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Legal Needs Project - Unravelling the ball of string Pt 1

CLCQ CONFERENCE

1 June 2023



The Legal Needs Project

UNRAVELLING THE BALL OF STRING

Examines

- the nature of legal need and
- the mechanisms that generate legal problems in the context of disadvantage

Research Questions:

1. What is the nature of legal need, and how do we define it?
2. How do we understand legal need in its interaction with disadvantage and other non-legal social problems?
3. In what circumstances is it more likely to arise, and for whom?

The research aims to deliver:

- a new approach to understanding legal need across its social, political, legal and health dimensions;
- a causal explanation of why some people develop legal need and others do not; and
- a list of priority actions for the Australian legal assistance sector.

Research Design

THE LEGAL NEEDS PROJECT

June 2022 – November 2025

- Sector Reference Group
- Interviews with 24 sector workers (End 2021-2022)
- Sector workers' data collection workshops (April 2023)
- Client data collection (early 2024)
- Client interviews (early 2024)
- Implications and actions workshops (2025)



This presentation: *How does the legal assistance sector understand the 'legal need' it is funded to meet?*

Initial findings from the interviews and workshops in four parts

1. Defining Legal Need

TOP LEVEL DEFINITIONS AND IDEAS

- Challenging to define
- Lack of united framing or common language – a problem
- Problems that come be resolved with a legal response
- Produced by events and individual contexts *and* experienced by a group of people with common characteristics or conditions upon them
- A blurred distinction between social, economic and legal needs
- Changing nature of need over time
- The role of ideological commitments in how legal need is framed and understood (e.g. WLS and ALS)
- The difference in ‘met’ or ‘expressed’ legal need versus ‘unmet’ legal need
- The law is part of everyday life and legal problems can develop for anyone “simply having a legal problem does not equate to having the type of legal need we are funded to meet”
- Risk, vulnerability, marginalisation, disadvantage – what do these words mean and how do they influence an understanding of legal need?

2. Three dimensions of legal need (1)



CONCEPTUALISING FACTORS CONTRIBUTING TO LEGAL NEED

1. Legal *knowledge* needs

- Self-assist following provision of knowledge about the problem, rights education, legal information and where to go for additional support
- Minimal additional assistance required
- Knowledge to choose what to do next and capacity to do it

2. Legal *capability* needs

- More intensive and ongoing assistance or representation
- Potential influences on capability:
 - Individual features that amplify vulnerability: resources, health, DV, literacy, CLAD, power imbalance, structural/systemic inequalities.
 - A client's emotional and psychological state (trauma, complex/numerous challenges). Lack of cultural safety. Prior experience of the legal system.
 - The issue's complexity and/or complexity of navigating complex administrative, legal and other systems.
 - Level of individualised, holistic and timely support required to enable informed and self-determined choices

2. Three dimensions of legal need (2)



CONCEPTUALISING FACTORS CONTRIBUTING TO LEGAL NEED

3. Legal *accessibility* needs – ‘unmet’ legal need

- Not seeking the assistance of a service, although eligible
 - Understanding they have a legal issue
 - Physical barriers to accessibility: geographic distribution; few pathways to connection and weak relationships with other services; discrimination or lack of trust in the legal system; language; staffing turnover
- Unable to be assisted due to sector resource constraints
 - Funding
 - Quantity
 - Funding to do what? Strategic planning, service delivery models, relationships
 - What is counted is funded – the conflation of legal need with legal services delivered

Legal need was commonly defined by participants in terms of unmet legal need. They report significant unmet legal need.

3. Intersection with ‘non-legal’ needs



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ENTANGLEMENT OF LEGAL PROBLEMS IN OTHER NON-LEGAL NEEDS

- Complexity: intersection of legal and non-legal social, health, employment, housing and other issues
- Outcomes focus rather than thinking about legal need in isolation
- Early intervention
- Connections and relationships with other services, specialisations, approaches – two way change in relationships and attitudes
- How the sector and other community and health services are funded
- “nothing neat or linear about the relationship of legal and non-legal issues”
- the answer of a legal service to the person’s needs may not always foreground a legal response

4. Inequality, disadvantage, systems and the Law



- Legal Australia-Wide (LAW) survey (Coumarelos et al. 2012)
 - Association between indicators of disadvantage/marginalisation and increased prevalence, complexity and types/breadth of legal problems
- Suggests: A relationship between structural inequalities and the number, complexity and type of legal problems experienced by some groups of people within the population
 - Racial discrimination and ongoing impacts of colonisation on First Nations peoples
 - Geographic inequality of service availability
 - Health-justice partnerships: justice intersects with structural inequality through social determinants of health
 - Women, international students, migrants and refugees, older and younger people, being Indigenous – and intersectional inequalities
 - The housing market, public health response to Covid, disasters, engagement with Centrelink, NDIS, child protection, police, the Courts and their processes

Moving forward

SHAPE THE RESEARCH AND HOW IT IS USED

Next steps:

Report on interviews and workshops

1 September 2023

Client data collection and client interviews
2024

Get involved:

Go to the website to join the mailing list for
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QUESTIONS?

Thanks for listening



www.legalneedsproject.org