

Beyond great expectations: designing relevant, realistic and effective community legal education and information

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Background

Community Legal Education and Information (CLEI) is an intrinsic part of public legal assistance services in Australia, and has been for many years. The function was written into legislation establishing Legal Aid Commissions in Australia the 1970s (e.g. *Legal Aid Commission Act 1979* (NSW), *Legal Aid Act 1978* (VIC)) and CLEI has been a key strategy of community legal centres since their inception (Federation of CLCs Victoria 2011).

Indeed, the genesis of CLEI during this period of community based activism and access to justice reforms, is critical to ways in which CLEI is understood and practiced today. CLEI was seen then – and often is now - as a tool to empower individuals to identify and enforce their legal rights, both in specific situations (such as arrest) and as empowered and engaged legal citizens more generally. To provide one enduring example, one Community Legal Centre describes the role of its CLE work as:

- *To raise awareness about the law and legal processes*
- *To increase community understanding of how the law and the legal system impacts on our lives*
- *To assist people to actively participate in the law making process and to pursue law reform through collective action.*²

The 2010 National Partnership Agreement on Legal Assistance Services (NPALAS) provides the policy and funding framework for family and civil law services in Australia. Central to this agreement is the inclusion of community legal education and legal information as ‘preventative legal services’ that ‘inform and build individual and community resilience’ (Council of Australian Governments (COAG) 2010, p. 4). One objective of the NPALAS is to *increase* the provision of preventative (and early intervention) services, to help achieve the broader outcome of ‘earlier resolution of legal problems for disadvantaged Australians that, when appropriate, avoids the need for litigation’ (COAG 2010, p.4). A new funding agreement is imminent and a similar focus is expected.

As an empowerment tool and as a prevention strategy - CLEI carries great, indeed, transformative expectations: improved legal capability³, improved access to justice, and the

¹ This paper is informed by work jointly undertaken by Suzie Forell and Dr Hugh McDonald, Law & Justice Foundation of NSW. Sincere thanks to Hugh for his review and insightful additions to this paper.

² Illawarra Community Legal Centre (2015) <http://www.illawarralegalcentre.org.au/community-legal-education.html> (accessed May 4 2015). See also Community Development and Legal Education Working Group (CDLEWG) 2010, p.12

³ Legal capability refers to the knowledge, skills, psychological & resource aspects that affect what people are able to do themselves to resolve legal problems (see Pleasence, Coumarelos, Forell & McDonald 2014, p. 130).

prevention of escalating legal need. While such broadly expressed goals are valuable statements of intent and aspiration, they do not identify tangible impacts that we can readily monitor or evaluate.

This is particularly so when we consider that CLEI strategies are typically relatively short and generic interventions, ranging from face-to-face workshops and presentations, to interactive web-based resources and tools, to step-by-step guides and information brochures and other publications. CLEI can be delivered to groups or to individuals, but always provides generic information rather than legal advice based on a client's individual circumstances.

I see two risks of such broad expectations. One is the political temptation to rely on relatively simple (and 'inexpensive') strategies to improve access to justice, without taking account of the fuller range of barriers to people successfully resolving their legal issues. The second is that less consideration is given to exactly how different CLEI strategies engage with the needs and capabilities of users to address and resolve legal problems, and to the limits of these strategies.

This paper

The purpose of this paper is to look beyond the great expectations, to be open to the limits of CLEI strategies, and think specifically and more modestly about what different CLEI strategies may actually provide, to whom and to what end. This involves thinking also about how CLEI strategies 'dovetail' with more intensive assistance to improve access to justice for different client groups, rather than thinking of CLEI as stand-alone strategies.

The discussion leads to a model for identifying different types of CLEI, by user, purpose and timing, to support the design, planning and evaluation of CLEI.

Our interest arises from work we are currently doing with a major legal aid organisation (Legal Aid NSW) to develop a strategic framework for CLEI. The framework is intended to support decision making about whether to use certain CLEI strategies, when, for whom and to what end. We hope that such a framework may also guide thinking about the appropriate use of technology for different types of CLEI and for different users. I should add, this is a work in progress, and the views of others on the discussion points raised here are most welcome.

This project is part of a broader research agenda at the Foundation, focused on identifying what works to address the legal need and access to justice barriers identified in empirical research, as well as through on-the-ground service provision. Our approach to evaluating legal assistance services has been to start with the nature of the problem identified, to consider what outcomes are intended, and then to ask which and how different strategies may contribute to that end.

We also come to this current work having undertaken a systematic review into the effectiveness of community legal education (Wilczynski, Karras & Forell 2014) which found limited research evidence demonstrating the impact of CLE. This was *not* a finding that CLEI

is ineffective, but rather that there was limited empirical evidence to show that CLEI strategies had achieved intended outcomes. Broadly expressed ‘great expectations’, in our view, contribute to the challenge of planning and evaluating CLEI strategies, if for no other reason that it is difficult to specify what success is and then to measure it.

In yet other work we have noted how deficits in personal legal capability mean that there are limits on what unbundled forms of legal assistance such as CLEI are likely to achieve. Better recognising these limits is also essential for identifying for whom and under what conditions CLEI strategies are demonstrated to ‘work’ (see Pleasence, Coumarelos, Forell & McDonald 2014; McDonald, Forell, Wei & Williams, 2014).

Also relevant, we are particularly focusing on CLEI as a function of public legal assistance services such as Legal Aid Commissions. These services typically have a broad mandate, for instance ‘to help people to understand and protect their legal rights, through advice, advocacy, representation and education’ (Legal Aid NSW, 2013), but, constrained by funding limitations⁴, commonly prioritise services to disadvantaged people and communities (see also Council of Australian Governments (COAG) 2010; Productivity Commission 2014b). The challenge of serving the general community and the most disadvantaged, within limited funds, is central to the discussion here.

Technology & the service environment

It is difficult to talk about CLEI without also talking about the technology which is transforming this space.

In a review of the use of technology to improve service delivery to people on low incomes, Roger Smith (2014) describes a ‘profusion of creativity’ with more intuitive, interactive innovations to take users through to the resolution of their issues. In Australia, technology based CLEI options include extensive web based plain language legal information, more interactive packages such as LawAccess NSW’s LawAssist package, specialist websites such as Legal Aid NSW’s *Best for Kids*, family law website, the Legal Aid NSW mobile phone app and the use of webinars by Legal Aid NSW to name a few. Internationally there are examples of technology based innovations, such as the Dutch Rechtwijzer site (<http://www.hiil.org/project/rechtwijzer>) which take users from information right through to dispute resolution and review – interestingly, blurring the boundaries between information, education and more intensive assistance.

The use of technology for the provision of CLEI (together with other access to justice innovations) is another area of ‘great expectations, promising broader access options and

⁴ Public legal assistance services attract only 0.14 per cent of total government spending in Australia, with the four main providers in Australia (Legal Aid Commissions, Community Legal Centres, Aboriginal Legal Services and Family Violence Prevention Legal Services) receiving around \$730 million in government funding in 2012-13, for both criminal and civil matters (Productivity Commission 2014a, p. 29). Given limited available resources, public legal assistance is prioritised to disadvantaged clients and communities. More intensive (and more costly) forms of legal assistance (e.g. representation) are only available to a tightly defined group of clients (subject to means and merit testing) or for a defined set of legal issues (mainly criminal and some family matters). Any legal assistance made more broadly available tends to be in the form of ‘prevention’ services (information and education), ‘early intervention’ services (advice, minor assistance and duty services) and dispute resolution services.

potential cost savings and efficiencies (Smith 2014; Smith & Paterson, 2013; Cabral, Chavan, Clarke et al. 2012). As Smith & Paterson (2013; 2014) have already pointed out, the need for specific evaluation of who these innovations best assist and how, is equally warranted.

There is already quality research providing insight into the limits of technology based CLEI, for certain groups and for certain types of issues. Examples include research by Denvir, Balmer and Pleasence (2011; 2014) into young people's use of the internet for legal problem solving, and their work around the capability of older people to use technology for this purpose.

Smith (2014) and Hough (2012), among others have also pointed to the differential utility of some technology based CLEI, to those with less resources and capability. Writers point to a three-tier digital divide. For many in the community, the 'first digital divide' - access to the internet – is being rapidly bridged (in Australia, at least for those aged under 65 years of age⁵). The second digital divide relates to technical competency (having the skills and experience to use the technology) and the third relates to users having the interest and willingness to use the internet and other technology to solve legal problems (Denvir, 2014; Smith, 2014; Denvir, Balmer & Pleasence, 2011, 2014; Hough, 2012, Forell, Laufer & Diguisto, 2011).

Writers also acknowledge the additional barriers that technology can provide to users (Hough, 2012 pp.262-3) when services (including CLEI) default to online options. Clear examples include the impact of lack of bandwidth in rural and remote areas (a particular issue in Australia), the cost of internet access and download limits (again perhaps more of an issue in Australia).

Research into CLEI

In contrast to the broad and beguiling aspirations expressed for CLEI (including technology options), particularly at the policy level, the idea that CLEI does not work for everyone and every type of legal problem is well understood by researchers and by CLEI specialists.

There is a considerable body of research into CLEI which indicates that the utility of CLEI strategies depends on both the legal capability of the individual users (such as their personal characteristics, resources and willingness to engage in self-help) and the nature and complexity of the legal tasks (Hunter, Banks & Giddings 2007, 2009; Lawler, Giddings & Robertson 2009, 2012; Pleasence et al. 2014; Robertson & Giddings 2014). As an example of the latter, non-routine legal tasks involving the exercise of substantial discretions may be particularly ill-suited to self-help strategies (see Lawler et al. 2009, 2012; Pleasence et al. 2014; Robertson & Giddings 2014).

Indeed, extensive literature has cautioned that one-size-fits-all education strategies are less effective than strategies tailored to address specific issues faced by particular groups of people at particular times (see Coumarelos et al. 2012; Pleasence et al. 2014). Thus, self-

⁵ In Australia in 2012-2013, 83 per cent of respondents to a household survey were internet users. More than 94 per cent of those in age groups up to 44 years of age had used the internet in the previous year, as had 89 per cent of those aged 45-54, 78 per cent of those aged 55-64 and 46 per cent of those aged 65 years and over (Australian Bureau of Statistics, 2014).

help strategies appear to be a more viable option for people with higher legal capability who are able to benefit from CLEI initiatives which enhance their ability to solve their problems themselves (Barendrecht 2011; Coumarelos et al. 2012; Pleasence et al. 2014).

Others further note that, because some people have limited legal capability, due to literacy, language or communication problems, legal information and education will often only be *preliminary steps* towards legal resolution (Balmer, Buck, Patel et al. 2010; Buck, Pleasence & Balmer 2007; Coumarelos et al. 2012; Pleasence et al. 2014). For this group of users, they suggest that CLEI strategies should not be seen as stand-alone services providing complete solutions, but rather as a link or supplement to other legal services, particularly at points of pressing or urgent action (see Coumarelos et al. 2012; Lawler et al. 2009, 2012; Pleasence et al. 2014; McDonald, Forell et al. 2014). Researchers have also frequently further cautioned against seeing legal information and education services as being either cheap alternatives or as replacement services for legal advice and assistance (see Coumarelos et al. 2012; Giddings & Robertson 2003; Pleasence et al. 2014).

Lawler et al. (2012) point to a crucial distinction in the effectiveness of more general CLEI resources designed to raise broad awareness and understanding of legal rights and responsibilities, and more specific and tailored resources designed to assist people to self-help with particular legal problems in times of legal exigency (‘just in time’ compared to ‘just in case’ resources).

Thus, research indicates the importance of having a considered approach to both to the selection of CLEI as a legal assistance strategy (rather than advice or minor assistance for instance), and to the design and application of any particular CLEI strategy. It suggests consideration of who CLEI strategies aim to assist, how CLEI strategies may make a difference and the timing of CLEI.

This reflects the thinking in *Reshaping Legal Assistance Services*, a discussion paper which considered the implications for public legal assistance services of the substantial evidence base provided by legal needs and access to justice research (Pleasence et al. 2014). In *Reshaping Legal Assistance Services* we proposed that to most efficiently and effectively assist those with the disproportionate amount of legal need but lower capability to address that need⁶ services should be increasingly client focused. Services should be:

- targeted to reach those with the highest legal need and lowest capability
- joined-up with other services, to address complex problems
- timely to minimise the impact of problems and maximise the utility of services, and
- appropriate to the needs and capabilities of users (Pleasence et al. 2014).

I would suggest that this proposition equally applies to all legal assistance strategies, including CLEI strategies, and should inform service strategies directed to disadvantaged people as well as those provided to the general community more broadly.

Picking up on the limitations noted in the literature, and drawing from the analysis in *reshaping legal assistance services* we want to articulate more specific, measurable,

⁶ see Pleasence et al. 2012 (chapter2) for summary of this literature.

Beyond great expectations

assigned (linked to the target group) and achievable objectives for CLEI, particularly that CLEI which is within the scope of fund-limited, public legal assistance services.

I now turn to projects we have worked on with Legal Aid NSW, including an audit recently conducted of CLEI work.

The audit covered all CLE events and all community legal information material distributed by Legal Aid or accessed online during a 12 month period (October 1 2013–September 30 2014). I should note that this was a desk top exercise, based on administrative data – and provided a detailed overview of what legal issues were addressed; to whom activity was directed; and how widely distributed, accessed or attended different CLEI strategies were. The important issue of the quality of the CLEI was not addressed in this part of the review.

The diverse uses of CLEI

Legal Aid NSW describes the role of CLE as being to:

Equip people with the awareness, knowledge and skills needed to successfully resolve the law-related problems encountered in everyday life. (Legal Aid NSW 2013, p. 27)

Further describing the rationale for such services, they also note:

CLE helps people anticipate and avoid legal problems, act more quickly when problems do occur and deal with legal issues more effectively through knowing when and where to get expert help. (Legal Aid NSW 2013, p. 27)

Within these broad aims, there appear to be at least two quite differing purposes or roles for CLEI. On one hand, CLEI is provided to ‘help clients help themselves’: to give clients the tools they need to address their legal problems independently and with no or limited further call on legal assistance. An anticipated impact of self-help’ CLEI may be that while the number of those using CLEI services will increase, the number of clients seeking more intensive assistance (advice, minor assistance, and representation) may reduce.

The other aim of CLEI is to broaden the awareness of legal problems and of particular services as a source of assistance to resolving those problems. This type of CLEI tends to be directed towards more disadvantaged and hard-to-reach client groups as well as those who support them. The anticipated impact of effective CLE in these terms may be that the numbers of clients seeking more intensive assistance (advice, minor assistance, representation) may increase.

Of note, these differing uses of CLEI reflect the broader tension facing many public legal assistance services, who seek to reconcile the need to prioritise services to the most disadvantaged, with a broader agenda of addressing the legal needs of those who do not qualify for more intensive assistance.

Thinking about these different purposes for CLE illustrates how the design of CLEI strategies and the subsequent success measures may also vary.

CLEI to self-help

'Just in case' CLEI

A range of CLEI resources developed by Legal Aid NSW and others, aim to assist clients to 'self-help'. Some of these resources include foundational CLEI, which aims to provide basic knowledge about the law and legal processes, such that users understand laws that affect them and can identify options for resolution when issues arise. Examples of this type of preventative or 'just in case' CLEI includes information about police powers to young people, CLE on cyberbullying and sexting, broad information about the law, and information about issues for older people 'planning for the future' (the *Speaking for myself* series).

In this type of CLEI, consideration needs to be given to exactly which access to justice barriers self-help materials can address and which they do not, or cannot.

To provide one example, a common rationale for the provision of CLEI is that people do not take action about a legal problem because they do not recognise the problem as 'legal' and because they 'don't know what to do about it'. Indeed, *lack of knowledge* has been identified as a key barrier to people taking action (Buck, Pleasence & Balmer 2008; Denvir, Balmer & Pleasence, 2013, Coumarelos, 2012). The Legal Australia-Wide (LAW) Survey found, for example, that around one in five (21.4%) respondents indicated 'did not know what to do' as a reason for not taking action about a problem⁷. However, further analyses of the LAW Survey by McDonald, Forell and People (2014) indicate that not knowing what to do about a legal problem is rarely the *only* reason for inaction⁸, and was more commonly reported in combination with several other reasons for inaction. Of particular interest is the range of other reasons that 'didn't know what to do' was found to cluster with, namely: that it 'would be too stressful'; 'would take too long'; 'would cost too much'; 'would damage the relationship with the other side'; and that the respondent 'had bigger problems' to deal with. This combination of reasons point to the 'constrained inaction' identified by Balmer et al. (2010).⁹

These results remind us is that while increased knowledge is a vital ingredient of access to justice, it is not, in and of itself, sufficient. Also required are motivation and in some cases, emotional resilience, a belief that the steps taken will make a difference, skills to follow the steps suggested, time and resources to pursue the issues, to name a few.¹⁰

⁷ Other reasons indicated for inaction included that: it would make no difference (56.2% of those who took no action); they didn't need information or advice (39.2%); had bigger problems (31%) (Coumarelos et al. 2012, pp. 98-99)

⁸ In less than one per cent of legal problems for which no action was taken was 'didn't know what to do' the only reason in a list provided that respondents endorsed for inaction.

⁹ Balmer et al. (2010) drew a distinction between informed and constrained inaction in response to legal problems. The former means correctly deciding that taking action is unnecessary; while the latter means that the individual wants to act but is constrained from doing so by factors such as a lack of legal knowledge and capability.

¹⁰ In time, knowledge of an issue as 'legal' may become a less critical precondition for reaching legal help. For instance, we noted in the CLEI audit that most searches for legal information on the Legal Aid NSW website originated in Google. Among information resources with the highest number of page views were resources titled to reflect a specific problem or question: 'What happens when your relationship ends?' '

Beyond great expectations

Public legal education (PLE) frameworks in the UK in particular engage with this complexity and aim to build capability across a range of domains (PLEAS Taskforce, 2007). A valuable evaluation framework for this type of PLE has also been developed (Collard et al. 2011).

However, the intensity of CLE required to build such capabilities is beyond the typically short CLEI interventions often provided by public legal assistance services. Further, there will be barriers, relating to the complexity of people's lives that are beyond the scope of any CLE, particularly for those with the disproportionate amount of need (see Pleasence et al. 2014 Chapter 5).

While these observations may seem obvious, they are not reflected in the broad expectations/goals articulated for CLE that I outlined in the introduction.

'Just in time' CLEI

Other self-help resources provide 'just in time' assistance, to assist people through the steps to resolve an existing legal problem. Examples include:

- Legal Aid NSW's Mortgage stress handbook
- Divorce classes run by Legal Aid NSW
- LawAccess NSW's [LawAssist](#) webpages (which step users through legal processes such as debt and small claims, fines and car accident).

Just in time, self-help focused CLEI tends to focus on the procedural – helping users from one step to the next, towards the resolution of the issue. This is a type of CLEI for which technology appears to provide some innovative solutions, particularly that which is able to progress from simple information to more personalised assistance and even advice as required (e.g., access to in-time telephone or chat support (See Smith 2014 and his ongoing work for examples).

The success of these types of CLEI strategies should ultimately be the resolution of the issue. Though to be a realistic aim, consideration must be given to who such services are directed to (those with higher capability) and how these strategies might link into more intensive support when roadblocks are reached.

By way of contrast, measures such as changes in knowledge before and after the CLEI, and say six months later are far less relevant. The help is provided to take users through the process. If success requires the information to be retained for six months, for instance, then perhaps the timing of the assistance was wrong!

Who uses self-help materials?

Some recent analysis of the LAW Survey data undertaken by my colleagues Hugh McDonald and Zhigang Wei (forthcoming) provides further insight. Their analysis indicates that while CLEI resources are widely available, use of legal information and self-help tools remains relatively low in the general community (a self-help resource was used for 19.5% of

My ex-partner has taken my children with my permission. What can I do?'. By way of contrast 'Do you have a legal problem' received many fewer page views.

problems, but it was the highest level of action (or the most intensive assistance sought) for only 8.7% of problems). Those with 3 or more indicators of disadvantage used a self-help resource for 14.9 per cent of their problems, but it was the highest level of action for only 3.6 per cent of problems. In fact, the most disadvantaged more frequently used a private lawyer (11.2%), used a not-for-profit legal service (16.5%), acted without any legal information or formal assistance (31.4% of problems), or used a non-legal adviser (37.3%), than used self-help resources alone.

These findings reflect existing research indicating that self-help material are less appropriate for those with lower capability (Coumarelos et al. 2012; Pleasence et al. 2014).

Given that self-help options will only serve a certain proportion of the population and not necessarily those who we know to have the most need and are a priority for public legal assistance – legal aid commissions need to consider how much to invest in these strategies. To make these decisions, services need to know what impact the services have and for whom? Do they alone help resolve legal issues, at least for those who can use these strategies? Does the availability of additional support when users reach certain roadblocks in the process, significantly increase the resolution of issues? What is the cost of CLEI (plus further assistance) that take are effective in resolving legal issues – or, more modestly, to the next step required in the process?

Separately identifying self-help – to progress existing issues (just in time) and to prevent issues (just in case) – as the purpose of certain CLEI strategies, allows us to ask more specific questions about the costs and the realistic benefits of these strategies, for what issues and which users.

CLEI for more disadvantaged clients

In the audit of CLEI, we were particularly interested to observe how CLEI strategies were also used to support more disadvantaged clients, who as the research has indicated, are not well served by the types of ‘self-help’ strategies outlined above.

We examined the audiences that community legal education events were delivered to in the review period, with audience types split into mutually exclusive groups: community members; community workers/professionals; and both (community workers/professionals and community members)

The review found that:

- more than half (51.5%) of all 1696 CLE events held involved audiences of community workers and other professionals only
- one quarter (24.9%) per cent involved both workers/professionals and community members.
- nearly one quarter (23.6%) comprised audiences of community members only (Forell & McDonald, *forthcoming*).¹¹

¹¹ Notes: Audience type was not specified for 80 (4.5%) of events. ‘Community members’ includes the CLEMS audience type categories ‘general public’ and ‘students (school, AMEP, VET, university)’. ‘Community

CLE for community workers: to give help

Overall, more than three-quarters of all of the CLE undertaken in the review year included community workers and other professionals (alone or together with community members).

An analysis of target group (who the information is to ultimately assist) by audience type found that of the majority of CLE events on issues concerning people with disabilities (80%) and homeless people (76.1%) were to audiences of community workers only. As a point of comparison 23 per cent of CLE on issues concerning young people, 48 per cent of CLE concerning people in domestic violence situations and 55 per cent of CLE concerning separating families were to community workers only.

The topics more commonly targeted to community workers were:

- Money, debt and fines (85.7% of events on this topic were to community workers)
- Government and rights (82.2%)
- Civil law issues (70%)
- Visas and immigration (67.5%)
- Getting legal help and legal aid (62%)

The high proportion of CLE events to community workers overall, in part reflects the roll out of one particular project, which involved engaging community organisations to participate in a policy initiative to help clients reduce their fine related debts¹² (195 or 22% of the events to community workers/professionals only).

However, the high proportion also reflects a deliberate and evidence-based strategy (particularly used in relation to family and civil issues) to target education to the types of community workers – or legal problem noticers – who can be harnessed to provide a pathway between disadvantaged client groups and legal assistance services (see Coumarelos et al. 2012; Pleasence et al. 2014; McDonald, Forell et al. 2014). The value of this type of CLEI was highlighted by solicitors in a recent evaluation we undertook of outreach legal services to newly-arrived and recently-arrived migrant communities in Sydney (McDonald, Forell et al. 2014). In this program, CLE to caseworkers was a critical element of an outreach advice service:

It's meant that we've been doing an enormous amount of CLE and it has been very much focussed on ... the case worker as like the problem solver, the problem spotter. They're sort of the broker between us and the client so that is where a lot of our energy has gone in the promotion of the services (Legal Aid manager, in McDonald, Forell et al. 2014, p.35)

As pointed out by the family law solicitor – the intention of this CLE strategy is clear:

workers/professionals' includes the CLEMS audience type categories 'community workers', 'teachers, tutors, lecturers', 'legal practitioners', 'other government employees', 'police', 'other professionals'.

¹² The Work and Development Order program enables community organisations to sponsor eligible people with high fine debt to 'work off' their accumulated debt, for example by successfully performing unpaid work for an approved organised or successfully completing certain courses or treatment programs.

Beyond great expectations

I wanted them to be our client spotters, I wanted them to know when to refer, when not to refer, how to make appropriate referrals. (Family solicitor, in McDonald, Forell et al. 2014 p.35)

A meaningful measure of the success of this CLE work is an increase in referrals to the outreach clinic.

CLE for community members: to 'get help'

The audit indicated that while most of the CLE to assist homeless people and people with disability was provided via caseworkers and other professionals, nearly half (48%) of the CLE to newly arrived migrants, and 41 per cent of CLE events targeting people from CALD backgrounds were to community members only, and a further ten per cent of each were to community members and workers together.

Topics more commonly directed to community members only included:

- Traffic and driving (91% of these events were to community members only)
- Legal system (70%, including CLE to CALD communities about the Australian legal system)
- Planning for the future (67%)
- Housing (67%).

The high proportion of CLEI directed towards newly and recently arrived migrants, and CALD communities more broadly, reflects the outreach program described above, which involved the provision of legal assistance services in Migrant Resource Centres (MRCs), during the audit year (McDonald, Forell et al. 2014). In addition to CLEI directed to community workers in MRCs, CLEI was also used to provide information about Australian family law and immigration laws relevant to issues these clients may be experiencing, and about the onsite legal outreach service that can assist them with these problems:

I think one of the main reasons why we have a huge focus on CLE for our migrant, refugee, CALD communities, is because the family law system in Australia is so different ... to back home. There's lots of misunderstanding, lots of misconception, lots of concerns, lots of fears about the family law system in Australia. (Family solicitor quoted in McDonald et al. 2014 p.38)

However, the CLEI was not simply about providing knowledge. In the context of effective legal outreach services, the CLEI was used as a tool to provide a face to the outreach and to build a relationship and trust between marginalised client groups and the legal service provider:

... doing CLE with community members I think just increases the trust that the service has and, you know, gets your face out there so you're recognisable ... it's still incredibly important to, you know, have that trust and have the people recognise you and sort of know who you are. (Outreach solicitor, quoted in McDonald et al. 2014 p.39)

The central importance of building trust to facilitate service provision to marginalised groups is detailed in evidence based guidelines for providing outreach (Forell & Gray 2009, Forell, McDonald, Ramsey & Williams, 2013, Pleasence et al. 2014, pp. 59-64).

Important also is that the CLE does not, of itself aim to teach clients to resolve the legal problem, but simply to provide a necessary (but not sufficient) link or stepping stone to its resolution. This contribution is modest in scope – but critical to the broader process.

A recognition of the role CLE is playing in this context broadens the focus from the provision (and retention) of knowledge, to consideration of the other elements also required to forge this link – trust, the proximity and the direct link to advice services etc.

A focus on relationship-building as a critical role of this type of CLE also points to the importance of face to face rather than technology based CLEI in these contexts.

A model for understanding different types of CLEI

We have only touched on some of the findings from the audit. However, the review of these CLEI activities helps to illustrate specific ways in which CLEI, as part of broader kitbag of strategies, may help to ‘improve access to justice’. However to assess how successful different CLEI strategies are — for diverse groups of people, with different problems, and at different points of time — we need to be very clear about what the purpose of particular CLEI initiatives, what the strategy is, how it fits with other strategies, the logic of its potential impact, who it is intended to assist, and what modest and realistic difference we expect it to make. The success measure for one type of CLEI may not be relevant for another.

For instance, it is not the case that all CLEI strategies aim to improve knowledge and empower people to help themselves. That is not a realistic aim for some users, including those with low capability, facing complex issues and at different points in time. But CLEI strategies may improve access to justice in other ways, by:

- raising awareness among individuals and those who support them, that problems individuals face may have a legal solution
- building awareness of and trust in Legal Aid NSW services and staff, as a source of assistance
- equipping workers to appropriately refer disadvantaged clients to Legal Aid NSW services.

Our attempt here has been to better differentiate between different types of CLEI, so we can think more specifically about when to use CLEI, for whom and to what end. So far, three broad types of CLEI have been identified: CLEI to **self**-help; CLEI to **get** help; and CLEI to **give** help. We have also thought about the difference between ‘just in time’ and ‘just in case’ CLEI. Table 1, a work in progress, is a first attempt to illustrate these differences.

Beyond great expectations

circumstance. Applying the framework of services as targeted, joined-up, timely and appropriate may help in this thinking and as a way forward to more effective and efficient service provision. In short, CLEI strategies should be:

- Targeted –to specific groups for specific purposes. We need to be clear who CLEI is for and what impact
- Appropriate – to the legal need of the target group and what we expect people to do about the issue, and tailored to their capability
- Timely - with perhaps more emphasis on just in time assistance compared to just in case, particularly for more disadvantaged clients
- Integrated - with other legal and non-legal services as required.

This also applies to considering the use of technology in CLEI.

The framework may also assist legal assistance services to decide which types of CLEI are within their scope, and which may be the remit of others.

Finally, while CLEI (for some people and some issues) may well provide a necessary step towards the successful resolution of legal issues, it will often be insufficient. It may therefore need to link to other strategies (such as advice, minor assistance and representation) or other services (non-legal support). The challenge is to have realistic and thoughtful expectations of the specific role CLEI strategies might play, in resolving legal issues for different people in different circumstances.

We certainly have further thinking to do on these issues, but what we aim to do, by raising these issues, is to manage expectations of CLEI strategies, and offer opportunities to further explore how different CLEI complement other legal assistance to address the legal needs of the most disadvantaged and the community more broadly.

References

- Australian Bureau of Statistics, 2014 *Household Use of Information Technology, Australia 2012-13 ABS*, Canberra <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/8146.0Main+Features12012-13?OpenDocument>
- Balmer, NJ, Buck, A, Patel, A, et al. 2010, *Knowledge, capability and the experience of rights problems*, Plenet, London, <<http://www.plenet.org.uk/data/files/knowledge-capability-and-the-experience-of-rights-problems-lsrc-may-2010-255.pdf>>.
- Barendrecht, M 2011, 'Legal aid, accessible courts or legal information? Three access to justice strategies compared', *Global Jurist*, vol. 11, no. 1, pp. 1-26.
- Buck, A, Pleasence, P & Balmer, NJ 2007, *Education implications from the English and Welsh Civil and Social Justice Survey: annexe to the PLEAS Task Force report*, Legal Services Research Centre, London, <<http://www.pleas.org.uk/uploads/PLEAS%20report%20Annexe%201.%20Legal%20Services%20Research%20Centre%20report.pdf>>.
- Buck, A, Pleasence, P & Balmer, N 2008, 'Do citizens know how to deal with legal issues? Some empirical insights', *Journal of Social Policy*, vol. 37, no. 4, pp. 661-81.
- Cabral, JE, Chavan, A, Clarke, TM, Greacen, J, Hough, BR, Rexer, L, Ribadeneyra, J & Zorza, R 2012, 'Using technology to enhance access to justice' *Harvard Journal of Law & Technology*, Vol 26, Number 1, pp. 243- 324
- Collard, S, Deeming, C, Wintersteiger, L, Jones, M & Seargeant, J 2011 *Public Legal Education Evaluation Framework* University of Bristol Personal Finance Resource Centre <<http://www.bristol.ac.uk/media-library/sites/geography/migrated/documents/pfrc1201.pdf>>

Beyond great expectations

Coumarelos, C, Macourt, D, People, J, McDonald, HM, Wei, Z, Iriana, R & Ramsey, S 2012, *Legal Australia-Wide Survey: legal need in Australia*, (Volume 7), Law and Justice Foundation of NSW, Sydney, <<http://www.lawfoundation.net.au/publications>>.

Community Development & Legal Education Working Group 2010, *Community legal education made easy: a kit for anyone working in community legal education*, Second edn, Federation of Community Legal Centres Victoria, <http://www.naclc.org.au/resources/CLE_MadeEasy_ed2+FINAL.pdf>.

Council of Australian Governments (COAG) 2010, *National partnership agreement on legal assistance services*, COAG, Canberra, <<http://www.nationallegalaid.org/assets/General-Policies-and-Papers/NPA-Signed-Agreement.pdf>>.

Denvir, C, Balmer, NJ & Pleasence, P 2011, 'Surfing 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', *Interaction with Computers*, vol. 23, no. 1, pp. 96-104.

Denvir, C, Balmer, NJ & Pleasence, P 2014, 'Portal or pot hole? Exploring how older people use the 'information superhighway' for advice relating to problems with a legal dimension', *Ageing and Society*, vol. 34, pp. 670-99.

Federation of Community Legal Centres, Victoria, 2011, *Justice For All: A history of the Victorian Community Legal Centre Movement*, Federation of CLCs, Victoria, Melbourne <[http://www.fclc.org.au/cb_pages/files/Justice%20for%20All%20History%20Booklet%202011\(1\).pdf](http://www.fclc.org.au/cb_pages/files/Justice%20for%20All%20History%20Booklet%202011(1).pdf)>.

Forell, S & Gray, A 2009, *Outreach legal services to people with complex needs: what works?*, Justice issues paper 12, Law and Justice Foundation of NSW, Sydney, <<http://www.lawfoundation.net.au/report/justiceissues12>>.

Forell, S, Laufer, M & Digiusto, E 2011, *Legal assistance by video conferencing: what is known?*, Justice issues paper 15, Law and Justice Foundation of NSW, <<http://www.lawfoundation.net.au/ljf/app/&id=B0A936D88AF64726CA25796600008A3A>>.

Forell, S, McDonald, HM, Ramsey, S & Williams, SA 2013, *Review of Legal Aid NSW outreach legal service. Stage two report: evolving best practice in outreach - insights from experience*, Law and Justice Foundation of NSW, Sydney.

Forell, S & McDonald, HM, forthcoming *Community legal education and information at Legal Aid NSW: Activities, costs and future planning*, Law and Justice Foundation of NSW

Hough B, 2012 'Let's not make it any worse: Issues to consider in adopting new technology' in Cabral, JE, Chavan, A, Clarke, TM, Greacen, J, Hough, BR, Rexer, L, Ribadeneyra, J & Zorza, R 2012, 'Using technology to enhance access to justice' *Harvard Journal of Law & Technology*, Vol 26, Number 1 pp. 256-266

Hunter, R, Banks, C & Giddings, J 2007, 'Technology is the answer ... but what was the question? Experiments in the delivery of legal services to regional, rural and remote clients.', in P Pleasence, A Buck & NJ Balmer (eds), *Transforming lives: law and social process. Papers from the Legal Services Research Centre's International Research Conference, Transforming Lives, Queen's University, Belfast, 19th to 21st April 2006*, Stationery Office, London, pp. 133-60.

Hunter, R, Banks, C & Giddings, J 2009, 'Australian innovations in legal aid services: lessons from an evaluation study', in A Buck, P Pleasence & NJ Balmer (eds), *Reaching further: innovation, access and quality in legal services. Papers from the Legal Services Research Centre's Seventh International Research Conference, Reaching Further, Royal Naval Academy in Greenwich, London, 18th to 20th June, 2008*, The Stationery Office, London, pp. 7-25.

Lawler, M, Giddings, J & Robertson, M 2009, '"Maybe a solicitor needs to know that sort of thing but I don't": user perspectives on the utility of legal self-help resources', in A Buck, P Pleasence & NJ Balmer (eds), *Reaching further: innovation, access and quality in legal services. Papers from the Legal Services Research Centre's Seventh International Research Conference, Reaching Further, Royal Naval Academy in Greenwich, London, 18th to 20th June, 2008*, The Stationery Office, London, pp. 26-46.

Lawler, M, Giddings, J & Robertson, M 2012, 'Opportunities and limitations in the provision of self-help legal resources to citizens in need', *Windsor Yearbook of Access to Justice*, vol. 30, no. 1, pp. 185-231.

Legal Aid NSW 2013, *Annual report 2012-2013*, Legal Aid NSW, Sydney, <http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0011/17966/Annual-Report-2012-2013.pdf>.

McDonald, HM, Forell, S & People, J 2014, *Limits of legal information strategies: When knowing what to do is not enough*, Updating justice, no. 44, Law and Justice Foundation of NSW, Sydney, <[http://www.lawfoundation.net.au/ljf/site/templates/UpdatingJustice/\\$file/UJ_44_Limits_of_legal_information_strategies_FINAL.pdf](http://www.lawfoundation.net.au/ljf/site/templates/UpdatingJustice/$file/UJ_44_Limits_of_legal_information_strategies_FINAL.pdf)>.

McDonald, HM, Forell, S, Wei, Z & Williams, SA 2014, *Reaching in by joining-up: Evaluation of the legal assistance partnership between legal aid NSW and settlement services international*, Law and Justice Foundation of NSW, Sydney,

Beyond great expectations

<[http://www.lawfoundation.net.au/ljf/site/articleIDs/598A65F467E763D0CA257DA8007E2B01/\\$file/SSI%20Report_Web.pdf](http://www.lawfoundation.net.au/ljf/site/articleIDs/598A65F467E763D0CA257DA8007E2B01/$file/SSI%20Report_Web.pdf)>.

McDonald HM & Wei Z (forthcoming), *How people solve legal problems: level of disadvantage and legal capability*, Updating justice, no. XX, Law and Justice Foundation of NSW, Sydney.

Pleasence, P, Balmer, NJ & Sandefur, RL 2013, *Paths to justice: a past, present and future roadmap*, University College London, Centre for Empirical Legal Studies, London, <<http://www.nuffieldfoundation.org/sites/default/files/files/PTJ%20Roadmap%20NUFFIELD%20Published.pdf>>.

Pleasence, P, Coumarelos, C, Forell, S & McDonald, HM 2014, *Reshaping legal assistance services: building on the evidence base: a discussion paper*, Law and Justice Foundation of NSW, Sydney, <<http://www.lawfoundation.net.au/ljf/app/&id=D7>>

Productivity Commission 2014a, *Access to justice arrangements: draft report*, Melbourne, <<http://www.pc.gov.au/projects/inquiry/access-justice/draft>>.

Productivity Commission 2014b, *Access to justice arrangements*, Inquiry report, no. 72, Canberra, <<http://www.pc.gov.au/inquiries/completed/access-justice/report>>.

Public Legal Education and Support (PLEAS) Task Force 2007, *Developing capable citizens: the role of public legal education*, Public Legal Education and Support Task Force, London, <<http://www.pleas.org.uk/uploads/PLEAS%20Task%20Force%20Report.pdf>>.

Public Legal Education Network (PLENET) 2009, *Researching and evaluating public legal education: principles and practice*, London, <<http://www.lawforlife.org.uk/research-and-theory/evaluation/researching-and-evaluating-public-legal-education-principles-and-practice,10143,FP.html>>.

Robertson, M & Giddings, J 2014, 'Self-advocates in civil legal disputes: How personal and other factors influence the handling of their cases', *Melbourne ULR*, vol. 38, pp. 119-281.

Smith, R 2014 *Digital delivery of legal services to people on low incomes: from online information to resolution, working papers 1-7* The Legal Education Foundation <<http://www.thelegaleducationfoundation.org/digital-report>>

Smith, R & Paterson, A 2013, *Face to face legal services and their alternatives: global lessons from the digital revolution*, Centre for Professional Legal Studies, University of Strathclyde, Glasgow.

Smith, R & Paterson, A 2013, *Face to face legal services and their alternatives: global lessons from the digital revolution*, Paper at International Conference on Access to Justice and Legal Services UCL, June 19 2014

Wilczynski, A, Karras, M & Forell, S 2014, *The outcomes of community legal education: a systematic review*, Justice issues paper 18, Law and Justice Foundation of NSW, Sydney, <[http://www.lawfoundation.net.au/ljf/site/articleIDs/18C587ECBD959D50CA257A91001F76F0/\\$file/JI18_Outcomes_of_CLE_FINAL_web.pdf](http://www.lawfoundation.net.au/ljf/site/articleIDs/18C587ECBD959D50CA257A91001F76F0/$file/JI18_Outcomes_of_CLE_FINAL_web.pdf)>.