

Biographies

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INTERNATIONAL PERSPECTIVES

Queensland Community Legal Centres' Use of Information Technology to Deliver Access to Justice

Abstract: In Queensland, Australia, community legal centres utilise a range of different types of information technology to provide legal advice and assistance to their clients, which include marginalised and disadvantaged groups. In this article Emma Phillips and James Farrell considers the use and efficacy of different types of information technology within the community legal sector, discussing the findings of recent empirical research on this issue in the context of the relevant research literature. The article then explores issues associated with the use of information technology in the provision of legal information and advice, including the limitations associated with this technology in the context of the delivery of legal assistance to vulnerable clients.

Keywords: community legal centres; legal assistance services; information technology; Queensland; Australia

INTRODUCTION

In Australia, community legal centres provide free (government-funded) information, advice and referral, case-work and representation to the community. In the most decentralised state in Australia, Queensland's 34 community legal centres presently utilise a significant range and diversity of information technology to provide services to

marginalised and disadvantaged client groups. Recent empirical research conducted for the Queensland Association of Independent Legal Services (QAIS), the peak organisation for Queensland's community legal centres, examined Queensland community legal centres' use of technology,¹ while Australia's National Association of Community Legal Centres (NACLC) recently released its first national census of community legal centres which

also examines this issue.² Taken together, this research provides a useful snapshot of the use and efficacy of the different forms of technology in delivering legal services in the community legal sector in Queensland. This article provides a brief synopsis of the key findings from that empirical research, supplemented by other relevant findings from the research literature, to identify appropriate and effective uses of technology in legal assistance services.

THE MAIN TYPES OF TECHNOLOGY USED IN THE LEGAL ADVICE CONTEXT

Telephone

The telephone, both fixed lines and mobile lines, is presently the most widely used form of telecommunications, with an estimated 95.3% of Queensland households having at least one fixed line and 68.2% of adults using a mobile telephone.³ It is noted that, of the minority lacking access to a telephone service, a significant portion may comprise homeless or other disadvantaged people.⁴

Telephone services are offered by a majority of Queensland community legal centres, although the features of these services significantly differ, with some providing information only, some providing information and referral services and some providing legal advice sessions by telephone.⁵ Legal Aid Queensland operates a State-wide call centre, which functions as a service delivery hub for the legal assistance sector through its referral of clients to community legal centres.

The perceived benefits of telephone services include lower costs, enhanced convenience for clients and the ability to remotely access the service, particularly by those clients situated in regional, rural and remote areas.⁶

The research literature on the efficacy of telephonic services as a means of assisting community legal service clients is mixed in terms of time savings. While some reports suggest that legal advice imparted by telephone is more expeditious than face-to-face advice,⁷ the findings of other reports are in direct opposition.⁸ The research establishes that the telephone is an effective medium for the provision of information and referrals and more simplistic legal advice, whereas its utility decreases significantly for more complex legal matters or those which require representation or advocacy.⁹

Video conferencing

Of the 71% of respondents to the NACLCLC Census that use technology to provide legal advice, 22.7% use Skype and online conferencing.¹⁰ Despite the perceived benefits of utilising video conferencing facilities, particularly for clients in regional, rural and remote areas, this form of technology has not been shown to be beneficial where similar services are or could be offered through alternative technologies. This is so notwithstanding the interest this form of technology has generated for its ability to

provide face-to-face advice to clients, particularly those in regional, rural and remote areas.

A recent Australia meta-analysis of the research literature on the efficacy of video conferencing notes the scarcity of research literature on this issue in the area of the provision of legal services.¹¹ However, it is relevant for noting the low level of usage of video conferencing by service providers to date; the preference of lawyers for face-to-face meetings over video conferencing; and concerns about the availability, quality and reliability of video conferencing facilities. The meta-analysis also recorded significant client concerns as regards issues of privacy and convenience when using video conferencing (telephone was preferred by many for these reasons).¹²

For these reasons, the authors consider that any trial of increasing video conferencing use by Queensland community legal centres should utilise free web-based applications such as Skype, in the absence of evidence suggesting the efficacy of video conferencing technology. In this regard, we note the potential for the development of this technology in the future with the progress of the Commonwealth National Broadband Network Regional Legal Assistance Program.¹³

Recent empirical research examining the use of technology by Queensland community legal centres notes that 'adequate technology to attend continuing legal education training through web-based video-conferencing (eg by using the Webex services provided through the National Association of Community Legal Centres (NACLCLC)) would facilitate the provision of training to community legal centre staff' and proposes that video conferencing technology may allow a more cost effective method of training by reducing administrative and transport costs, enhancing flexibility and providing a simple method of recording training for future reference.¹⁴

Alternatives to video-conferencing include Internet Relay Chat,¹⁵ which may also incorporate of white-board software, by which documents can be simultaneously viewed and discussed along with typed conversation over the internet.

Internet-based technology

In 2011 in Australia, 79% of households had access to the internet,¹⁶ including many low-income households.¹⁷ It appears that the internet is the 'first port of call' for many people when seeking legal information.¹⁸ For the 81.8% of community legal centres that use technology, a website is the most common platform to provide legal advice, information or representation.¹⁹ Thus, internet usage is quickly approaching telephone usage in terms of its generic availability, although the same vulnerable demographic groups are likely to be those without access as for telephone usage, discussed above.

The proposed implementation of the National Broadband Network is likely to increase internet usage in Australia for people in regional Australia, although with the recent change of federal government the outcome of this project remains to be seen.²⁰

Community legal education delivered through technology predominantly used smart phone apps (78.9%) and Facebook (36.8%).²¹ Online conferencing, YouTube, Twitter, websites and Skype were also utilised.²² The benefits of the delivery of legal advice and information through internet-based services and technologies include the provision of remote access to information and access to information outside business hours.²³ Research has shown the superiority of those online services which provide both general and user-specific information.²⁴ Allens Linklaters proposes the following key points to be considered when developing an online community legal centre model:

1. The need for a clear strategic purpose and underlying policy.
2. Superior website usability and the development of legal resources in plain language.
3. Online integration with other websites, particularly referral services.²⁵

Importantly, the literature distinguishes between access to information and efficacy of information in the context of obtaining legal advice.²⁶ It is imperative that legal information available to community legal service clients is presented in a user-friendly way. The limitations of self-help resources are noted and discussed below.

Four legal services, both Australian and foreign, are notable for offering a high level of internet resources directly to those in need of legal assistance: LawAssist/LawAccess (NSW), Rechtwijzer (Netherlands), Smart Service Queensland and LawHelpNY.²⁷ Each of these services will now be briefly discussed.

LawAssist/LawAccess (NSW)

LawAccess NSW maintains both a legal telephone service and a website, which provides internet-based resources including easy-to-read self-help legal resources (such as factsheets, forms and publications from a range of government and non-government services, including Legal Aid NSW, community legal centres and courts) and easy to find legal information categorised under a number of subject headings (such as 'debt', 'family law' and 'neighbours'). The website is designed as the 'starting point', from which users can then access the telephone advisory line. Access is offered to all NSW residents, but specifically targeted at those requiring access to community and government legal services.²⁸ Client appraisals of this service have been very favourable.²⁹

Rechtwijzer (Netherlands)

This is the Dutch equivalent of NSW's LawAssist website, delivering legal information to users through an interactive question-and-answer model. While there is, as yet, no information on its efficacy, it is commended for its succinct, process-oriented approach.³⁰

Queensland Government's Smart Service

This Queensland Government initiative is intended as the primary point of contact for Queenslanders accessing

government services. This service does not provide legal advice. It utilises multiple delivery channels, including online services, contact centres, service counters and card and concession services.³¹

LawHelpNY

This is an online tool providing legal assistance for low-income New Yorkers. It provides information on free legal service projects and organisations, including contact and intake information, self-help resources covering 16 areas of law and extensive links to social service, advocacy and government organisations and information about the court system.³² This service includes an instant messaging service where users can access live contact with a trained specialist who can answer questions and provide links to relevant resources and referrals on the site and, where necessary, provide information by email.³³

Audio-graphics conferencing

Audio-graphics conferencing is utilised to provide legal services to people in rural and remote areas of Queensland, by which people are able to communicate by telephone at the same time as having joint computer screen access to documents. This technology has been particularly utilised by clinical legal education students working with geographically distant clients preparing court-related documents and correspondence.³⁴ The main benefit of using audio-graphic technology is its broad geographical reach, which enables access to legal services to be provided to a larger clientele within a shorter time-frame, whilst minimising or negating travel-related expenses.³⁵ It has also been recognised that some clients are more comfortable with telephone- than face-to-face interviewing, particularly as the telephone is such a regular means of communication for those in rural and remote localities.³⁶

INFORMATION TECHNOLOGY – ITS LIMITS AND ITS POTENTIAL

Summary of information technology usage and the law

Giddings and associates note:³⁷

'The use of information technology as a means of providing legal services is slowly building momentum. At this stage, such use has tended to be limited to government and not-for-profit services being delivered to rural communities from a metropolitan base. The Internet, email, video and audio-conferencing are slowly starting to challenge the traditional way that lawyers have delivered legal services. Acknowledging the work that has been done in the area by health and education professionals, lawyers are beginning to see non face-to-face services as an option. The challenges that the use of

technology has engendered are often common to both lawyers and their clients. For clients, such technology is often unfamiliar and the delivery of non-face to face services may be seen as threatening and unsupportive. Use of computers and the Internet is often not a way of life for rural clients and training, cost and ongoing support may be an issue. For lawyers, looking outside of their own communities for legal work may be unfamiliar, and the clients wary of the technology. For city practitioners, such forays into rural communities may raise legal issues they are not familiar with or are incapable of recognising. This has the potential to operate to the distinct disadvantage of clients. Client confidentiality in the delivery of non-face to face services is also extremely important.'

Jenkins notes that, notwithstanding the proliferation of information technology use among professionals, modern law firms and courts generally utilise 'less sophisticated' technological tools such as word processors, e-mail and instant messaging systems, rather than the more sophisticated analytical tools available. He asserts that the legal profession lags behind other industries, for reasons of scepticism about artificial intelligence applications, technical challenges to implementation and cultural resistance.³⁸ Jenkins argues that there are 'strong incentives' for lawyers to catch up, particularly in terms of reducing duplication and repetition and reaping significant efficiency gains, in the context of a significant increase in the volume and diversity of data lawyers are managing.³⁹ Epstein concurs that lawyers are 'notoriously slow' in adapting technology into their practice.⁴⁰ She foreshadows that there will be increasing conflicts between technology and ethics as lawyers increasingly incorporate technology into their practice and are confronted with new ethical issues arising from the use of such technologies.⁴¹

Australia's position in context

The literature suggests that Australia is behind many other jurisdictions, particularly the United States, in the provision of legal services by telephone.⁴²

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

- centralized, interactive websites, including public legal education and self-help
- document assembly software
- video-based learning
- online application and intake/online self-testing of eligibility; and
- video-conferencing.⁴³

Although the report documented a number of these technologies in use in the United States, it has been

recognised that technology is generally under-utilised in the community law context in Ontario.⁴⁴ It was considered that the development of a Knowledge Management resource was needed.

It was also noted that technology to provide access to legal information and advice would be far more effective as part of a 'seamless justice system': an integrated database for lawyers and the courts, one that 'provides information, but also delivers "real" assistance to clients'.⁴⁵

The limitations of technology for vulnerable clients

It is imperative that the limitations of information technology for vulnerable and disadvantaged clients is acknowledged and considered in the development of any initiatives to assist this group. In particular, groups that may require special consideration in implementing information technology initiatives include people with mental health issues, homeless people, victims of domestic violence, Aboriginal and Torres Strait Islanders and refugees.⁴⁶

As Mossman and associates note:⁴⁷

'[T]he use of technology is particularly challenging for the most vulnerable individuals and communities. As the report explained, there are significant issues at the intersection of technology policy and low-income communities. These issues include universal access to the Internet, literacy (including information literacy), training in computer usage, privacy issues, creation of relevant content, and use of technology by government and other service providers...'

Mossman and associates acknowledge that 'significant expenditures' would be required to make technology 'effectively and equally available to the most vulnerable individuals and communities'.⁴⁸ They conclude that we must proceed with 'caution' as regards the emphasis placed on the provision of legal information and advice directly to the public:⁴⁹

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

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

- non-English speakers;⁵⁰
- clients at the lowest education levels;⁵¹
- unemployed clients;⁵²
- clients with complex and/or time-consuming legal problems;⁵³ and
- clients with significant learning disabilities, severe mental disabilities and/or limited communication or reading skills.⁵⁴

These findings are supported by the LAW Survey data which indicates that different population groups are associated with different propensities to use different modes of communication. These findings suggest that young people, those with poor English language skills, lower levels of education, mental health problems and the lowest incomes are all more likely to only obtain advice in person (as opposed to only using remote forms of communication such as telephone or email).⁵⁵

CONCLUSION

With tightening government funding impacting upon the provision of legal aid services to vulnerable citizens, increasing focus is being placed on legal assistance agencies to provide cost-effective services, particularly through technology. In Queensland, as in many comparable jurisdictions, community legal services utilise information technology to provide accessible, low-cost services. However, it would be foolish to believe that these are the most efficient and effective means of providing services. Increasingly, independent research is confirming that the most disadvantaged citizens are disproportionately impacted by legal problems, and often it is this group that is unable to access assistance using technology.

There is no 'silver bullet' in the use of technology to provide legal services; however, as the Queensland experience shows, progress is being made in the utilisation of technology and its effectiveness in providing access to justice.

Footnotes

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⁵ 28.5% of the 78% of respondents that offered a telephone service.

⁶ Allens Linklaters (fn 1) 9.

⁷ Wayne Moore, 'The Future of Legal Aid: Systems', paper submitted to the ILAG Conference (The Hague, June 12–14 2013), 4.

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¹² *Ibid.*

¹³ See <http://www.ag.gov.au/nbnlegalassistance>.

¹⁴ Allens Linklaters (fn 1) 36. See also Catherine Arcabascio, 'The Use of Video-Conferencing Technology in Legal Education: A Practical Guide' (2001) 6 *Virginia Journal of Law and Technology* 1, <http://www.vjolt.net/vl6/issuel/v6ilaO5-Arcabascio.html>, which provides practical tips on the use of videoconferencing technology in education and Peter Martin, 'Distance Learning: The LI's Experience and Future Plans' (1999) www.law.comell.edu/background/distance/liidistance.htm, which discusses the use of videoconferencing to deliver a copyright class to students at four law schools, including three remote locations, of Cornell Law School.

¹⁵ This form of technology allows parties to engage in real-time conversation when typing over a computer screen.

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¹⁸ Allens Linklaters (fn 1) 17.

¹⁹ NACLC (fn 2) 39.

²⁰ Allens Linklaters (fn 1) 17.

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- ²⁹ In 2012, LawAccess assisted 198,566 customers and provided 19,159 legal advice sessions and 94.5% of customers rated themselves as being 'highly satisfied' with the service.
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- ⁴⁷ Mossman, Schucher and Schmeing (fn 44) 161.
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