M Kathryn Munn, 'Clinical Legal Education Through the Looking-Glass' (1989-1990) 12 *Dalhousie Law Journal* 505, 505-6, 523; Jeff Giddings, 'Contemplating the Future of Clinical Legal Education' (2008) 17 *Griffith Law Review* 1, 1-2.

²⁶³ Rose Voyvodic and Mary Medcalf, 'Advancing Social Justice Through an Interdisciplinary Approach to Clinical Legal Education: The Case of Legal Assistance of Windsor' (2004) 14 *Washington University Journal of Law & Policy* 101, 127.

²⁶⁴ John Boersig, James Marshall and Georgia Seaton, 'Teaching Law and Legal Practice in a Live Client Clinic' (2002) 6 *New Castle Law Review* 51, 52; Legal Education and Professional Development "An Educational Continuum Report of the Task Force on Law Schools and the Profession: Narrowing the Gap" American Bar Association, July 1992, 185; Adrian Evans and Ross Hyams, 'Independent Evaluations of Clinical Legal Education Programs: Appropriate Objectives and Processes in an Australian Setting' (2008) 17 *Griffith Law Review* 52, 67-8.

²⁶⁵ Liz Curran, Judith Dickson and Mary Anne Noone, 'Pushing the Boundaries or Preserving the Status Quo? Designing Clinical Programs to Teach Law Students a Deep Understanding of Ethical Practice' (2005) 8 *International Journal of Clinic Legal Education* 104, 104.

²⁶⁶ Judith Dickson, '25 Years of Clinical Legal Education at LaTrobe Uni: Keeping the community in legal education' (2004) 29 *Alternative Law Journal* 41, 4; Julie Macfarlane, 'Bringing the Clinic into the 21st Century' (2009) 27 *Windsor Yearbook Access to Justice* 35, 40.

²⁶⁷ Julie Macfarlane, 'Bringing the Clinic into the 21st Century' (2009) 27 *Windsor Yearbook Access to Justice* 35, 40.

²⁶⁸ Margaret Castles, 'Possibilities for Multidisciplinary Collaboration in Clinical Practice: Practical Ethical Implications for Lawyers and Clients' (2008) 34 *Monash University Law Review* 116, 116-7.

As Giddings and Hook note:²⁶⁹

At a time when Australia's legal aid system is being placed under increasing pressure, there are likely to be increased efforts to have law students contribute to the delivery of legal services. Australian clinical legal education programs are well placed to facilitate such contributions.

Watterson and associates similarly note the power of clinical legal education to benefit law students and staff, as well as the clients they serve, and to enable law schools to make a 'distinctive and value contribution to justice and law reform'.²⁷⁰

Challenges associated with the Community Law Clinic model

A significant challenge associated with community law clinics is the limited funding available to the clinics. Even in Ontario, a recognised leader in this area, it has been noted that the need for poverty law services has meant that clinics have generally responded to the needs of their clients on a case-by-case basis, rather than systematically developing a response to the needs of particular, disadvantaged groups.²⁷¹ This is particularly problematic as those most in need are not necessarily those who predominantly seek the services of clinics – there is the potential for significant pockets of unmet need to remain unrecognised or unmet. Mossman emphasises, in the context of 'a clinic system with inherent capacity to achieve so much effective equality for the poor, and taking account of the scarce resources available':²⁷²

... while there is a basic clinic responsibility to get involved in the day-to-day legal problems faced by the poor, clinic boards must also systematically assess the nature of the services they provide in terms of the real problems of their low-income community.

One challenge associated with the operation of community law clinics staffed predominantly by supervised law students is managing the risk of adverse outcomes and thus consequent litigation from dissatisfied clients.

Comment and recommendations

While the costs associated with clinical legal education have been appropriated, in another jurisdiction, as on par with other subjects offered during an undergraduate legal education,²⁷³ this is a structural reform that would require a significant investment of resources to initially establish. It would also require a shift in the pedagogical approach presently taken by some Queensland Law Schools. Clinical legal education forms part of a bigger picture of how learning opportunities for lawyers could evolve in a manner that responds to the need for specialist legal knowledge across Queensland's vast geography. The topic is included here for consideration over time rather than short-term implementation.

However, two existing programs for PLT students may offer some more immediate opportunities for delivering practical skills to law graduates and dispersing legal knowledge

²⁶⁹ Jeff Giddings and Barbara Hook, 'The Tyranny of Distance: Clinical Legal Education in "The Bush"' (2002) *International Journal of Clinic Legal Education* 64, 70.

²⁷⁰ Ray Watterson, Robert Cavanagh and John Boersig, 'Law School Based Public Interest Advocacy: An Australian Story' (2002) 2 *International Journal of Clinical Legal Education* 7, 7.

²⁷¹ Mary Jane Mossman, 'Community Legal Clinics in Ontario' (1983) 3 *Windsor Yearbook of Access to Justice* 375, 398.

²⁷² Mary Jane Mossman, 'Community Legal Clinics in Ontario' (1983) 3 *Windsor Yearbook of Access to Justice* 375, 398.

²⁷³ M Kathryn Munn, 'Clinical Legal Education Through the Looking-Glass' (1989-1990) 12 *Dalhousie Law Journal* 505, 508.

to RRR locations simultaneously.

In Victoria the Federation of Community Legal Centres Law Graduate Scheme provides an opportunity for law graduates to start their legal career in Victorian community legal centres.²⁷⁴ The Scheme sponsors fees for the successful candidate's practical legal training, offers paid employment for completion of the work placement component of the PLT course at a CLC, and offers a 12 month contract with three placements in Victorian CLCs, one of which is a rural and regional CLC (with housing assistance). Graduates receive support toward the end of the 12 month period to identify ongoing employment opportunities within CLCs. Grants from the Legal Services Board and Victorian Legal Aid fund the Scheme along with pro bono support. The program aims "to develop a new generation of leaders for CLCs, with a clear focus on the unique and important role CLCs have in addressing economic and social disadvantage, and the skills and attributes required to do so."²⁷⁵

The National Association of Community Legal Centres runs a program promoting PLT in regional, rural and remote Australia. The project places eligible graduate law students in publicly funded legal assistance services. Project staff work with applicants to identify funding options and provide information about travel and affordable accommodation. The Australian National University Legal Workshop and South Australia Law Foundation both have funds available for relevant PLT students to offset costs²⁷⁶, however applicants from other states, including Queensland, have to self-fund.

It is expected that investment in either of these models - to cover costs associated with relocating, or to create a more structured program like the Victorian example - would increase legal capacity in RRR locations.

²⁷⁴ Federation of Community Legal Centres Victoria. (2014.) Viewed 11 June 2014 Law Graduate Scheme. Retrieved from http://www.fclc.org.au/law_graduate_scheme.php

²⁷⁵ Federation of Community Legal Centres Victoria. (2014.) Viewed 11 June 2014 Law Graduate Scheme Brochure. Retrieved from http://www.fclc.org.au/public_resource_details.php?resource_id=1822

²⁷⁶ National Association of Community Legal Centres. (2014). Viewed 11 June 2014 Practical Legal Training in Regional, Rural and Remote Australia. Retrieved from <http://placements.nalc.org.au/>

Conclusion

This report has considered the interface between generalist and specialist CLCs in Queensland, in an endeavour to identify ways to support Queensland CLCs to work more effectively together to deliver equitable and accessible specialist legal services in the public interest.

A comprehensive review of the literature has identified the key factors that are reported to inhibit or facilitate equality of access to specialist legal services. The report has canvassed the relevant domestic and international research literature to develop a framework of options that will collectively enhance the response by the community legal sector to calls for greater access to specialist legal services in Queensland. The use of a case study has enabled testing of some of the options presented and recommendations for their effective implementation to be developed.

The report has considered the accessibility, capacity and efficacy of generalist CLCs to deliver specialist services and of specialist CLCs to resource both clients and their colleagues in the sector.

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Abbreviations and acronyms

Aboriginal and Torres Strait Islander Legal Service (ATSILS)
Clinical Legal Education (CLE)
Community Legal Centres (CLCs)
Community Legal Centres Association (CLCA)
Community Legal Education Assistance Forum (CLEAF)
Continuing Professional Development (CPD)
Electroconvulsive Therapy (ECT)
Governance and Management Project (GAMP)
Involuntary Treatment Order (ITO)
Legal Aid Queensland (LAQ)
Legal Assistance Forum (LAFs)

Legal Practitioner Interest on Trust Account Fund (LPITAF)
Mental Health Review Tribunal (MHRT)
National Association of Community Legal Centres (NACLC)
Practical Legal Training (PLT)
Problem-Based Learning (PBL)
Queensland Association of Independent Legal Services (QAILS)
Queensland Community Legal Services Plan (QCLSP)
Queensland Legal Assistance Forum (QLAF)
Regional Legal Assistance Forum (RLAF)
Rural, Regional and Remote (RRR)



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