



LawRight
Access | Justice

Legal Outreach

Best Practice Guide:

Research Report



LawRight

LawRight improves the lives of vulnerable people by increasing access to justice through strategic partnerships with pro bono lawyers.

30,000 pro bono hours are donated annually by over 800 lawyers from 65 law firms, 170 barristers and 140 law students. By connecting to clients at community, health and civic organisations LawRight increases their access to housing, income and legal rights and improves their health and well-being.

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Introduction

The Best Practice Guide to Legal Outreach is delivered by LawRight on behalf of the Queensland Legal Assistance Forum.

This Research Report identifies the key research evidence which aligns with the Best Practice Principles identified by community legal centre practitioners in the Best Practice Guide Consultation Report

List of associated resources:

This report forms part of the Best Practice Guide to Legal Outreach suite of resources, comprised of:

- Outreach Best Practices
- Consultation Report
- Research Report

Defining legal outreach

Legal outreach is described as “service providers making a proactive attempt to reach clients, rather than waiting for clients to come to them”¹. Broadly defined, legal outreach comprises “any legal service delivery other than traditional face-to-face consultation at the legal service provider’s primary office”, which “aims to enhance the accessibility of the service to the target client group.”² In a nationwide survey of the community legal sector, 79.1% of community legal clinics reported that they provide outreach services.³

Research makes it clear that legal service delivery “will fall dramatically short of providing access to justice”⁴ if it relies on people to correctly identify and take active measures to address their own legal issues. A survey of legal outreach service coordinators identified the role of outreach as “addressing legal needs of disadvantaged communities, who otherwise would not have access to legal assistance”.⁵ Services need to be proactive in reaching vulnerable and disadvantaged groups who are least able to resolve these problems alone.⁶

The literature identifies the following features of legal outreach services, which make them effective at engaging people facing marginalisation or disadvantage:⁷

- an accessible location;
- a less formal environment;
- longer appointment times;
- lawyers skilled in engaging people with complex needs;
- continuity of service;
- timely legal assistance;
- the capacity to develop and coordinate a response to a range of legal issues;
- links to non-legal services; and
- a focus on assisting and empowering clients to assert their legal rights.

Legal outreach services:⁸

- are tailored to the specific needs and capabilities of the target client group;
- meet a priority legal need and fill a service gap;
- have effective referral pathways for disadvantaged clients who have complex, interrelated legal and non-legal needs; and
- involve successful collaboration with other legal and non-legal services.

Why do outreach?

Provide access for vulnerable clients

Outreach services are effective at engaging clients with complex needs, who would not otherwise have a pathway to legal assistance. Positive outcomes have been identified in a range of key areas, including housing and tenancy, debts and fines, access to children and other family matters, healthcare, guardianship, and social security matters.⁹

There is substantial research showing that legal assistance through outreach services to people with complex needs can provide positive legal outcomes, and meaningfully improve clients' circumstances.¹⁰ When contrasted with other service models, outreach services which engage marginalised clients offer "more intensive forms of assistance for clients who lack the personal resources to help themselves".¹¹

Although outreach legal services face many challenges, they can also result in benefits that are not achievable via static legal assistance services.¹² Given the lower levels of legal understanding (and higher levels of legal need) of the most disadvantaged client groups, targeted and tailored assistance strategies are critical to improving their access to justice.¹³ Outreach services have been identified as the most effective way of proactively targeting and meeting the legal needs of marginalised groups.¹⁴

A strong link has been found between marginalisation and legal problems, with the legal issues faced by marginalised people existing "at the intersection of law and everyday adversity".¹⁵ The types of legal issues frequently experienced by marginalised people include (but are not limited to):

- debt;
- housing and tenancy;
- health;
- employment;
- education;

- welfare benefits;
- guardianship and administration;
- family law; and
- issues with consumer products.¹⁶

These problems extend beyond the solely legal sphere, and relate more broadly to a person's experience of economic, social and physical disadvantage.¹⁷

Outreach services are a particularly effective means to assist hard-to-reach clients.¹⁸ Outreach has been shown to provide clients with positive legal outcomes, provided that outreach services are closely connected to the target client group and their support agencies.¹⁹ Outreach can also improve non-legal workers ability to identify their clients' legal problems, and help those workers to more effectively refer clients to legal professionals.²⁰

Tailor legal services to a chosen demographic

There are a diverse range of legal outreach models, reflecting the historical differences in the practices of different legal services, the varied needs of target client groups, and geographical contexts.²¹ Outreach services may take the form of generalist services, services targeting a particular client group (such as youth, First Nations, or women's services), or services targeting a particular regional, rural or remote area.²²

The model of any given outreach service will vary depending on the target client group, the nature of the legal issues it seeks to address, and the specific social and geographic context of the program.²³ Outreach programs also vary considerably in their levels of staffing and resourcing, level of integration and collaboration with partner agencies, and legal practice areas.²⁴

Outreach services targeted at a specific client group are effective, due to:²⁵

- an in-depth knowledge of the backgrounds and experiences of target client groups;
- an understanding of the kinds of problems they commonly experience;
- experience in addressing their most common barriers to seeking legal help;
- a well-developed best-practice response.

The thorough planning and design of an outreach service is paramount to ensuring its effectiveness, its sustainability, and that it effectively meets client needs. Given the diversity of clients who might be engaged by community legal services, there is no ideal, “one-size fits all” approach.²⁶ Additional consideration must be given to:

- the identified legal needs of the target population;
- the existing local service infrastructure (both legal and general social support services);
- the physical space and local geography;²⁷
- how to market the service to successfully engage with clients; and
- plans for administration and sustainability.²⁸

Be where your clients are

When people experience a legal issue, actively seeking legal advice or assistance is only one of a broad range of actions taken in response to that issue. People are likely to address legal problems by consulting with a non-legal professional, directly communicating with the other party, consulting with a friend or relative, or using websites or other self-help guides.²⁹ The 2012 *Legal Australia-Wide Survey* found that, in Queensland, a legal professional was consulted in only 30 percent of cases where some sort of advice was sought.³⁰

Literature identifies that the non-legal professionals most likely to be approached for help in resolving a legal matter are the following:³¹

- Health;
- Counselling;
- Welfare;
- Government services;
- Trade unions; and
- Schools and universities.

There are several reasons that people turn to these services, including that the service is familiar, it is known or trusted, and that it is perceived to be accessible and approachable. Many people simply seek help from the service or worker who they are already in contact with when a crisis hits or a problem arises.³² Non-legal workers are frequently the only existing supports that vulnerable people have in their lives,³³ so are ideally placed to notice legal problems. These services play an important role as gateways to legal services for people who may otherwise fail to access justice.³⁴

Outreach engages clients who would have otherwise not sought legal advice.³⁵ Research shows that most people who have legal issues are unaware of the legal dimension to their problems, and that a very small number will actively seek assistance from a legal service.³⁶ This emphasises the importance of legal outreach, to effectively engage with people who would otherwise leave legal issues unaddressed.³⁷ Outreach services must be “appropriately located and connected with target groups and their support agencies.”³⁸

Proactive, targeted outreach provides access to justice to those who need it most. It’s crucial that outreach legal services are located in places that vulnerable clients already visit (such as housing and employment services, crisis accommodation facilities, and domestic violence refuges).³⁹

Outreach provides legal assistance to hard-to-reach clients.⁴⁰ For some clients — particularly those in remote communities, prisons, hospitals and detention centres — outreach services are critical. Given their physical separation from other legal services, outreach is often the only access these clients have to legal assistance.⁴¹ Partnerships with non-legal organisations assisting vulnerable people⁴² create “well-signposted entry points” to legal services and the justice system.⁴³

Legal outreach services should be designed “in light of the known, common pathways into, through and out of the justice system, and into and out of disadvantage itself”,⁴⁴ and located in “places that can be easily reached, and are regularly used by target client groups”.⁴⁵

Outreach has been shown to provide clients with positive legal outcomes, provided that those services are closely connected to the target client group and their support agencies.⁴⁶ Outreach can also improve non-legal workers ability to identify their clients’ legal problems, and help those workers to more effectively refer clients to legal professionals.⁴⁷

Fill an unmet legal need

Legal outreach fills gaps in legal assistance. Many vulnerable people are in need of legal assistance, yet often feel powerless to resolve their legal problems. For many marginalised people, unless they have access to appropriate outreach services, justice is no more than theoretically available.⁴⁸

During the planning phase of a legal outreach service, planners should precisely identify the legal problem which the service seeks to address, and the desired outcomes of engagement. Research shows that the most successful legal outreach practices are those which have a commitment to a specific client group or social mission, and which think creatively about how to best meet the legal needs of those clients.⁴⁹ A clear and well-defined purpose and scope for an outreach service will increase the effectiveness and utility of that service, as will a clear understanding of referral pathways when a client reaches the limits of that service's assistance.

Beyond the specific needs of a client group, the implementation of an outreach legal service will necessarily be informed by strategic priorities, available resources and the existing geographic, socioeconomic and service environment in which the service is delivered.⁵⁰

Intervene before problems escalate

Outreach services prevent legal from and non-legal problems from escalating. The most effective means to do so will often lie outside of the legal sphere. For example, “the most effective way to assist a homeless person with a legal problem may not be signposting to legal assistance, but by providing a place to live”.⁵¹ Even if the law can assist a homeless person with a tenancy situation, that tenancy cannot be sustained without adequate community support.⁵²

Legal issues tend to arise at times of significant stress and personal crisis, during which people seek assistance from non-legal community organisations and health services. Legal outreach connected to these services may help to identify and deal with legal issues before they become too complex, or before court or tribunal proceedings are imminent.⁵³ By engaging with people early, and by providing advice and assistance before legal problems reach a critical point, outreach services may reduce the need for more intensive and expensive intervention later on.⁵⁴

Meet the needs of remote communities

In the Queensland context, outreach is particularly important to rural, remote and isolated communities. Due to Queensland's size and the vast distance between communities, a large number of people live in places without access to legal assistance.

The Legal Australia-Wide Survey found that people in remote areas travelled more than 80 kilometres for legal assistance in 19 per cent of cases, compared with eight per cent for regional areas, and two per cent for major city areas;⁵⁵ Outreach fills a vital gap in service delivery, as many remote lack access to traditional legal assistance pathways.

Remote Aboriginal and Torres Strait Islander communities have high level of unaddressed legal need, due to geographic isolation and restricted access to services.⁵⁶ First Nations people experience more frequent legal problems than the wider community,⁵⁷ and face considerable disadvantage when engaging with the justice system.⁵⁸ Outreach to these communities has been identified as ‘critical’ in addressing unmet and unrecognised legal need.⁵⁹

How to do outreach

Understand the importance of collaboration

Multiple complex and interconnected problems have a significant impact on the people and communities who experience them.⁶⁰ The literature has identified that that legal and other issues faced by marginalised people are often intertwined, and not easily resolved by a single agency.⁶¹ The 2018 *Justice Project Report* notes that support for and from non-legal agencies is “key to the provision of appropriate and effective gateways for marginalised groups to access assistance”.⁶²

Non-legal support agencies are well-positioned to help clients identify and respond to their legal issues, and to refer clients to appropriate legal assistance services. Particularly for service providers with a case-management role (such as youth workers and homelessness case workers), the accurate identification of their clients’ legal issues and appropriate referral to assistance may be one of the most effective ways for their clients to ultimately attain satisfactory legal outcomes.⁶³ Many disadvantaged people who experience legal problems but fail to access legal assistance may otherwise be engaged with general community health and welfare services,⁶⁴ and often seek support from these services when a time of crisis arises.

Measures to improve coordination and cooperation between legal and non-legal services include:

- formalised communication mechanisms;
- agencies working together on projects to address client needs;
- establishing strong, well-connected networks of service providers in a local area;
- shared training and development in legal issues and referral processes⁶⁵

Value multidisciplinary, holistic support

Although well equipped to resolve legal issues, many lawyers lack the training to address underlying issues which lead to these legal problems; such as poverty, homelessness, intergenerational trauma, discrimination and racism, poor education, ill health, employment, and substance abuse.⁶⁶ Part of being sensitive to and aware of the interconnectedness of a client’s legal and non-legal problems is an understanding that other services will often be better positioned to address them.⁶⁷

In order to effectively address the multiple and interconnected problems faced by clients, outreach legal services collaborate closely with non-legal support organisations. Communities connect well with collaborative services, and clients benefit from structures which allow lawyers to develop strong working relationships with their service delivery partners.⁶⁸ The benefits of collaborative services are ‘well recognised’.⁶⁹ They allow for:

- a broader range of legal issues to be detected and resolved;
- a reduced burden on clients to locate and engage with multiple service providers;
- reducing the potential for referral fatigue, and
- breaking down barriers to client engagement.

“Holistic services focus on addressing the range of legal and non-legal issues faced by disadvantaged people, rather than addressing each issue in isolation (the ‘silo’ approach). The ‘silo’ approach can be an inadequate response to the multiple issues experienced by disadvantaged people.”⁷⁰

The literature emphasises that “collaboration between professionals is the only way to practice law to help poor people”, and that a “holistic approach to a patient’s medical, social, and legal problems has been described as ‘a logical and necessary response to crises in poor families’”.⁷¹

Co-location of services enables holistic support

Research from both Queensland and other Australian jurisdictions emphasises the importance of well coordinated, joined-up services to successfully address the legal and non-legal problems experienced by marginalised people.⁷² The issues experienced by clients experiencing disadvantage are often complex and interconnected, and the location of legal outreach services alongside counselling, medical, financial and other welfare services creates the opportunity for these issues to be addressed concurrently and holistically.⁷³

Merely co-locating with a non-legal service does not guarantee that outreach will be delivered in a manner that holistically addresses client needs. Holistic service delivery requires staff to collaborate closely with one-another, for client files and documents to be shared across disciplines, and for service delivery to be integrated. Even where services are located under one roof, staff may not necessarily have an opportunity to work together closely or to collaborate on service delivery.⁷⁴ Research shows that the best outcomes for clients are delivered when legal and non-legal services:

- share resources and knowledge,
- develop effective working relationships,
- work together to address client problems;
- collaborate in a way that's responsive, flexible and person-centred.⁷⁵

Train your partner agency

Training the staff of partner agencies can help them to identify the legal dimension of their clients' problems, and to provide timely and appropriate referrals. Regularly providing training, advice and support to partner agencies also demonstrates a commitment to ongoing collaboration and integration.

Partner agency staff should be equipped to identify the legal problems faced by their clients, and trained in diagnostic tools (such as the Legal Health Check) to help them to more effectively refer clients who require legal assistance.⁷⁶

Workers who have a specific role in providing advice or assistance to clients (such as case workers, nurses, counsellors or youth workers) will benefit from regular training from legal staff to improve their knowledge of legal services and effective referral practices.⁷⁷ Cross-sector training events, such as LawRight's annual Caseworker Training Day, help to build capacity within the community and health sectors to properly identify and refer legal issues experienced by their clients.

Many legal outreach services deliver community legal education in conjunction with their outreach, and collaboration with the host agency creates an important opportunity to train frontline workers. Community legal education is often delivered to the staff in partner agencies, or in some cases delivered directly to the client group.

Forell and McDonald⁷⁸ (see Table 1) have developed a framework to determine the appropriate audience for community legal education, and when in the life of a legal problem that the education should be delivered ('just in case' or 'just in time').

Note that information alone is not enough to empower clients to resolve their legal issues. Simply delivering legal education to clients will not necessarily equip them to resolve their legal issues, and will not replace tailored legal outreach services. Coordinated and collaborative outreach legal services are critical to ensuring that clients are able to appropriately address their legal needs.⁷⁹

Table 1: Forrell and McDonald⁷⁸

Who		Broader community	Core clients	Workers
		Higher capability	Lower capability	Problem noticers
To do		Self-help	Get help (& reinforce help)	Give help
When	Just in time	Procedural—to outline steps to take with current problem and provide tools to do so e.g. LawAssist NSW <i>Is someone chasing you for money?</i> Divorce classes * More scope for technology	To identify problems as legal, and introduce legal service for immediate help e.g. CLE provided by solicitors in outreach locations * Less scope for technology due to importance of relationship building	To educate problem noticers to recognise clients' existing legal issues and know where to refer client to legal help (including outreach) e.g. <i>Law Check-Up tool</i> , linked to outreach advice service * Mix of technology and face-to-face CLE
	Just in case	To encourage steps to prevent problems arising and encourage action when they occur e.g. Planning for later life decision-making CLE on <i>Cyber bullying</i> for young people * More scope for technology	To identify problems as legal --to prevent problems and to encourage help seeking when problem arises e.g. <i>Let's talk</i> CLE package, delivered in migrant resource centres To reinforce advice provided * Less scope for technology due to importance of relationship building	To build capacity to recognise issues and refer, across a range of issues, to assist current and future clients e.g. <i>Law for non-lawyers</i> , the webinar series * More scope for technology
Intent		Provide <i>alternative</i> to legal assistance services	To <i>connect</i> isolated clients to legal assistance services	Provide a <i>pathway</i> to legal assistance services for clients
Types of outcomes		Users able to resolve issues	Users seek assistance	Problem noticers provide appropriate referrals

Integrate with partner agencies

Services can collaborate in a variety of ways across a continuum,⁸⁰ ranging from referral services, to co-located services, to full integration.

Castles⁸¹ has identified the following models of service collaboration and integration:

- separate organisations referring clients to one-another, and dealing concurrently with client needs;
- lawyers as the predominant service providers, with other professionals taking a secondary or supporting role;
- coordinated collaboration between lawyers and other professionals working together at a single site to meet multiple client needs;
- multidisciplinary practices addressing client needs holistically;

This can be compared to Forell's scale of service integration,⁸² which identifies the following degrees of integration (from least integrated to most integrated):

- **No awareness:** We are not aware of the approach taken by our partner workers in the other organisation.
- **Awareness:** We are aware of the approach taken by our partner workers in the other organisation, but organise our own activities solely on the basis of our own objectives, materials and resources.
- **Communication:** We actively share information (formally or informally) with our partner workers in the other organisation.
- **Coordination:** We work together by modifying program planning and delivery to take into account methods, materials and timing of our partners in the other organisation.
- **Collaboration:** We jointly plan and deliver key aspects of our program with the other organisation with the aim of an integrated approach.

Think about technology

Digital technology has become an increasingly common feature of daily life, and many services working in legal outreach have expressed a desire to make use of its interactive possibilities.⁸³

There is increasing interest in the community legal sector to employ videoconferencing technology in legal outreach, particularly when addressing marginalised populations in rural and remote communities.⁸⁴ Literature suggests that this interest has been prompted by three factors:

- the technology for providing these services becoming more accessible and affordable;⁸⁵
- the relatively high cost of maintaining a physical presence for legal outreach in rural and remote areas;⁸⁶ and
- the rollout of the National Broadband Network ensuring that Internet connectivity in these areas is more reliable and accessible.^{87 88}

Considerations for Technology-based services

Before implementing a technology-based approach to legal outreach, it's imperative that the limitations of these engagement strategies are considered.⁸⁹

Despite the widespread adoption of the Internet within the broader Queensland community, technology-based outreach should not be viewed as a 'silver bullet' for engaging with marginalized or socially-isolated clients. While the general public has a high level of comfort and familiarity with Internet-based services, the same does not hold true for the individuals and communities who are most in need of legal outreach.⁹⁰

Many marginalised populations find technology difficult to use, and are uncomfortable in a digital context which they feel was not created "for them".⁹¹ People who speak English as a non-primary language, people with lower levels of education, and people experiencing mental illness are all likely to engage more effectively with face-to-face consultations than with web- or telephone-based approaches.⁹²

Video-based outreach diminishes the ability for a practitioner to build a rapport with a client, and may inhibit a client's willingness to discuss sensitive, complex or traumatic experiences. Clients are less able to develop comfort with and confidence in a lawyer they've never met in person. Many marginalised people have low levels of faith and trust in the legal system, and often require face-to-face meetings to achieve positive legal outcomes.⁹³

Additionally, technology-based outreach often means that outreach legal services have no physical presence in the organisations and communities that they're working with. Regular, face-to-face engagement with partner organisations is critical in building strong working relationships, collaborative practice, and effective referral pathways. Services which rely entirely on technology-based outreach are unable to forge close working relationships with their partners, and this diminishes their ability to respond collaboratively and holistically to client needs.

Regional, rural and remote considerations

Although 86% of the general Queensland population has access to the Internet at home, this drops to 77% in regional, rural and remote areas.⁹⁴ Additionally, the quality of digital services in these areas may be unreliable and inconsistent (although this issue may be ameliorated by improvements to the National Broadband Network⁹⁵).

Even where a stable Internet connection exists, people in regional, rural and remote communities have lower digital literacy rates than the general population, and may be culturally uncomfortable with relying on technology for legal information.⁹⁶

While technology may help to overcome the geographic difficulties in engaging with clients in these areas, effective outreach strategies should use technology-based approaches in conjunction with accessible face-to-face consultations.⁹⁷

Pro bono Outreach

Volunteers and pro bono partnerships significantly increase the capacity for community legal organisations to provide their services.⁹⁸ A "pro bono partnership" is defined in the literature as 'a professional or firm that, as a business, has formally committed to allocating resources and making a contribution to a CLC and/or its clients, free of charge',⁹⁹ while a volunteer is defined as 'an individual, who provides skills and experience to a CLC, free of charge'.¹⁰⁰

Pro Bono partnerships from firms take many forms, and allow outreach services to improve access to justice and increase their provision of legal service through a variety of mechanisms, including:¹⁰¹

- staff for outreach clinics, allowing the clinic to make use of the firm's lawyers' specialist skills and knowledge;
- secondments to community legal services, which not only provides training in the needs of the client group to the secondee, but also increases the outreach service's capacity for service delivery for the period of the secondment;
- non-legal support, such as the use of rooms or other resources and facilities; or
- ad-hoc legal support, such as allowing practice lawyers to call or email the firm's lawyers for advice.

It should be noted that there is a cost for outreach projects to enlist pro bono lawyers as a part of their service delivery. They must often equip volunteer lawyers with the skills and knowledge to work effectively and appropriately with their target client group, train them in areas of law which are often outside of their usual practice areas, and provide appropriate supervision.¹⁰² This is only worthwhile if the firm or individual lawyer can commit to a substantial, ongoing pro bono contribution, which will lead to effective and meaningful client engagements.¹⁰³ Further discussion of pro bono partnerships can be found in the Consultation Report.

The Outreach Lawyer

It is clear from the literature that assisting vulnerable people through the justice system is often a complex task.¹⁰⁴ The relevant laws, a client's specific vulnerabilities, and the system itself are all complex.¹⁰⁵ A lawyer working in an outreach setting will require knowledge not only of the relevant areas of law, but also of how to work effectively with clients with complex needs, and how to build relationships with the services they access.¹⁰⁶

To deliver outreach most effectively, outreach lawyers will have the following skills:

- sufficient expertise in the relevant areas of law, recognising that the issues facing clients may be complex or at a crisis point;
- some level of knowledge across a number of different legal practice areas, as clients may come to them with a range of intersecting legal problems;
- an awareness of where and how to refer clients who have issues beyond their expertise or role, including understanding the role and capacity of the host agency; and
- communicating and working with the target group, including clients with chaotic lives, mental health issues and cognitive impairment.¹⁰⁷

Understand relevant areas of law

Lawyers working in outreach should have a degree of confidence and expertise in the areas of legal practice which are relevant to their clients' lives. The following areas of law are priorities for marginalised client groups:

- debt;
- housing and tenancy;
- health;
- employment;
- education;
- welfare benefits and other government services;
- family violence;
- family law issue;
- criminal charges; and
- victim of crime issues.¹⁰⁸

Outreach lawyers should have “a broad general knowledge across the key civil, family and crime issues affecting the client group” in order to provide basic information outside their usual area of practice.¹⁰⁹ Although it may be unrealistic for smaller services to employ lawyers who are skilled in all of the above areas of legal competency, this may be possible in larger, more well-resourced outreach services.¹¹⁰ Where clients have legal needs which fall outside the expertise of a given service's outreach staff, it's important for both the service and individual lawyers to have robust referral links to services which do have the appropriate expertise.¹¹¹

In addition to effective referrals, the literature has also identified the importance of appropriate case management, record-keeping and note-taking (particularly when working with transient or otherwise hard-to-reach clients).¹¹² As outreach lawyers are often part of a rostered team, the literature emphasised the importance of effective client file management and note-taking to ensure a smooth handover and a degree of service continuity.

Incoming lawyers should take time to review and familiarise themselves with client files, to ensure that clients did not have to “retell their stories”, or otherwise become frustrated with the service.¹¹³

Finally, while the literature identifies the use of an experienced solicitor as best practice,¹¹⁴ it acknowledges that due to practical considerations outreach services are often staffed by junior lawyers. In these circumstances it is recommended that a supervising lawyer should review case notes, so that any corrective action, if needed, can be performed.¹¹⁵

Understand multiple and compounding disadvantage

Outreach lawyers must understand that the legal problems faced by marginalised clients are situated in a broader social context, and that they exist alongside and as a part of other aspects of social, physical and economic disadvantage.¹¹⁶ It must also be recognised that marginalised people facing legal problems are likely to be receiving support from counselling and social support services, and that legal services should engage with these networks to create a more holistic, client-centred response to their needs.¹¹⁷

‘Marginalisation’ is defined as “a lack of participation in mainstream societal activities, and a lack of access to standards of living, rights, goods and services enjoyed by the majority of society”.¹¹⁸ This lack of mainstream inclusion has been found to have a strong connection to a lack of legal knowledge,¹¹⁹ a lack of access to legal resolution pathways,¹²⁰ and a lack of action being taken to address legal issues.¹²¹

Legal problems are not equally distributed throughout the population.¹²² Some people are more vulnerable to experiencing legal problems than others,¹²³ and a small minority of people account for the majority of legal problems.¹²⁴ The 2012 *Legal Australia-Wide Survey* found that, in Queensland, 10 per cent of respondents accounted for 68 per cent of all legal problems reported.¹²⁵ The same survey found that the most disadvantaged Australians accessed community legal services for nearly three times as many problems as respondents who were not disadvantaged.¹²⁶

People experiencing disadvantage and marginalisation have been found to not only experience more legal issues at a greater frequency than the general population, but also to experience a wide range of more substantial and serious legal problems.¹²⁷ People experiencing marginalisation typically have “poor knowledge of legal rights, remedies and the justice system”, and often “lack the skills, attitudes and psychological factors required to resolve legal problems”.¹²⁸

A number of socioeconomic groups have been identified in the literature as experiencing marginalisation,¹²⁹ and subsequently being more likely to suffer from legal issues. These include:

- young people (aged 24 and younger);¹³⁰
- older people (aged 65 and over);¹³¹
- First Nations people;¹³²
- refugees and asylum-seekers;¹³³
- people experiencing family and domestic violence;¹³⁴
- people living with a chronic illness¹³⁵ or disability;¹³⁶
- people with low or no income;¹³⁷
- single parents;¹³⁸
- people experiencing unstable housing or homelessness;¹³⁹
- people living in rural or remote areas;¹⁴⁰
- people with low levels of education or literacy;¹⁴¹
- people living in institutions (such as prisons, detention centres, or nursing homes);¹⁴² and
- lesbian, gay, transgender or bisexual people.¹⁴³

There is considerable overlap between all of the vulnerable client groups identified above, with target clients often falling into more than one group as a result of their multiple disadvantage.¹⁴⁴ For example, a person experiencing housing instability is also more likely to have limited or no income than the general population, and is more likely to be living with a disability.¹⁴⁵ As a person’s level of marginalisation and vulnerability increase, so to do both the number and severity of legal issues they face.¹⁴⁶

There is a strong bidirectional relationship between socioeconomic disadvantage and legal problems”.¹⁴⁷ That is to say: not only does marginalisation increase the likelihood of experiencing legal problems, but experiencing substantial legal problems can also “create, perpetuate, or further entrench”¹⁴⁸ social disadvantage and marginalisation. The experience of legal problems impacts many other facets of a person’s lives; including income loss or financial strain, stress-related illness, relationship breakdown, or housing instability.¹⁴⁹

The best outreach legal services go beyond “merely caring for the client”, and encompass “a commitment to client empowerment”, acting in partnership with clients to find solutions which satisfy them.¹⁵⁰

Understand your clients' capability

An individual's personal skills, knowledge, resources and circumstances all impact the ways they engage with legal service providers. A person's experience of marginalisation will often create barriers to their ability to build rapport with a lawyer, to understand legal advice, and to take steps to resolve their legal issues.

Successful legal outcomes in an outreach setting rely not only on lawyers having a thorough understanding of their legal practice areas, but also of having a "comprehensive understanding of the relevant client group"¹⁵¹, complemented by qualities such as empathy, relationship-building, and strong communication skills.¹⁵² Clients with complex needs respond effectively to lawyers who are approachable, respectful, skilled at explaining legal issues in plain language, and able to appropriately refer clients for additional assistance where necessary.¹⁵³

Members of marginalised groups frequently have limited understandings of their legal rights, the remedies available to resolve legal issues, and of the justice system in general.¹⁵⁴ These factors can be characterised broadly as a person's level of 'legal capability',¹⁵⁵ which encompasses their:

- general level of literacy and education;
- ability to successfully perceive and characterise the legal dimensions of a problem;
- knowledge of the justice system and dispute resolution processes;
- ability to recognise and understand their legal rights and responsibilities;
- confidence in the broader justice system;
- personal efficacy to affect change and psychological readiness to act; and
- capacity to comply with procedural requirements in a timely and appropriate manner.

The people most likely to encounter legal problems tend to possess less of the requisite knowledge, self-help skills, attitudes and resources to effectively address legal issues.¹⁵⁶ Outreach assists clients who are less likely to correctly identify and characterise pressing legal issues, are less aware of legal assistance available in their area, and are less likely to take effective action in response to their legal problems.¹⁵⁷

Many marginalised people have developed an inherent mistrust of authority and the legal system, particularly people who have suffered abuse or trauma,¹⁵⁸ people experiencing a mental illness,¹⁵⁹ or people from First Nations backgrounds.¹⁶⁰ Some clients may have developed pessimistic attitudes towards the law due to having poor outcomes in previous legal proceedings, or due to having negative past experiences with legal services and authorities.¹⁶¹

People who have experienced unsatisfactory outcomes in the past may develop an attitude of hopelessness and frustration, and may believe that pursuing legal remedies will be both time-consuming and lead to no meaningful improvement to their situation.¹⁶² Due to poor experiences with the legal process, many marginalised people may believe that the legal system does not exist to serve their best interests, and may retreat into hopelessness and despair.¹⁶³

A person experiencing insecure or volatile living arrangements may choose not to pursue legal remedies due to a fear of jeopardising their situation, escalating the problem, damaging their relationship or creating acrimony with the other party,¹⁶⁴ or facing reprisal.¹⁶⁵ These factors are particularly prevalent when the other party to a matter is an employer, landlord, other housing provider, or abusive domestic partner.

Outreach practitioners must be able to "build up trust and rapport with their clients, who may feel intimidated, distrustful or embarrassed about seeking assistance".¹⁶⁶

Communicate legal concepts carefully

Given that many clients have a low level of legal capability, and may live with a disability or low levels of literacy, outreach lawyers must use clear, plainly understood language. Additionally, resources such as factsheets and workbooks may be used to help explain concepts to clients, or for them to take away after a consultation to serve as a prompt or reminder.

Good practices include:

- asking clients to paraphrase your advice at the end of an appointment;
- regularly checking in with clients throughout the appointment to ensure their understanding;
- reiterating legal concepts;
- offering several or longer appointments;
- using resources such as factsheets and workbooks to explain complicated legal concepts.

Be trauma-informed

Research also shows that many people who experience complex trauma-related problems have been re-traumatised by the very services they have accessed for assistance.¹⁶⁷ Such re-traumatisation occurs across the full spectrum of sectors, practices and services, including within and across the legal and justice sectors.

For further discussion of trauma-informed practice, please see the Best Practice Guide to Legal Outreach Consultation Report.

Annotated Literature Review

This annotated bibliography has been prepared by LawRight as part of the *Best Practice Guide to Legal Outreach* project. It is an overview of the key literature that's relevant to the planning and delivery of legal outreach services, particularly as they relate to engaging clients from marginalised backgrounds. This literature has informed the development of the *Best Practice Guide*; but note that the discussion below is not intended to be comprehensive.

K Brousalis, 'Don't smoke, don't be poor, read before signing: Linking health literacy and legal capability' (Report, Community Legal Education Ontario, April 2015)

The report draws comparisons between community health information and community legal education practices and makes recommendations for the improvement of community legal education, taking into account the legal capability of vulnerable clients.

The report finds that in the legal sector, there is little recognition of social and economic determinants and barriers to the access and use of legal information.

The paper assesses the way in which legal capability is affected by social determinants of health including income, education, employment, housing, gender, race and disability, and recommends strategies and opportunities to address these barriers in the provision of community legal education. The paper notes the significance of 'trusted intermediaries' (community organisations) in reaching vulnerable individuals in both the health and legal sectors. It also recommends that legal services design a 'quick screening tool' to help 'trusted intermediaries' and frontline legal workers to identify needs. A screening tool could also help vulnerable people recognise legal needs before they reach crisis point.

The recommendations in this report support the use and adoption of a Legal Health Check as a community legal education resource for vulnerable clients.

S Clarke & S Forell, 'Pathways to Justice: the role of non-legal services' (Discussion paper, Law and Justice Foundation of New South Wales, June 2007)

This paper identifies that people experiencing a legal problem will present at legal services in only a small minority of cases, and are more likely to engage with non-legal health and welfare services. It reports that these services are turned to because they're perceived to be more accessible and approachable, and because people experiencing crisis will seek help from services with which they're already engaged. The paper recommends that it is beneficial for these services to develop relationships with legal services, and receive training as to the best pathways for legal referrals.

C Coumarelos, H McDonald, S Forell and Z Wei, 'Collaborative Planning Resource – Service Planning' (Law and Justice Foundation of New South Wales, November 2015)

This resource was developed to assist community legal centres and other free legal service providers to design appropriate legal services for specific priority client groups. It explains how findings from legal needs research can be used to plan services that align with the objectives of the 2015 National Partnership Agreement on Legal Assistance Services.

Findings from legal needs research suggest that legal services should be targeted, joined-up, timely and appropriate, in order to be effective. The resource notes there are challenges to joining up services, because more collaboration/integration often requires more resources to manage relationships between or within organisations.

The resource notes that there is no single or 'ideal' model of service delivery. To support collaborative service planning, the resource provides an overview of the legal needs of different vulnerable groups, and the types of service delivery strategies that are likely to be most effective for these groups.

A Currie, 'Extending the Reach of Legal Aid: Report on the Pilot Phase of the Legal Health Check-Up Project' (Report, Halton Legal Clinic, 2015)

The report reviews the pilot phase of Halton Community Legal Clinic's Legal Health Check-up (LHC) program. The LHC pilot program relies on partnerships between the legal clinic and a number of community organisations, and targets disadvantaged clients. Intake data showed a much higher than average experience of multiple concurrent legal problems. The outcomes of a completed LHC form included direct legal assistance, group sessions, and the provision of public legal education resources.

The report found the LHC was an accurate tool for detecting legal problems, a useful tool to identify problems before they reached a crisis level, and a good foundation for outreach activities. The report emphasised the LHC's success. It noted that the LHC often facilitates a conversation from which general issues faced by the client may be discussed.

The report also found that a good relationship between the legal clinic and service providers both encouraged people to engage with legal service (where there was otherwise an identified and widespread reluctance to do so), and contributed to more holistic, integrated legal practice. The report also noted that 'an open-ended, holistic and integrated legal service is outside the range of experience and the culturally-based expectations of disadvantaged people seeking help' (p 25).

One interesting issue identified in the report was the difficulty in characterising "crisis situations" for vulnerable populations and the limited role that lawyers can play in addressing the complex needs of people with entrenched disadvantage.

Federation of Community Legal Centres Inc (Victoria), submission to the Victorian Government Access to Justice Review, March 2016

This submission contains detailed information on the planning of community legal services, with specific discussion on outreach and engagement strategies. It emphasises the importance of performing a legal needs analysis before implementing an outreach service, which should include:

- a review of relevant legal needs data drawn from government agencies, demographic data, and stakeholders such as police, prisons, housing agencies, health services and other community services;
- a review of data from existing community legal

- programs operating in the area; and
- qualitative information collected through interviews with key stakeholders in the area.

The submission also draws attention to "referral fatigue" suffered by clients who are passed from one service to another, and suggests that this prevents many clients from pursuing a legal issue to its conclusion. The submission emphasises the importance of effective referral pathways and protocols to help effectively triage both legal and non-legal issues faced by clients.

P Flatau et al, 'How integrated are homelessness, mental health and drug and alcohol services in Australia' (Final Report, No 206, Australian Housing and Urban Research Institute (AHURI), May 2013)

This report outlines findings from a cross-sectional, mixed method study in Melbourne, Perth and Sydney involving community organisations and service users. The report considers the practical reality and experience of integration in relevant services from the perspective of different stakeholders.

Service integration is defined broadly as 'services working together to achieve common goals', and the report adopts a comprehensive framework for analysing the scope, depth and extent of integration from the perspective of different stakeholders.

Key findings from the report are:

- there is a desire on the part of both clients and service providers for greater levels of service integration. However, there are some limits to desired integration, which ought to be recognised by governments;
- in general, service integration is associated with improved outcomes for clients;
- service integration is highest between services in the same domain rather than across domains; and
- practices around governance, information sharing and staff collaboration are limited and resources are required to support their development.

Overall, the report finds that policy makers have a key role to play in supporting and funding bottomup integration, as well as considering potential for systems-level integration across different 'sectors'.

S Forell, 'Is early intervention timely?' (Discussion paper, Law and Justice Foundation of NSW, August 2015)

This paper emphasises the importance of legal outreach and the value of linked or colocated services, by noting that many people experiencing crises first present to sites outside of the legal sector (such as hospitals, health services and homelessness services). It draws on existing literature to identify that many legal issues arise during points of dramatic change or inflection in people's lives, such as family breakdown, incarceration or sudden illness or disability.

The paper identifies that multiple legal problems commonly co-occur or "cluster", particularly following a time of personal crisis.

This paper also notes the importance of early intervention (through outreach and effective referrals). It notes that early intervention can reduce the need for more intensive and expensive intervention later on, by addressing legal matters before they become more entrenched and complicated and before court or tribunal proceedings are imminent. As such, it recommends that legal problems should be addressed before they reach a crisis point, and that this can be best achieved through timely outreach and effective referral processes.

S Forell and A Gray, 'Outreach legal services to people with complex needs: what works? (Justice Issues, No 12, Law and Justice Foundation of New South Wales, October 2009)

The paper analysed existing research on best practice for face-to-face outreach legal services to people with complex needs.

The paper identified several features of effective outreach legal services. In particular, the paper shows that co-location with community organisations was not enough to guarantee clients will access the service, and that it was important to build effective referral pathways with key 'problem noticers' and 'market' the service directly to potential clients. An ongoing collaborative relationship between the legal service and community organisation, as well as training for community workers to identify and refer legal needs, were described as key ingredients for an effective partnership.

Another key finding was the need for ongoing communication between the legal service and community organisation to sustain referrals and support the delivery of legal services (eg, workers assisting clients to access documents).

Equally, it was important for legal advisers to be aware of referral pathways for non-legal needs, including understanding the role and capacity of the partner agency. In addition, there was a need for one person (lawyer or separate 'coordinator') to have responsibility for developing and sustaining relationships with 'problem noticers' and providing ongoing training to community workers and lawyers.

S Forell and H McDonald, 'Beyond great expectations: modest, meaningful and measurable community legal education' (Justice Issues, No 21, Law and Justice Foundation of New South Wales, December 2015)

This paper outlines a framework for understanding and evaluating community legal education and information (CLEI). The framework divides CLEI by its intended audience (general community, people with low capability or community workers) and its timing in the life of a person's legal problem ('just in case' or 'just in time').

The paper recognises CLEI as a vulnerable component of legal service delivery, especially for clients with low capability who may not be able to self-help. It suggests that a meaningful measure of CLEI for community workers to give help would be an increase in referrals to the outreach clinic.

M Hardham, 'Starting a Health Justice Partnership – A toolkit' (Health Justice Partnerships Network, 2015). Available at: https://justiceconnect.org.au/wp-content/uploads/2018/11/HJPs_Toolkit_final_new_brand_20181023.pdf

The toolkit was developed on behalf of the Health Justice Partnerships Network to support organisations planning or providing legal services in health or welfare settings.

The toolkit outlines 12 steps to establish a partnership between legal and non-legal services, and draws on Australian case studies to illustrate each step. The Legal Health Check is included as a suggested resource for training and capacity building.

The toolkit is an important resource for the community legal sector in Australia, and a good record of innovative practices and initiatives in place at the time of writing. The toolkit continues to be updated to reflect learnings from practice.

H McDonald and Z Wei, 'How people solve legal problems: level of disadvantage and legal capability' (Justice Issues, No 23, Law and Justice Foundation of New South Wales, March 2016)

This paper draws on findings from the 2012 Legal Australia-Wide (LAW) Survey to consider how people's personal capability affects their ability to seek advice or assistance for legal matters.

Key findings in relation to the advice-seeking behaviours of people experiencing disadvantage are:

people experiencing disadvantage tend to have lower levels of legal capability, and are less likely to employ effective legal problem-solving strategies; these people are less aware of not-for-profit legal services and less likely to take action in response to legal problems; and they are significantly less likely to make use of self-help, non-legal advisers and private lawyers as a strategy to resolve legal needs.

The paper also indicates the nine following indicators of disadvantage which outreach services should be mindful of: disability, disadvantaged housing, Indigenous background, low education level, low income, non-English main language, living in a remote or outer regional area, single parenthood, and unemployment.

Law Council of Australia, 'The Justice Project: Final Report' (2018) Available at: https://www.lawcouncil.asn.au/files/web-pdf/Justice%20Project/Final%20Report/Justice%20Project%20_%20Final%20Report%20in%20full.pdf

The Justice Project is a comprehensive national review into the state of access to justice in Australia, conducted by the Law Council of Australia. It focuses on the barriers facing those with significant social and economic disadvantage, as well as identifying what is working to reduce those barriers. Particular at-risk groups include: Aboriginal and Torres Strait Islander peoples; people with disabilities; the elderly; economically disadvantaged and impoverished people; homeless persons; children; prisoners and detainees; people who are trafficked or exploited; people facing challenges concerning sexual orientation or gender identity; recent arrivals to Australia; asylum seekers; people experiencing family violence; and people residing or working in regional and remote areas. This is the final report of the project, and follows on from extensive consultations and a comprehensive literature review. The final report comprises of 22 chapters and 59 recommendations.

M A Noone and K Digney, 'Improving Access to Justice: The Key Features of an Integrated Legal Services Delivery Model' (Research report, Legal Services Board Victoria, September 2010)

This report provides evidence as to the interconnected, complex nature of legal and non-legal problems faced by marginalised community members. Furthermore it draws links between the legal issues people face and their broader social issues (such as homelessness, domestic violence and mental health).

The report emphasises that communities connect best with colocated legal services, and where clients have an existing relationship with support staff who have assisted them with their non-legal problems. The report recommends that legal and non-legal services should develop effective and flexible ways of working together and sharing resources for holistic service provision. It recommends that outreach services should develop an understanding of the way their target client group interacts with services, so that they can adapt and develop holistic approaches to service delivery and community engagement.

The report identifies the following legal problems which are regularly encountered by people engaged through legal outreach: credit and debt problems; welfare and social security problems; problems with services for elderly or disabled people; problem with the legal system; problems with the health system; tenancy problems; criminal charges; victim of crime; family violence; and family law issues.

P Pleasance et al, 'Reshaping legal assistance services: building on the evidence base' (Discussion paper, Law and Justice Foundation of New South Wales, April 2014)

This discussion paper sets out a framework and strategies for access to justice 'practice', based on the significant body of legal needs research undertaken by the Law and Justice Foundation of New South Wales. The paper provides extensive discussion on the nature and role of legal outreach, and its benefits for both individual clients and systemic reform. It reports that there is no "one-size-fits-all" approach to effective legal outreach, and that it must account for regional and demographic differences. It recognises that "well-signposted" entry points to legal assistance are vital for maximising community engagement and avoiding referral fatigue.

The paper notes that there are multiple dimensions along which legal outreach services may vary, such as the

target demographic group, the areas of law they practice in, the mode of outreach (in person, using technology, 'inreach'), level of staffing and personnel, and the level of integration with host or partner agencies. Regardless of these differences, it identifies that to most efficiently and effectively assist people with the most legal need, legal services must be:

- targeted to those most in need;
- joined-up with other services (non-legal and legal) likely to be needed;
- timely to minimize the impact of problems and maximize utility of the services; and
- appropriate to the needs and capabilities of users.

The paper also discusses the complexities of effectively evaluating legal outreach services, and that evaluation and monitoring protocols should be considered from the early stages of service planning.

Productivity Commission 2014, 'Access to Justice Arrangements' Inquiry Report No. 72, Canberra

This report has significant discussion on the barriers to justice which marginalised people face, and the ways in which their lived experience (such as previous poor experiences with the justice system) may dissuade them from addressing their legal problems.

The report emphasises that the legal and non-legal issues faced by marginalised people are interconnected, and that a "siloed" approach to addressing them in isolation is insufficient. The report recommends a holistic approach to addressing client needs, with legal services working in collaboration with broader human services.

The performance of legal outreach is identified in the report as a key feature of effective client engagement, rather than waiting for clients to proactively seek legal assistance.

VicHealth, Partnerships Analysis tool: A resource for establishing, developing and maintaining partnerships for health promotion (2011). Available at: <https://www.vichealth.vic.gov.au/media-and-resources/publications/the-partnerships-analysis-tool>

This tool builds on an analysis of a number of initiatives undertaken by VicHealth, and offers suggestions for the formation of effective partnerships. It notes the benefits of successful partnerships between and within sectors, including diverse and complementary skills, and efficient pathways to better outcomes.

The tool highlights the importance of shared values, clear understanding of structures and relationships, and thorough planning of joint activities.

T Walsh, 'Lawyers and Social Workers Working Together: Ethic of Care and Feminist Legal Practice in Community Law' (Journal article, Griffith Law Review 752-771, 2012)

This article discusses the considerations around collaborative interdisciplinary practice, such as colocated legal outreach services. It identifies that the legal, health, and socioeconomic problems people face are often interlinked, and that legal professionals are ill-equipped to holistically address these concerns.

It explores how social workers and other community service workers can assist with intake interviews, crisis intervention and referrals; as well as with engaging clients who are distressed or experiencing acute mental illness.

The article considers the competing ethical and professional obligations of lawyers and social workers, and that a satisfactory working relationship between these two groups requires:

- a mutual understanding and respect for the others specialised knowledge and expertise;
- an openness about areas of ignorance;
- a clear understanding of each other's roles and ethical obligations; and
- an awareness of boundaries.

The article suggests strategies for addressing these considerations, and fostering effective working relationships.

Additional resources

This literature review complements the literature reviews produced by LawRight for:

Legal Health Check Project Report:
<http://legalhealthcheck.org.au/wp-content/uploads/2015/06/FINAL-NACLC-Project-Report-with-cover-page.pdf>

Legal Health Check Pathways
<http://legalhealthcheck.org.au/wp-content/uploads/2015/06/LHC-Pathways-Project-Evaluation-and-Report2-1.pdf>

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