

CLELAF PRESENTATION

9 SEPTEMBER 2016

Plain language and the law: Legal information in Australia

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Why is this project important to me?

'But it seems fair to say that Western societies are becoming apathetic. Although many may express sympathy for the plight of those in such bad situations, it is sometimes thought that leaving such people to fend for themselves is part of the harsh reality of any modern economy... But we should not allow ourselves to get used to it... it should be a call to action not only because some people get or own less than others but also because it implies that social relations have deteriorated to an inhuman state.'

(Wolff & De-Shalit, 2007, *Disadvantage*, p7-8)

'We passively regard the complex workings of our society as like natural forces whose effects are fortunate for some, unfortunate for others, but not a matter of justice for which we should take collective responsibility.'

(Young, 2011, *Responsibility for Justice*, 40)

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Authors	Date	Aims	Methods	Results
Cutts	1995	Testing plain language revisions to the Timeshare Act	Opinions about and comprehension testing of each version with university students, and employees or volunteers at an advice bureau, ecology centre, and research centre.	88% of participants rated revisions as being clearer or much clearer, but improvement in answering questions about the act was slight except for one question.
Tanner	2000	Testing plain language revisions of a bank guarantee	Multiple choice comprehension questions, tested on undergraduate and postgraduate students and a small group with no university qualification.	An overall improvement in comprehension but still some difficulty with parts of the document.
Masson and Waldron	1994	Testing plain language revisions of a mortgage, sale of property, bank loan, and lease renewal	Measured reading speed, ability to paraphrase, and answer questions about hypothetical scenarios. Participants were university students and clerical staff.	Simplifying drafting style does increase comprehension, but plain language drafting should be supported by public legal education and advice.
Campbell	1999	Testing comprehension of revised bank contracts	Interviews and comprehension testing. All of the participants had a secondary education and 43% had at least a bachelors degree.	Reading rate was slower for revised documents but comprehension improved.

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Authors	Date	Aims	Methods	Results
Giddings & Robertson	2002	To assess the nature of services, reasons/motivations behind services, and their merit, utility, and further use	Interviews – 20 participants (staff from legal aid commissions and community legal centres) Collected documentary data	Insufficient understanding of the limits of self-help services. Participants unable to say with certainty that their self-help services worked well, or produce any evidence demonstrating their success.
Hunter, Banks & Giddings	2009	To assess good practice in legal service design and operation	Interviews – 144 participants (providers, related agencies, clients)	Only two services met their own objectives, and only one also met client needs. The majority of services were more focused on meeting the needs of the provider than the needs of clients. Printed kits required a high level of literacy.
Kirby	2011	To study best practice in community legal information		Further research required to investigate benefits of community legal information
Lawler, Giddings, and Robertson	2012	To gain a clearer understanding of the potential for and limits of self-help in the legal landscape	Textual analysis Interviews (people who provide the materials, people who use the materials, and other relevant stakeholders)	The objective of resources was to empower people. Self-help resources may hinder rather than aid those in need.

1. Is legal information an effective way of communicating the law to disadvantaged groups, considering their vulnerabilities?

To use self-help resources, people need to 'have a reasonable degree of control over their lives, have sufficient confidence in their abilities, possess negotiation skills, and [be] operating in a context in which debilitating emotional issues are not being generated' (Giddings & Robertson, 2002, p. 454)

Buck et al. make the point that human behaviour is complex, and even people with access to resources and the knowledge and skills needed to handle a legal problem may choose to do nothing: self-esteem, ability to cope, entrenched avoidance behaviour, life circumstances and support networks are all factors to be taken into account alongside anxiety about the implications of dealing with a problem. Basic levels of literacy and numeracy are further key tools required to deal with legal issues, again highlighting how general vulnerability intersects with potential to achieve access to justice (2008, p. 678).

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2. Does the application of plain language principles improve the effectiveness of legal information resources?

This test sheet outlines information to help you understand the evidence you need to prove you meet the medical criteria for Disability Support Pension (DSP). These are the requirements you have to meet to qualify for DSP. You must meet the following criteria at the time you apply for DSP, or within the subsequent 3 months.

What are the medical criteria for Disability Support Pension?

To be eligible for the DSP you must meet the following criteria at the time you apply for DSP, or within the subsequent 3 months:

- have a condition that has been fully diagnosed, treated and stabilised in order to be assessed under the impairment tables;
- be awarded 20 points or more under one or more of the impairment tables;
- have a continuing inability to work;
- have actively participated in a Program of Support, or been exempt from this requirement.

Fully diagnosed, treated and stabilised

A condition is **fully diagnosed, treated and stabilised** if no further medical consultation is required. Some conditions require ongoing medical consultation if the condition is likely to change at the beginning of the relevant impairment table. The condition must be **diagnosed, treated and stabilised** before the activity for more than a few minutes on a single day can be assessed.

Be awarded 20 points or more

Two or more **impairments** which cause **substantial** impairment must be assessed on a single day under a single table. Ratings that are **equal** or **higher** ratings must be assessed on the lowest rating. Also, note that a person is only **eligible** for the DSP if they can do the activity for more than a few minutes on a single day.

Have actively participated in a Program of Support, or been exempt from this requirement.

Checklist, you have to show that you meet the medical criteria. This test sheet contains information about what the medical criteria are and how to prove that you meet them.

WHAT ARE THE MEDICAL CRITERIA FOR DISABILITY SUPPORT PENSION?

There are four parts to the medical criteria. Each part includes words or phrases that have a special meaning; these are in **bold** type and will be explained.

A treatment is not reasonable if there is a good reason for you to not have it. Some examples of good reasons for you to not have it are:

- medical reasons
- religious or cultural belief
- severe fear
- lack of insight
- you are unable to follow the treatment plan because you have a medical condition that affects your ability to make appropriate decisions.

Your condition is **fully stabilised** if you have already had **reasonable** treatment and more treatment will not lead to **ongoing** improvement in your condition to enable you to work in the next two years.

2. YOU MUST BE GIVEN 20 POINTS OR MORE UNDER THE IMPAIRMENT TABLES.

Now if your condition is not fully diagnosed, treated and stabilised it will not be assessed under the Impairment Tables.

Consider the Impairment Tables to find out different parts of your body and assess how your condition affects your ability to function. There are 15 different tables that cover different areas of functioning. Part of assessing your ability to function includes deciding whether you can complete specific activities. You must be able to do the activity for more than a few minutes.

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3. What are the broad structural issues that have led to the growing focus on legal information provision?



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4. What structures, policies, or resources would help community legal services improve the production, dissemination, and evaluation of the information they provide to their clients?

5. How can we improve collaboration and communication within the community legal sector?

Conducting interviews with legal service professionals

6. How do theories of empowerment influence the provision of community legal services?

7. Apart from face-to-face advice, what are the most effective ways of providing information to members of the community?

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Tips for preparing legal information resources

Focus on the user

Conduct research

Test and evaluate

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Tips for preparing legal information resources

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graph TD
    A[Develop process-oriented resources] --> B[Use plain language]
    B --> C[Use visual design]
  
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I want to...

- ...understand the community legal sector
- ...create resources
- ...make recommendations

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Would you like to be involved?

Would you like to participate in an interview?
Please contact me at d.fauls@uq.edu.au or 0424 933 388

Do you know someone who might like to participate in an interview?

Do you have details about new research or resources, or an event I might be interested in attending?

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