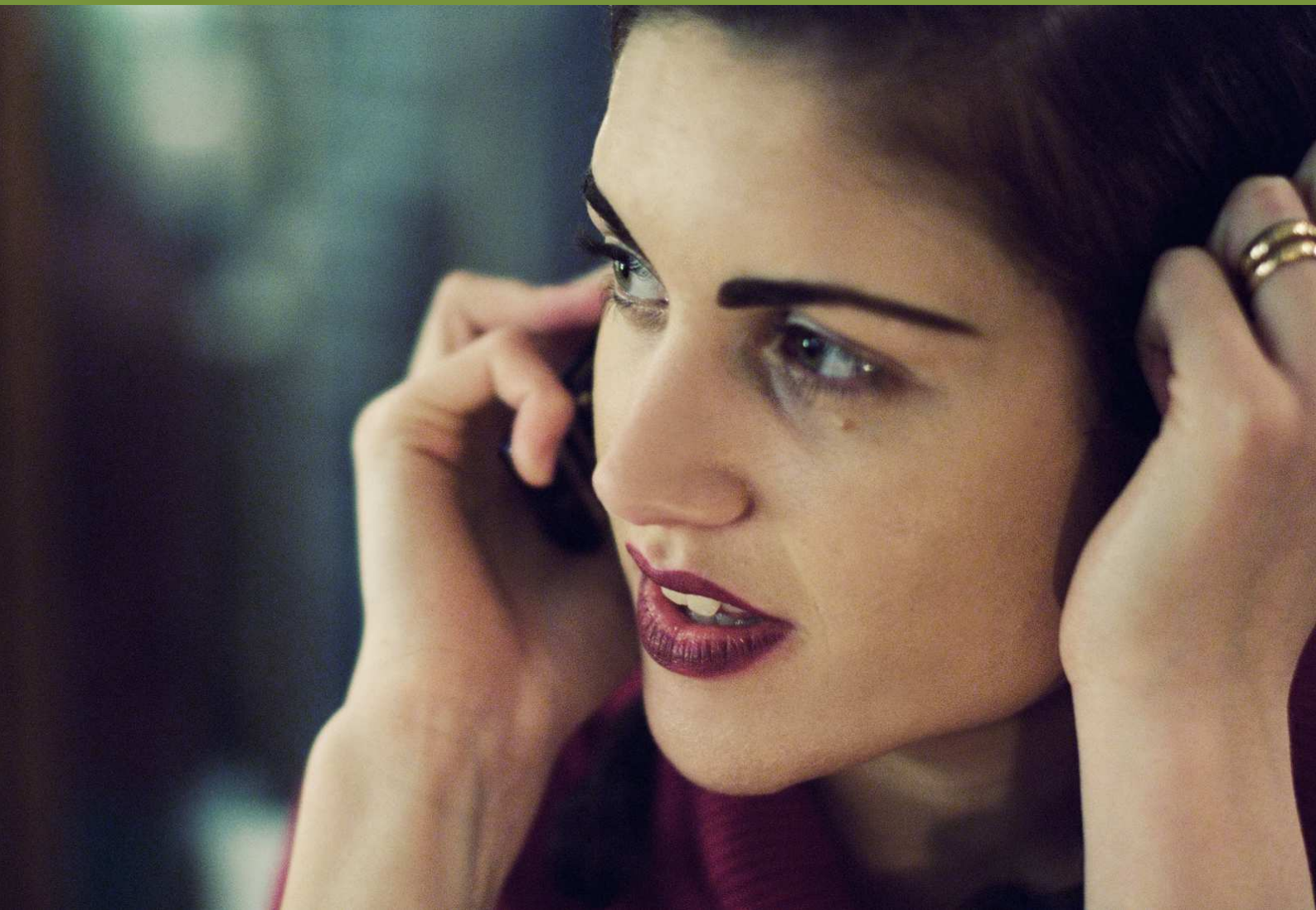




Queensland community legal centres' use of technology

Literature review and discussion paper

August 2014



Queensland Association of
Independent Legal Services Inc



Queensland Association of Independent Legal Services (**QAILS**) is the peak body for community legal centres in Queensland and its vision is for a fair and just Queensland.

To achieve this, QAILS supports and develops community legal centres to provide effective, high quality services to their communities, and leads to unite its members and be a leading voice for social justice.



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Executive Summary

Introduction and Methodology

Allens was asked by the Queensland Association of Independent Legal Services (**QAILS**) to review the publicly available commentary regarding the effectiveness of using information and communications technologies (**ICT**) to deliver legal services to the community by community legal centres/services (**CLCs**).

To assist this task, QAILS provided Allens with some key source documents which included Australian Government publications and academic journal articles. Allens then obtained the assistance of three University of Queensland students to perform the primary research task of gathering and summarising the publicly available information on the topic. The information provided by the students (listed in Schedule 2) comprises information gathered from a variety of sources including academic journal articles, conference submissions, Australian and State and Territory government agency publications, media releases and general information gathered from websites. The Allens team then reviewed the information for the purposes of preparing this report.

This report examines the information made available to Allens in relation to the use of ICT by CLCs and aims to summarise the key concepts, themes and opinions presented by the authors of those materials. Whilst Allens has exercised all care in reviewing only material which appears to be from a reputable source, we are not experts in this field and therefore do not endorse the opinions of the authors, cannot verify the academic or professional weight that should be attributed to them, and have not engaged in any critical analysis of those opinions.

This report focuses discussion upon the core technologies of telephony, video conferencing and the internet, with each section of the report concluding with our high level observations based on the key concepts identified in the literature. Allens also sought the views of a number of Queensland CLCs via survey (**Allens CLC Survey**) to obtain their views and practical insights into the use of ICT and we present some of the common responses throughout this report. We also attach completed survey responses at Schedule 3.

This report is divided into three parts. Part 1 discusses the general principles that we have inferred from the literature regarding the use of ICT by CLCs to deliver legal services. Part 2 examines the specific needs of disadvantaged groups and discusses how the general principles regarding the use of ICT by CLCs may be applied or modified to enhance service delivery to those groups, as identified in the literature. Part 3 then examines the use of knowledge management systems and discusses the potential benefits of a centralised and collaborative model of knowledge and resource sharing, again as identified in the literature.

Part 1 – General Principles: The Use of Technology by Community Legal Centres

1. Use of Telephones

Refer Part 1 Section 2.2

- (a) Telephone services with high client satisfaction rates are limited to the provision of information, referrals and where appropriate, legal advice. Cases requiring complex advice, representation or advocacy should be referred to face-to-face services or specialist CLCs.
- (b) Telephone services that provide 'brief services' (or 'limited action' services) and perform follow up actions are more likely to provide successful outcomes for clients.
- (c) Telephone services may not be suitable for non-English speakers, people of the lowest education levels, people who report no income, and people who have severe mental disabilities, serious learning disabilities, or limited communication or reading skills.
- (d) Staff should be appropriately qualified, offered on-going training and support, and be supported by effective knowledge management systems.
- (e) Telephone services should be well advertised and promoted within the community to ensure uptake by target clients.

2. Use of Video Conferencing

Refer Part 1 Section 3.2

- (a) There has been virtually no research specifically examining the efficacy of using video conferencing for the delivery of legal services by CLCs.
- (b) A 2011 study of the relevant literature showed that:
 - (i) both lawyers and clients preferred face-to-face meetings to video conferencing and when compared to telephone use, only lawyers reported advantages of video conferencing;
 - (ii) there is no conclusive evidence to show that video conferencing reduces costs when compared to face-to-face service delivery; and
 - (iii) the implementation of video conferencing should be considered only if the benefits it provides cannot be provided through existing ICT (such as telephone, email, fax etc).
- (c) Web-based video conferencing is currently being implemented by a number of CLCs under the Commonwealth National Broadband Network Regional Legal Assistance Program. Until an evaluation of the program is complete, CLCs may wish to trial the use of free web-based video conference systems.

3. Use of the Internet

Refer Part 1 Section 4.2

- (d) Information provided on websites should be plainly drafted and capable of being easily understood through the use of common language and fact-based associations.
- (e) To increase the effectiveness of legal information, websites should provide an interactive experience which enables general information to become more targeted, user-specific information. See for example the Rechtwijzer website (Netherlands, accessible at www.rechtwijzer.nl), which provides a legal diagnosis by requiring the user to answer a series of questions.
- (f) Links to referral services and their contact details should be integrated effectively into CLC websites to ensure that clients are aware of other service providers and have access to the correct contact information.
- (g) The development of mobile device applications ('apps') should also be considered due to high mobile phone usage rates of the Australian population.

Part 2 - Disadvantaged Clients

1. Mental Health Clients

Refer Part 2 Section 2

- (h) The provision of legal advice by telephone should be limited to clients with the capacity to communicate via telephone and should not be offered to those with severe mental illness or limited mental capacity such as those with serious learning disabilities.
- (i) The implementation of ICT initiatives may be more effective if targeted towards the internal policies of CLCs, such as adequate training of staff members to ensure that they recognise the idiosyncrasies of mental health clients, and ensuring that the CLC has appropriate links to specialist mental health services.

2. Rural, Regional and Remote Clients

Refer Part 2 Section 3

ICT initiatives, particularly telephone services, have the potential to assist clients located in rural, regional and remote (**RRR**) areas.

3. Homeless Clients

Refer Part 2 Section 4

- (j) Face-to-face services are generally more suitable for homeless clients compared to services delivered by ICT.
- (k) Telephone advice services may assist clients living in isolation from legal or other services. Ideally, such services should:
 - (i) have the capacity to accept calls regarding any legal issue, particularly debt, family law, domestic violence and housing matters;
 - (ii) allow clients to connect directly with a solicitor; and

- (iii) be widely promoted to ensure target clients are aware of the services.

4. Victims of Domestic Violence

Refer Part 2 Section 5

All ICT initiatives aimed at assisting victims of domestic violence should be designed with safety as the key consideration. This includes measures such as ensuring anonymity of callers to telephone services and the provision of information about the safe use of ICT systems. Busy CLCs may consider prioritisation of callers faced with domestic violence situations and automated telephone services for assistance after business hours.

5. Aboriginal and Torres Strait Islander Clients

Refer Part 2 Section 6

ICT systems may be implemented to enhance legal service delivery to Indigenous people in family and civil law matters. Such initiatives may include increased telephone advice services, provision of easily comprehensible website information and web-based video conferencing in remote communities (facilitated by field officers) to link clients with lawyers in metropolitan areas.

6. Refugee Clients

Refer Part 2 Section 7

- (l) Telephone services are generally used for refugee clients who cannot attend face-to-face services, such as those living in RRR areas or those with disabilities.
- (m) Websites should provide an overview of the CLC's services in a variety of languages in order to enhance service delivery to refugees and asylum seekers, such as the information provided on the Refugee and Immigration Legal Centre (Victoria) website (accessible at <http://www.rilc.org.au/Advice-and-Casework/information-in-other-languages>).

Part 3 - Knowledge Management Systems

- (n) The capacity for CLCs to share resources with one another could potentially benefit the operation of all CLCs. The use of ICT (in the form of a shared, but password-protected resource repository for example) would greatly facilitate the use and sharing of resources.
- (o) Any ICT system adopted for use should allow for shared resources but also the separation of client-specific information for each CLC in order to preserve confidentiality and privacy.
- (p) The CLCs should also develop databases of expert legal practitioners from each CLC and develop methods to encourage collaboration and the sharing of learning.
- (q) In order to take advantage of the benefits of both centralised and de-centralised models, QAILS could adopt a model which allows for the centralisation of most functions with some de-centralised management of specified areas by the individual CLCs.

Part 1 - General Principles: The Use of Technology by Community Legal Centres

1 Introduction

As information and communications technologies (**ICT**) have rapidly developed since the mid-1990s, so too have organisations in developing and evolving their ICT usage for communication, engagement and service delivery. Social media, email, e-commerce, mobile apps, mobile phones, VoIP telephony¹ and web-based video conferencing are just some of the current tools-of-the-trade available to public and private organisations of all sizes, including government agencies and organisations comprising the justice system.

This report examines the use of ICT in the context of service delivery by community legal centres and legal services (**CLCs**), focussing upon the core technologies of telephony, video conferencing and the internet. This report examines each form of technology and highlights its particular advantages, opportunities and limitations. It then examines the use of ICT in the context of CLC service delivery to disadvantaged clients, specifically mental health clients, rural, regional and remote (**RRR**) clients, homeless clients, victims of domestic violence, Aboriginal and Torres Strait Islander clients and refugee clients.

The methodology implemented for the purposes of this report is described in the Executive Summary (see 'Introduction and Methodology').

2 Telephone

2.1 Access

The number of mobile phone connections within Australia has increased rapidly over the past decade. In June 2012, the total number of mobile phone connections in Australia was 30.2 million, or four mobile services for every three people, representing an increase of 3.1% over the previous year.²

In contrast, fixed-line telephone connections declined by 1% from 2011 to 2012 to 10.44 million connections, with only 82% of adults having a fixed-line available at home.³

These statistics can be compared with figures for Queensland in 2003, where an estimated 95.3% of households had at least one fixed-line telephone connection and an estimated 68.2% of the population used a mobile phone.⁴ These statistics support the observation that the Australian telecommunications industry is undergoing a gradual shift away from fixed-line telephony towards mobile phone usage, with the majority of adults now having access to a mobile phone.⁵

A report by the Australian Communications and Media Authority (**ACMA**) shows that over 90% of adults use both fixed line and mobile phones to make calls.⁶ Accordingly,

¹ VoIP is an acronym for Voice over Internet Protocol.

² ACMA, 'Communications Report 2011-2012' ACMA, page 19.

³ *ibid* page 28.

⁴ Australia Bureau of Statistics, 'Household Telephone Connections, Queensland Report, 2003', Viewed 10 July 2013.

⁵ ACMA, 'Communications Report 2011-2012' ACMA, page 30.

⁶ ACMA, 'Convergence and Communications Report 1: Australian household consumers' take-up and use of voice communications services' ACMA September 2013.

access to telephones in Australia is widespread, with most people being able to access either a mobile or fixed line telephone. People who are disadvantaged, however, such as the homeless, may have issues accessing such technology, and we discuss demographic-specific considerations in Part 2 of this Report.

The high levels of access to telephones by the general public, combined with government initiatives to develop innovative ways of delivering services, has prompted many CLCs to offer legal services by telephone. In the United States, pioneering telephone services were devised to offer assistance to the elderly and subsequently expanded into use by generalist legal services.⁷ Historically, more than two-thirds of the cases handled by American CLCs have been for advice and information, referral or 'brief services' (or 'limited action' services). Brief services are functions that a lawyer can perform in order to resolve a legal issue, rather than advising the client to do so themselves. Brief services usually take the form of communication with a third party on the client's behalf, either verbally or in writing, such as making a telephone call, writing a letter or completing a form.⁸ The theory supporting the use of telephones to deliver brief services is that they can be handled by a telephone-based system that is staffed by advocates who are specially trained in the provision of advice and referral services and who are supported by appropriate ICT systems.⁹

Legal services delivered by telephone are widely available within Queensland - 78% of respondents to the Allens CLC Survey provide a telephone service. However, the type of services delivered by respondents varies - of the CLCs that provide telephone services, 43% provide information only, 28.5% provide information and referral services, and 28.5% provide legal advice sessions.

The perceived benefits of telephone services include lower costs, increased convenience for clients, and the ability to increase access to those who have traditionally experienced difficulty engaging with legal services such as those living in RRR areas.¹⁰

2.2 Efficacy

Both in Australia and internationally, legal assistance given by telephone can take a variety of forms and comprise a range of services. It appears that legal 'hotlines', or legal services that are run primarily by telephone, seem to be more prevalent internationally, particularly in the United States, than in Australia. In Australia, telephone services are generally one part of a CLC's total service offering, often operating in conjunction with the CLC's 'face-to-face' service or as a method of outreach to disadvantaged people such as those living in RRR areas.

The view that telephone services will result in lower costs when giving advice is based on assertions that telephone advice is less time consuming than face-to-face advice and

⁷ Jessica Pearson and Lanae Davis, 'The Hotline Outcomes Assessment Study Final Report – Phase III: Full-Scale Telephone Survey' Center for Policy Research November 2002, page 1.

⁸ Jessica Pearson and Lanae Davis, 'The Hotline Outcomes Assessment Study Final Report – Phase III: Full-Scale Telephone Survey' Center for Policy Research November 2002, page 70.

⁹ Jessica Pearson and Lanae Davis, 'The Hotline Outcomes Assessment Study Final Report – Phase III: Full-Scale Telephone Survey' Center for Policy Research November 2002, page 1.

¹⁰ Nigel J. Balmer et al, 'Just a phone call away: is telephone advice enough?' *Journal of Social Welfare and Family Law* 34:1 63-83, pp 63-64.

that telephone services eliminate the cost of 'scheduling clients' and the downtime caused by non-attendance.¹¹ However, there are conflicting findings in relation to time taken, and we discuss these below.

Over the past decade or so, there have been a number of studies into the effectiveness of telephone services across Australia, the United Kingdom and North America. Key findings of various studies reviewed by the authors are set out below.

(a) Telephone services provide effective assistance for a limited scope of legal services

It appears that telephone services with high user satisfaction rates are limited to the provision of information, referrals and, where appropriate, legal advice. Cases requiring complex advice and matters requiring representation or advocacy should be referred to face-to-face services.

These views are supported by statistics provided by LawAccess NSW (**LawAccess**) which states that 94.5% of its customers were highly satisfied with its service during 2012¹², and the evaluation of the Family LawLINE of British Columbia which showed that 84% of users were satisfied with the service.¹³

LawAccess is a legal telephone service run by the NSW Government whose stated purpose is to provide legal information, referral and in some cases, legal advice.¹⁴ The LawAccess NSW Policy and Service Standards Manual (the **LawAccess Policy**) clearly describes the circumstances where legal advice will or will not be given and also sets out a list of factors that will be considered when determining if legal advice is to be given.¹⁵ Legal advice is provided over the telephone and LawAccess services do not include face-to-face interviews, representation in court or other general advocacy services.¹⁶

Family LawLINE is the telephone service run by British Columbia's Legal Services Society and is limited to giving 'brief next step' advice about family law issues.¹⁷

Pearson and Davis have found that successful outcomes are more likely where telephone services provide brief services or limited action services, such as communication with third parties on behalf of clients.¹⁸

¹¹ Wayne Moore, 'The Future of Legal Aid: Systems', discussion paper submitted to the ILAG Conference (The Hague, June 12-14 2013), page 4.

¹² Julianne Evans, 'LawAccess NSW and its legacy' paper submitted to the ILAG Conference (The Hague, June 12-14 2013), page 2.

¹³ Focus Consultants, 'An Evaluation of Family Legal Services of the Legal Services Society: Final Report For Legal Services Society' (May 2012) Legal Services Society page 21.

¹⁴ Julianne Evans, 'LawAccess NSW and its legacy' paper submitted to the ILAG Conference (The Hague, June 12-14 2013), page 1.

¹⁵ LawAccess NSW Policy and Service Standards Manual pp 15-18.

¹⁶ *ibid* page 15.

¹⁷ See http://www.lss.bc.ca/legal_aid/FamilyLawLINE.php.

¹⁸ Jessica Pearson and Lanae Davis, 'The Hotline Outcomes Assessment Study Final Report – Phase III: Full-Scale Telephone Survey' Center for Policy Research November 2002 page iv; Roger Smith, 'Telephone hotline and legal advice: a preliminary discussion paper' 16 January 2013 (International Legal Aid Group, 16 January 2013) at [1.c]; Wayne Moore, 'The Future of Legal Aid: Systems', discussion paper submitted to the ILAG Conference (The Hague, June 12-14 2013), page 3.

(b) There are conflicting reports regarding the time taken for telephone advice compared to face-to-face advice

One of the perceived benefits of telephone advice is that it has a lower cost compared to face-to-face advice because it is assumed that giving telephone advice is less time consuming than giving face-to-face advice. However, the actual findings with respect to the time taken are conflicting, with one UK study showing that telephone advice actually takes 14 minutes longer on average than face-to-face advice.¹⁹ On the other hand, a leading US proponent of telephone services states that telephone advice calls average between 7 and 15 minutes, whereas face-to-face advice 'can easily average half an hour or more'.²⁰

There is no clear explanation for this discrepancy. However we note that the UK study concerned housing/tenancy cases only and advised on all levels of complexity, whereas the US findings are based on a range of legal matters where the telephone service was generally limited to brief services. Thus the time taken to provide legal advice by telephone may be dependent on the type of services offered and the types of matters advised upon.

(c) Legal telephone services may not be suitable for resolving certain types of matters and may not be suitable for particular client demographic groups

According to US studies, telephone services provide generally less favourable outcomes for:

- (i) non-English speakers;²¹
- (ii) individuals at the lowest education levels;²²
- (iii) those who report no income;²³
- (iv) individuals with legal problems that require a lot of time such as debt matters;²⁴
- (v) individuals with legal problems that are too complex to discern the facts over the telephone;²⁵ and
- (vi) clients with serious learning disabilities, severe mental disabilities and/or limited communication or reading skills.²⁶

If CLCs wish to provide telephone services to these clients, they should develop the necessary protocols and procedures to ensure that such clients are

¹⁹ Nigel J. Balmer et al 'Just a phone call away: is telephone advice enough?' *Journal of Social Welfare and Family Law* 34:1 63-83, page 63.

²⁰ Wayne Moore, 'The Future of Legal Aid: Systems', paper submitted to the ILAG Conference (The Hague, June 12-14 2013), page 4.

²¹ Jessica Pearson and Lanae Davis, 'The Hotline Outcomes Assessment Study Final Report – Phase III: Full-Scale Telephone Survey' Center for Policy Research November 2002 page iii.

²² *ibid.*

²³ *ibid.*

²⁴ Wayne Moore, 'The Future of Legal Aid: Systems', paper submitted to the ILAG Conference (The Hague, June 12-14 2013) page 4.

²⁵ *ibid.*

²⁶ *ibid.*

appropriately managed. This may include referral to the CLC's own face-to-face service or referral to a specialist service provider.

We note for example that LawAccess offers services to cater to particular demographics as part of its telephone services, for example by providing a translating and interpreting service, access to an Aboriginal customer service officer, and the option for clients with a hearing or speech disability to contact LawAccess through the National Relay Service.²⁷ In circumstances where its services may not be appropriate, LawAccess has strong links to referral services to whom it can transfer clients directly during the call.²⁸

(d) Telephone services should implement effective screening processes

Further to the above, telephone services should implement effective screening processes so that clients are either referred to an appropriate division of the service or to the most appropriate external service provider.²⁹

For example, Family LawLINE has a screening process whereby the intake worker first discusses the client's financial situation and the nature of the matter with the client in order to determine whether or not a call should be transferred to an attending lawyer (of which there are two in attendance each day).³⁰

(e) Staff should be appropriately qualified and offered ongoing training and support

Moore considers it 'best practice' for experienced lawyers to give advice (although experienced paralegals may be acceptable in limited circumstances).³¹ As a further measure to ensure quality control, a supervising lawyer should review case notes that are entered into a database by the lawyer responsible for the file. Any corrective action, if needed, can then be performed.³²

These measures are confirmed by Evans to be key components adopted by LawAccess to ensure quality control.³³ According to Evans, recruiting the right people and providing them with the requisite training and development is one of the keys to LawAccess' success.³⁴ Further, LawAccess has a thorough induction program and an ongoing commitment to training.³⁵

²⁷ LawAccess NSW Policy and Service Standards Manual, page 9.

²⁸ Julianne Evans, 'LawAccess NSW and its legacy' paper submitted to the ILAG Conference (The Hague, June 12-14 2013), page 1.

²⁹ Roger Smith, 'Telephone hotline and legal advice: a preliminary discussion paper' (16 January 2013) International Legal Aid Group, at [1.c]; Jessica Pearson and Lanae Davis, 'The Hotline Outcomes Assessment Study Final Report – Phase III: Full-Scale Telephone Survey' Center for Policy Research November 2002 page iii.

³⁰ Focus Consultants, 'An Evaluation of Family Legal Services of the Legal Services Society: Final Report For Legal Services Society' (May 2012) Legal Services Society page 6.

³¹ Roger Smith, 'Telephone hotline and legal advice: a preliminary discussion paper' (International Legal Aid Group, 16 January 2013) at [1.c].

³² Wayne Moore, 'The Future of Legal Aid: Systems', paper submitted to the ILAG Conference (The Hague, June 12-14 2013), page 4.

³³ Julianne Evans, 'LawAccess NSW and its legacy' paper submitted to the ILAG Conference (The Hague, June 12-14 2013), page 2.

³⁴ *ibid.*

³⁵ *ibid.*

(f) Telephone services should implement knowledge management systems and complementary ICT systems

A criticism of the Western Queensland Justice Network's now defunct Family Law Hotline and Regional Law Hotline was that customer service staff were 'a bit lost about where to actually find the information from their screens and that people answering the telephone also need to become a lot more familiar about the other services that are there.'³⁶

Together with ongoing training, the implementation and maintenance of effective and easy-to-use knowledge management systems may increase the likelihood that relevant information is easily and readily accessible by CLC staff and that information given by customer service staff is consistent.³⁷ Effective knowledge management systems should also contain information about all of the legal referral services the CLC provides, so that when a customer's location and type of legal issue is entered into the system, the database can automatically provide the appropriate referral options.³⁸

Appropriate complementary technologies also need to be offered in order to facilitate document review, such as fax and email.³⁹

(g) Telephone services should implement follow up procedures

Studies have found that follow-up actions may increase the chances of clients experiencing favourable results.⁴⁰ These include:

- (i) sending a letter detailing the advice given or sending other written material such as facts sheets;⁴¹ and
- (ii) follow up calls to clients who are advised to take some action or who fall into one of the demographic categories identified above that are less likely to obtain a favourable outcome.⁴²

(h) Telephone services should be well advertised and promoted

A 2006 Australian study of the Western Queensland Justice Network's Family Law Hotline and Regional Law Hotline showed that the uptake of those services had been very low, with respondents pointing to a need for good promotion of the service.⁴³

³⁶ Cate Banks et al 'Australian Innovations in Legal Aid Services: Balancing Cost and Client Needs' Socio-Legal Research School, Griffith Law School, Griffith University, page 226.

³⁷ Julianne Evans, 'LawAccess NSW and its legacy' paper submitted to the ILAG Conference (The Hague, June 12-14 2013) page 3.

³⁸ *ibid.*

³⁹ Roger Smith, 'Telephone hotline and legal advice: a preliminary discussion paper' (International Legal Aid Group, 16 January 2013) at [1.c].

⁴⁰ Jessica Pearson and Lanae Davis, 'The Hotline Outcomes Assessment Study Final Report – Phase III: Full-Scale Telephone Survey' Center for Policy Research November 2002 page ii.

⁴¹ *ibid.*

⁴² Roger Smith, 'Telephone hotline and legal advice: a preliminary discussion paper' (International Legal Aid Group, 16 January 2013) at [1.c].

⁴³ Cate Banks et al 'Australian Innovations in Legal Aid Services: Balancing Cost and Client Needs' Socio-Legal Research School, Griffith Law School, Griffith University, page 223.

2.3 Conclusion / Observations

The level of success of a telephone service appears to depend largely upon:

- (a) the knowledge and experience of customer service and legal staff;
- (b) the availability of effective supporting ICT systems; and
- (c) the level of knowledge of the staff of the appropriate referral services.

It appears that telephone services may not be ideal for:

- (d) complex matters requiring advocacy;
- (e) clients with severe mental or learning disabilities;
- (f) clients of very low education levels; and
- (g) clients with limited communication skills.

Further, it would appear prudent that the design, purpose and scope of the telephone service be defined from the outset. Before implementing telephone services, CLCs could consider developing a policy which clearly describes the telephone services that will be provided and how the telephone service will operate generally. The policy could describe the circumstances where legal advice will or will not be given, the types of clients or circumstances where face-to-face or referral services should be provided, supervision and quality control measures and any follow up procedures to be implemented.

3 Video conferencing

3.1 Access

Traditional video conferencing using an integrated service digital network (**ISDN**) is dependent upon each end user having specialised and often expensive equipment. Generally, individuals do not have access to such technology, so any discussion about access to video conference systems must be done in a context which envisages that the system will be used to connect one office at which the client attends with another office where the lawyer or service provider is located: the so-called 'hub and spoke' model.⁴⁴

Such a model has been of increasing interest both in Australia and internationally for its potential to service disadvantaged clients living in RRR areas.⁴⁵ The commonly expressed rationale for implementing video conferencing is that it may increase the accessibility of legal services to disadvantaged people living in RRR areas and that it may reduce the costs and delays associated with providing face-to-face legal services in such locations.⁴⁶

Video conferencing is often assumed to provide a preferable mode of communication compared to use of the telephone because it allows people to see each other, enabling both verbal and non-verbal communication.⁴⁷ Further, some video conference systems have facilities that allow the viewing and exchange of documents.⁴⁸ However, as discussed below, in some cases it appears that the perceived benefits of video conferencing may be outweighed by a number of factors such as set up costs, accessibility and client concerns regarding privacy.

3.2 Efficacy

An Australian study of the available literature regarding the efficacy of video conferencing was published by Forell, Laufer and Digiusto in 2011.⁴⁹ The authors examined both traditional video conferencing via ISDN and satellite and web-based video conferencing such as Skype and WeBex. However, there was only one program that used Skype and it was not evaluated in the literature, meaning that the review was practically limited to ISDN services.⁵⁰

Significantly and somewhat unfortunately, a key finding of the review was that there had been little to virtually no research specifically examining the efficacy of the use of video conferencing for the delivery of legal assistance.⁵¹ Accordingly, there was no conclusive

⁴⁴ Suzie Forell et al, 'Legal assistance by video conferencing: what is known?' (November 2011) Law and the Justice Foundation of New South Wales page 10.

⁴⁵ *ibid* page 1.

⁴⁶ *ibid*.

⁴⁷ *ibid* page 3.

⁴⁸ *ibid*.

⁴⁹ Suzie Forell et al, 'Legal assistance by video conferencing: what is known?' (November 2011) Law and the Justice Foundation of New South Wales.

⁵⁰ *ibid* page 3.

⁵¹ Suzie Forell et al, 'Legal assistance by video conferencing: what is known?' (November 2011) Law and the Justice Foundation of New South Wales, page 1.

evidence about the effectiveness of video conferencing compared to face-to-face and telephone services.⁵²

The authors did however, make a number of key findings as follows.

- (a) The strongest finding was that the uptake of legal assistance by video conferencing, particularly in rural Australia, had been far less than expected by the service providers.⁵³ For example, the video conference facilities provided by the Western Queensland Justice Network had only one recorded use in the first five years of operation.⁵⁴
- (b) Both lawyers and clients preferred face-to-face meetings to video conferencing. However, video conferencing was generally accepted as a suitable alternative when such meetings were not possible.⁵⁵
- (c) When compared to the telephone, it was mainly lawyers that reported advantages of using video conferencing, such as being able to observe client responses, to better engage with clients and to exchange documents. However, clients reported concerns in relation to convenience and privacy, some preferring to speak to a lawyer from their own home by telephone rather than see a lawyer by video conference.⁵⁶
- (d) A number of the reviewed studies attributed savings to the use of video conferencing compared to provision of face-to-face services, particularly in terms of reduced time and costs in travelling to remote locations.⁵⁷ However, the authors suggest that until studies also factor costs such as technology, set up and maintenance and support costs at two locations (the lawyer and client end) and the level of service usage, whether video conferencing provides a more cost effective alternative to face-to-face legal assistance in RRR areas is uncertain.⁵⁸ The authors noted that web-based applications may improve the price and accessibility of video conferencing, but that consideration must also be given to the barriers that disadvantaged people face in accessing such technology and accessing legal assistance.⁵⁹
- (e) The uptake and use of video conferencing for legal assistance appears to be affected by the following factors:
 - (i) the convenience, privacy and confidentiality of video conferencing compared to other available modes of assistance;

⁵² *ibid* pages 1 and 9.

⁵³ *ibid* page 2.

⁵⁴ Rosemary Hunter et al, 'Technology is the Answer...But what was the Question? Experiments in the Delivery of Legal Services to Regional, Rural and Remote Clients' Chapter 6 of Pleasance et al (eds), 'Transforming Lives: Law and Social Process' (2007) The Stationary Press, page 142.

⁵⁵ Suzie Forell et al, 'Legal assistance by video conferencing: what is known?' (November 2011) Law and the Justice Foundation of New South Wales, page 2.

⁵⁶ *ibid* page 2.

⁵⁷ *ibid*.

⁵⁸ *ibid*.

⁵⁹ *ibid*.

- (ii) whether video conferencing offers services or benefits that are not already available through existing legal services, including services available by telephone such as access to specialist legal services;
- (iii) the quality and reliability of the video conferencing (e.g. drop outs, picture quality); and
- (iv) the willingness of clients, lawyers and the host service at the client end to use this form of technology for legal assistance.⁶⁰

In light of the above findings, the authors suggest that any proposed implementation of video conferencing for legal service delivery to RRR areas should take into account the factors listed in item (e) above.

Responses to the Allens CLC Survey revealed generally low use of ISDN video conference services with only 16% of respondents having used such systems. Further, only one respondent agreed strongly with the proposition that video conference services are effective at providing legal advice, information and assistance to clients.⁶¹

In contrast, 50% of respondents had used web-based video conference facilities. However, this was mainly used for communication with other legal providers or for internal purposes (such as training), which may explain why 66% of those respondents were 'neutral' in response to the proposition that web-based video conference services were effective at providing legal advice, information and assistance to clients. We discuss the espoused potential benefits of web-based video conferencing below.

3.3 National Broadband Network Regional Legal Assistance Program and use of Web-based applications

The Commonwealth National Broadband Network Regional Legal Assistance Program (**NBN Program**) is currently progressing. The aim of the program is to trial NBN-based initiatives that seek to strengthen and increase legal assistance delivery in RRR areas.⁶² Video conferencing using web-based applications such as Skype will be trialled as a key component of the six initiatives which have received funding under the program to date.⁶³

Web-based video conference applications may have the potential to realise some of the benefits that video conferencing was originally intended to deliver. This is due to the much lower set-up costs - any person with internet access and a compatible video camera (or a 'web-cam') and microphone can use video conferencing, and many web-based platforms are free of charge.

⁶⁰ Suzie Forell et al, 'Legal assistance by video conferencing: what is known?' (November 2011) Law and the Justice Foundation of New South Wales, page 2.

⁶¹ See Appendix 2 Survey Results: Queensland Advocacy Incorporated.

⁶² National Broadband Network Regional Legal Assistance Program website: <http://www.ag.gov.au/nbnlegalassistance>.

⁶³ Commonwealth of Australia Attorney-General's Department, 'Harnessing the benefits of technology to improve access to justice' (2012) pp 8-9; Attorney-General The Hon Mark Dreyfus QC MP and Minister for Broadband, Communications and the Digital Economy, Leader of Government in the Senate Minister Assisting the Prime Minister on Digital Productivity, The Hon Senator Stephen Conroy MP (Joint Media release) of 13 June 2013; NBN News website, 'Legal Aid to become more accessible' (8 August 2013).

3.4 Conclusion / Observations

The proposed implementation of video conference services would prudently include an assessment of whether video conferencing offers benefits that are not already available (or could not be made available) through existing services, including telephone services.

If CLCs wish to trial video conferencing, it may be best for this to be done using free web-based applications such as Skype.

4 Internet-Based Technology

4.1 Access

Internet access has significantly increased in recent years. In 2011, the Australian Bureau of Statistics (**ABS**) reported that:

- (a) 79% of households had access to the internet; and
- (b) 68% of internet users purchased goods or services online.⁶⁴

This shows that nearly 4 in 5 households in Australia have internet access. Research suggests that there is increased internet usage even amongst low-income households (with adults of low-income households being the typical client of a CLC).⁶⁵ For example, the ABS in its 2009 survey on disability, ageing and carers, reported that:

- (c) 53% of people with a reported disability used the internet; and
- (d) 41% of people aged 60 years or over used the internet (usage among this group having almost doubled over a six year period).⁶⁶

Similar figures have been reported in the US, where 62% of low-income adults have access to the internet, compared to 78% of adults generally.⁶⁷ This shows that while a 'digital divide' exists for low-income adults, this gap is narrowing.

Increased internet access has provided low-income adults with the opportunity to access legal services without the need to physically attend a CLC for face-to-face interactions. Further, it is now possible for any person to readily access legal information, provided they have access to the internet and an internet enabled device.⁶⁸

The prevalence of such devices and more accessible/cheaper internet has seen an increase in the number of people accessing legal information online.⁶⁹ Now it appears that for many, the internet is the first port of call when seeking legal information. This

⁶⁴ Australia Bureau of Statistics, 'Household use of information technology report, Australia, 2010 -2011', viewed 10 July 2013.

⁶⁵ Richard Susskind, 'The End of Lawyers? Rethinking the Nature of Legal Service' (2008) Oxford University Press, 244; Catrina Denvir et al, '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' (2011) 23 *Interacting with Computers* 96, page 96; John Greacen, 'Introduction' (2012) 26 (1) *Harvard Journal of Law and Technology* 243, page 246; Sue Scott, 'How do people access and use legal information? Implications of the research for delivery via the internet' (Law Foundation of New South Wales, 1999) 1, page 4.

⁶⁶ NSW Government Department of Attorney General & Justice, 'Review of the delivery of legal assistance services to the NSW Community'(2012), 30 July 2013.

⁶⁷ James E. Cabral, 'Using Technology to Enhance Access to Justice' (2012) 26(1) *Harvard Journal of Law and Technology* 243, page 246.

⁶⁸ Abhjeet Chavan, 'Mobile Strategies for Legal Services' (2012) 26 (1) *Harvard Journal of Law and Technology* 243, page 270.

⁶⁹ Catrina Denvir et al, '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' (2011) 23 *Interacting with Computers* 96, page 99; Sue Scott, 'How do people access and use legal information? Implications of the research for delivery via the internet' (Law Foundation of New South Wales, 1999) 1, page 3.

means that a consultation at a CLC (either by phone or face-to-face) is not necessarily the first step a client may take when seeking legal assistance.⁷⁰

Internet access in Australia is likely to continue to increase for low-income adults with the proposed implementation of the National Broadband Network (**NBN**).⁷¹ For example, the NBN Program has provided \$4 million of funding over four years to improve access to legal assistance services for people living in regional Australia.⁷² However, following the recent election it is unclear to what extent the new Australian Government will maintain the funding allocated to existing NBN programs.

4.2 Efficacy

Although access to the internet amongst low-income adults is increasing, this does not necessarily equate to an improved efficacy in delivering legal services.

Whilst individuals are now able to take their own steps via informational websites and mobile device applications (**apps**) to find information and possibly solve their legal problems,⁷³ this does not mean that the informational services available are effective. As Denvir notes, policy development in England and Wales (and arguably elsewhere) has:

*remained focused on issues of access, with limited consideration of the broader issues such as willingness, ability and success in the use of the internet to obtain information and advice related to problems with a legal dimension [emphasis added].*⁷⁴

As such, access is the first step, but the available information must be presented in a user-friendly way.

As noted by Smith, 'there is no escaping the fact that the best websites and hotlines have the best advice both in terms of its substantive content and practicality.'⁷⁵ Information provided should be plainly drafted and easily retrievable through the use of common language and fact-based associations.⁷⁶

A new way to deliver substantive content with practicality is through the use of apps. The high level of mobile phone penetration rates mean that more clients can potentially access legal services via a dedicated app. An app enables a client to access information and services in real time and on a direct personal basis over wireless networks.⁷⁷ Smith goes further and suggests 'to meet [the internet's] full potential, it needs an "app" based

⁷⁰ Roger Smith, 'Telephone hotline and legal advice: a preliminary discussion paper' (International Legal Aid Group, 16 January 2013) at [4.2].

⁷¹ Commonwealth of Australia Attorney-General's Department, 'Harnessing the benefits of technology to improve access to justice' (2012), page 4.

⁷² *ibid* page 8.

⁷³ For a discussion on South Australian Legal Aid smart phone application see: Standing Council on Law and Justice, Parliament of Australia, 'Harnessing the benefits of technology to improve access to justice' (2012) page 17. For a US equivalent see: Susskind Richard, 'The End of Lawyers? Rethinking the Nature of Legal Service' (Oxford University Press, 2008) page 240; Abhjeet Chavan, 'Mobile Strategies for Legal Services' (2012) 26 (1) Harvard Journal of Law and Technology 243, pp 271-274.

⁷⁴ Catrina Denvir, 'Exploring how older people use the information superhighway' (2013) March Ageing and Society Journal 1, page 8.

⁷⁵ Roger Smith, 'Telephone hotline and legal advice: a preliminary discussion paper' (International Legal Aid Group, 16 January 2013). at [4.4].

⁷⁶ Dougal McKenzie, 'The use of Technology by Court and the Judiciary: Finding from a Study Strip and Supplementary Research' (2003) 11(2) International Journal of Law and Technology 109, page 119; Sue Scott, 'How do people access and use legal information? Implications of the research for delivery via the internet' (1999) Law Foundation of New South Wales, page 8.

⁷⁷ Commonwealth of Australia Attorney-General's Department, 'Harnessing the benefits of technology to improve access to justice' (2012), page 12.

approach which transforms the way the information is delivered so that the user is taken through a logical "decision tree" and the amount of information on the screen at any one time is limited.⁷⁸

Presenting information in a creative and engaging way is central to creating a user-friendly website. The information should be succinct and utilise plain language.⁷⁹ In essence, the website needs to offer more than just a digital publication of paper leaflets.⁸⁰

From our review of the materials, there are a number of standout offerings in the CLC market, including LawAssist / LawAccess (New South Wales), Rechtwijer (Netherlands) and the Queensland Government's Smart Service, which we examine briefly below.

(a) LawAccess / LawAssist (New South Wales)

LawAccess

In addition to the LawAccess legal telephone service, the LawAccess website provides internet-based resources such as:

- (i) easy to read legal resources, including factsheets, forms and publications from a range of government and non-government services such as Legal Aid NSW, CLCs and courts; and
- (ii) easy to find legal information under a number of headings such as debt, family law and neighbours.

LawAccess promotes itself as the 'starting point to help with your legal problem'.⁸¹ Critically, users are not limited to what is provided online. Users can seek legal advice by telephone, through hard copy information packs (such as fact sheets, forms and publications) and can be referred to another service for face-to-face legal advice such as a specialist legal service. The LawAccess service is available to all NSW residents but is targeted towards disadvantaged people that require access to community and government legal services.

In 2012, LawAccess assisted 198,566 customers and provided 19,159 legal advice sessions, with 94.5% of customers being 'highly satisfied' with the service.⁸²

LawAssist

The LawAssist website is the third element to the NSW Government's one-stop legal service offering.⁸³ It is designed to offer a more personalised service by taking people through certain steps designed to help resolve common legal

⁷⁸ Roger Smith, 'Telephone hotline and legal advice: a preliminary discussion paper' (16 January 2013), International Legal Aid Group, at [4.3].

⁷⁹ Richard Susskind, 'The End of Lawyers? Rethinking the Nature of Legal Service' (2008), Oxford University Press, page 240.

⁸⁰ Roger Smith, 'Telephone hotline and legal advice: a preliminary discussion paper' (International Legal Aid Group, 16 January 2013) at [4.3].

⁸¹ NSW Government Department of Attorney General and Justice, 'LawAccess About Us' (30 July 2013).

⁸² Julianne Evans, 'LawAccess NSW and its legacy' paper submitted to the ILAG Conference (The Hague, June 12-14 2013) page 2.

⁸³ Available at http://www.lawassist.lawaccess.nsw.gov.au/lawassist/lawassist_index.html.

problems. The website reportedly receives approximately 20,000 visits per month.⁸⁴

LawAssist differs from LawAccess in that information is presented using static and interactive guides. Based on the user's responses to questions asked by the website, the advice provided can be more tailored (similar to booking a flight online).

Smith suggests that the structure of LawAssist could be improved, however. He states that:

the content [on the website] is absolutely impeccable but its organisation may reflect more the logical process of a lawyer dealing with a claim than the order which occur to a layperson involved in an accident...it does not aspire to the immediacy and interaction of a decision tree.⁸⁵

(b) Rechtwijzer (Netherlands)

Similar to NSW's LawAssist is the Dutch website, Rechtwijzer⁸⁶. It delivers legal information to users by requiring them to answer a set of questions before a legal diagnosis is offered.⁸⁷ Key guidelines for its development included:

- (i) the website should identify and signpost the best dispute resolution assistance;
- (ii) the website should be based upon the principles of 'integrative negotiation';
- (iii) the website should encourage users to take time to reflect upon their conflict; and
- (iv) the website should not offer legal advice as such, although information should be given at strategic times both as to process and the likely result.⁸⁸

As Smith notes, the effectiveness of the website is not clear until research about its effectiveness is published.⁸⁹ However, he also comments that the succinct and process-orientated approach renders the Dutch website a superior alternative to many Australian online sources.⁹⁰

(c) Smart Service Queensland

Smart Service Queensland (**SSQ**) is a Queensland Government initiative that is intended to be the primary point of contact for Queenslanders accessing

⁸⁴ NSW Government Department of Attorney General and Justice, 'Review of the delivery of legal assistance services to the NSW Community' (2012), 30 July 2013.

⁸⁵ Roger Smith, 'Can digital replace personal in the delivery of legal aid?', paper submitted presented at the International Legal Aid Group, Ministry of Justice, The Hague, June 2013) [23].

⁸⁶ Available at www.rechtwijzer.nl.

⁸⁷ Roger Smith, 'Can digital replace personal in the delivery of legal aid?', paper submitted to the ILAG Conference (The Hague, June 12-14 2013) [12].

⁸⁸ *ibid* at [15].

⁸⁹ *ibid* at [18].

⁹⁰ *ibid* at [24].

government services.⁹¹ This service does not provide legal advice but is an illustration of a government service that utilises multiple delivery channels. SSQ delivers access through:

- (i) online services;
- (ii) contact centres;
- (iii) service counters; and
- (iv) card and concession services.

Other state governments are moving towards the use of a 'one-stop-shop website'. The Queensland Government's offering is very comprehensive and utilises an integrated multi-channel service delivery strategy.

While one-stop integrated portals are important, as noted by the Commonwealth Government's *'Harnessing the benefits of technology to improve access to justice'* analysis paper, a multi-channel approach should be implemented to fully engage with citizens including those without access to the internet.⁹² This integrated approach (in online and real world environment facilities) provides access to justice benefits as multiple services are delivered seamlessly to the public.⁹³

(d) Other services

(i) LawHelpNY

LawHelpNY is an online tool for helping low-income New Yorkers solve their legal problems.⁹⁴ LawHelpNY states that its mission is to 'provide and promote access to high-quality online information about free legal services throughout New York...'. The service is delivered primarily in English and Spanish and includes:

- (A) information on more than 600 free legal service projects and organisations, including contact and intake information;
- (B) over 4,000 'Know Your Rights' and self-help resources covering 16 areas of law; and
- (C) extensive links to social service, advocacy and government organisations, as well as information about the court system.⁹⁵

An interesting interactive feature of the LawHelpNY service is the use of bilingual volunteers to staff its LiveHelp program.⁹⁶ Visitors to the website can click a button to open LiveHelp, an instant messaging service, to access live contact with a trained specialist. The specialist can answer

⁹¹ Smart Service Queensland website at <https://www.qld.gov.au/dsitia/about-us/business-areas/smart-service-queensland/>.

⁹² Commonwealth of Australia Attorney-General's Department, 'Harnessing the benefits of technology to improve access to justice' (2012) page 10.

⁹³ *ibid.*

⁹⁴ Available at www.lawhelpny.org.

⁹⁵ <http://www.lawhelpny.org/about-us>.

⁹⁶ James E. Cabral, 'Using Technology to Enhance Access to Justice' (2012) 26(1) Harvard Journal of Law and Technology pp 243 - 249.

questions and provide links to relevant resources on the site. If a specialist is unavailable, visitors can leave messages and receive information later via email.

Where legal advice may be required, the specialist will inform visitors about how they can apply for legal services or contact a lawyer referral service.⁹⁷

4.3 Conclusions / Observations

The delivery of legal advice and information through internet-based services and technologies appears to have benefited CLC clients by giving them:

- (a) the ability to access services remotely, which may help overcome the barrier of distance; and
- (b) access to information outside of business hours.⁹⁸

It appears that effective online CLC services which provide both general and user-specific information are more likely to be effective than those that don't. A level of interactivity to engage the client in the information appears to be beneficial by providing a more targeted form of advice. The NSW LawAccess/LawAssist model appears to achieve these key elements.⁹⁹

We have identified from our review of the literature the following key points to be considered when developing an online CLC model.

- (a) While ICT can offer great benefits such as simplifying processes, reducing costs, improving communication and promoting access to justice as a whole, implementing ICT solutions without a clear strategic purpose and policy underpinning their implementation may diminish the effectiveness of the solution. There is the risk of resources being wasted if the procurement and implementation of these initiatives is carried out without well developed strategies.¹⁰⁰
- (b) Website usability needs to be improved and complicated legal information needs to be translated into plain language. Therefore, while replication of successful delivery models and continued innovation should be encouraged, attention and resources must also be allocated to improving accessibility and usability.¹⁰¹
- (c) Online integration with other websites is key to avoid sending the client on a 'referral merry-go-round'.¹⁰² It seems particularly important to ensure that referral

⁹⁷ *ibid.*

⁹⁸ NSW Government – Attorney General & Justice, Review of the delivery of legal assistance services to the NSW Community (2012), 30 July 2013

⁹⁹ Roger Smith, 'Can digital replace personal in the delivery of legal aid?' (Paper presented at the International Legal Aid Group, Ministry of Justice, The Hague, June 2013) [27].

¹⁰⁰ Commonwealth of Australia Attorney-General's Department, 'Harnessing the benefits of technology to improve access to justice' (2012), page15.

¹⁰¹ James E. Cabral, 'Using Technology to Enhance Access to Justice' (2012) 26(1) Harvard Journal of Law and Technology pp 243-256.

¹⁰² Margot Rawsthorne, 'Law by Telecommunications: The Magic Solution for Rural Australians' 26(2) (2001) Alternative Law Journal 85, page 86; Christine Coumarelos et al, 'Legal Australia – Wide Survey: Legal Need in Queensland' (Research Report, No 9) Law and Justice of New South Wales, 2012.

services are integrated and clients informed of other legal service providers, with a study claiming that clients often abandon seeking advice after being referred to the wrong advisor.¹⁰³

CLC clients can benefit through access to internet-based services and technologies, provided that information is delivered in a user-friendly and relevant way.

¹⁰³ Christine Coumeralos et al, Justice Made to Measure: NSW Legal Needs Survey in Disadvantaged Areas (March 2006).

Part 2 - ICT use for Disadvantaged Clients

1 Introduction

Whilst the 'general public' may have high levels of access to ICT systems, the same may not apply to people who identify as belonging to certain disadvantaged groups. An obvious example is homeless people, who may not have ready access to computers or telephones, or the inclination to use ICT systems to contact CLCs regarding their legal problems.

Part 2 of this report examines the specific needs of disadvantaged groups and discusses how the general principles discussed in Part 1 might be applied or modified to enhance service delivery to these groups. We discuss the particular disadvantaged groups of mental health clients, RRR clients, homeless clients, Aboriginal and Torres Strait Islander clients and refugee clients.

2 Mental Health Clients

2.1 Access

People suffering from mental illness¹⁰⁴ (**mental health clients**) often face specific types of legal issues, such as those falling under state and territory mental health legislation; discrimination in relation to employment; education and insurance; housing issues; social security issues (including eligibility, breaching, social security debt and prosecution for fraud); consumer issues such as credit card debt and banking issues, mobile phone and other contractual debt; and domestic violence and victim of crime issues.¹⁰⁵

It has been reported that the degree to which having a mental illness can act as a barrier to accessing legal services through ICT will vary according to the individual's specific circumstances, such as the severity of the illness, where the person is in the cycle of their illness and their particular personality.¹⁰⁶

Given the above, drawing any clear conclusions about how ICT can be used most effectively in this context is difficult. However, we set out some general observations from the literature below.

2.2 Efficacy

(a) Telephone

In a 2006 NSW study, telephone services were reported by service providers to be an ineffective avenue for the provision of legal advice to mental health clients because mental health clients often have difficulties communicating with lawyers over the telephone and, as a result, prefer face-to-face communication.¹⁰⁷

¹⁰⁴ The World Health Organisation classifies mental illness as 'the existence of a clinically recognisable set of symptoms or behaviour associated in most cases with distress and with interference with personal functions.' World Health Organisation 'ICD-10 Classification of Mental and Behavioural Disorders: Clinical Descriptions and Diagnostic Guidelines' (1992), World Health Organisation, Geneva page 5.

¹⁰⁵ Maria Karras et al, 'On the Edge of Justice: The Legal Needs of People with a mental Illness in NSW' (Research Report, No 4, Law and Justice Foundation of New South Wales, May 2006) page xviii.

¹⁰⁶ *ibid* page 94.

¹⁰⁷ *ibid* page 103.

However, contrary to this finding and consistent with Moore's findings (discussed in Part 1 section 2.2(c)), respondents to Allens CLC Survey indicate that telephone services may be appropriate for those mental health clients that have the capacity to communicate by telephone. However, face to-face services may be more appropriate for clients with severe mental illnesses or limited mental capacity.¹⁰⁸ Further, survey results indicate that advice given by telephone is generally limited to emergency situations and matters arising under the *Mental Health Act 2000* (Qld) (**Mental Health Act**).¹⁰⁹

(b) Internet

As a lack of legal knowledge is a common barrier faced by mental health clients, internet-based resources have the potential to educate mental health clients about their rights and the avenues of legal recourse generally.¹¹⁰ However, this client group is generally not amenable to the provision of legal information through ICT channels.

The generally low levels of education,¹¹¹ coupled with heightened mental distress, mean that such clients are reluctant and lack the skills to pursue self-empowering initiatives to elucidate their legal rights and entitlements. Often, carers or legal practitioners make additional calls and consult ICT avenues on the clients' behalf for this reason.¹¹² Further, clients with poor literacy skills have general difficulty comprehending legal information,¹¹³ and given the likelihood of having a lower socioeconomic status, practical access to the technology required to access legal information through ICT channels is limited compared to the general population.¹¹⁴

(c) Video conferencing

Video conferencing allows the practitioner to pick up non-verbal cues which may, for example, assist in determining whether or not the client is puzzled or misunderstands what the practitioner is seeking to convey. This may offer a more efficient means of communicating with mental health clients compared to the telephone. Thus the same considerations with regard to video conferencing set out in Part 1 Section 3 of this report apply.

(d) Conclusion / Observations

Telephone advice services may be valuable for those mental health clients who have the capacity to communicate by telephone.

¹⁰⁸ See Appendix 2 Survey Results: Queensland Advocacy Service, Queensland Public Interest Law Clearing House.

¹⁰⁹ *ibid.*

¹¹⁰ Maria Karras et al, 'On the Edge of Justice: The Legal Needs of People with a mental Illness in NSW' (Research Report, No 4) (May 2006) Law and Justice Foundation of New South Wales page 95. For a related UK study on knowledge and assistance seeking behavior: Catrina Denvir et al, 'When legal rights are not a reality: do individuals know their rights and how can we tell?' (2013) 35(1) *Journal of Social Welfare and Family Law* 139, page157.

¹¹¹ Maria Karras et al, 'On the Edge of Justice: The Legal Needs of People with a mental Illness in NSW' (Research Report, No 4) Law and Justice Foundation of New South Wales (May 2006) page xvi.

¹¹² *ibid* page 109.

¹¹³ Christine Coumarelos et al, 'Legal Australia – Wide Survey: Legal Need in Queensland' (Research Report, No 9) (2012) Law and Justice of New South Wales page 207.

¹¹⁴ John Greacen, 'Introduction' (2012) 26 (1) *Harvard Journal of Law and Technology* 243, page 263.

Due to the general inadequacy of other ICT initiatives to assist mental health clients, it has been suggested that any focus for enhancing CLC practices should be directed toward the internal policies of a CLC, such as adequate training of staff members to ensure that they recognise the idiosyncrasies of mental health clients, and ensuring that CLCs have the appropriate links to specialist mental health services.¹¹⁵

A web portal designed to cater to legal professionals dealing with mental health clients is potentially an effective ICT strategy.¹¹⁶

3 Rural Regional and Remote Clients

3.1 Access

People living in RRR areas have limited access to face-to-face legal services due to their geographic location and lack of available transport.¹¹⁷ Further, CLCs and legal practitioners that cater to such areas may face conflict of interest issues necessarily arising by serving a small pool of clients.¹¹⁸

Due to the potential for ICT systems to assist RRR clients, CLCs have increased their focus on the implementation of ICT for information and service delivery.¹¹⁹ In terms of practical access issues, earlier studies have indicated that RRR areas are characterised by lower access to ICT resources such as the internet and email.¹²⁰ In this regard, recent developments such as the NBN may improve the efficiency and effectiveness of various legal ICT initiatives through ICT infrastructure such as increased internet speeds and penetration rates in Australia.¹²¹

¹¹⁵ Maria Karras et al, 'On the Edge of Justice: The Legal Needs of People with a mental Illness in NSW' (Research Report, No 4) Law and Justice Foundation of New South Wales (May 2006) page 29.

¹¹⁶ Queensland University of Technology, 'Website gives mentally ill better access to justice' (Media Release, 30 September 2008) page 1.

¹¹⁷ Jeff Giddings et al, 'Legal Services in Rural Communities: Issues for Clients and Lawyers' 26 (2001) *Alternative Law Journal* 57, page 58.

¹¹⁸ *ibid.*

¹¹⁹ Commonwealth of Australia Attorney-General's Department, 'Harnessing the benefits of technology to improve access to justice' (2012).

¹²⁰ Louis Schetzer et al, 'Access to Justice and Legal Needs: A Project to Identify Legal Needs, Pathways and Barriers for Disadvantaged People in NSW. Stage 2: Quantitative Legal Needs Survey' (Research Report, Law and Justice Foundation of New South Wales, November 2003) 234.

¹²¹ Commonwealth of Australia Attorney-General's Department, 'Harnessing the benefits of technology to improve access to justice' (2012), page 7.

3.2 Efficacy

(a) Telephone

Generally, it is believed that RRR clients are well accustomed to telephone technology and use it regularly for personal and professional purposes, due to their geographic isolation.¹²²

The use of telephone advice services in the RRR context was considered in a study of the Western Queensland Justice Network's Regional Law Hotline study (see Part 1 Section 2.2(f)). As we note in Part 1 Section 2.2(h), there was a low uptake of the services, suggesting a need for increased promotion. Further, criticisms of the services focussed upon the lack of knowledge of staff with respect to legal information and referral services. Thus the considerations regarding the use of telephones discussed in Part 1 Section 2.2 of this report are applicable in this context.

(b) Internet

A New South Wales study concluded in 2003 indicated that people living in RRR areas are likely to have lower literacy and numeracy levels, face confusion when consulting legal information and display a conservative attitude, making them reluctant to pursue their rights.¹²³ Similarly, a US study of Californian RRR residents indicates that such areas are often characterised by lower employment rates, higher poverty rates and lower education levels compared to metropolitan areas.¹²⁴

While it is important to refrain from making assumptions about which services would be appropriate for RRR clients, the generally lower rates of literacy may limit the effectiveness of informational websites.¹²⁵ Drawing from research and personal experiences in RRR Australia, Giddings et al posited that such clients are likely to feel threatened by ICT and find the technological approach 'unsupportive'.¹²⁶ A 2002 study of the Bega region in NSW and associated townships confirms that RRR clients are least likely to consult the internet as a source of 'self-help' while consulting legal professionals, government organisations and personal contacts ranked higher.¹²⁷

(c) Video conferencing

Video conferencing for RRR clients is discussed in Part 1 Section 3 of this report.

¹²² Jeff Giddings and Barbara Hook, 'The Tyranny of Distance: Clinical Legal Education in "The Bush"' June (2002) *Journal of Clinical Legal Education* 64, 78.

¹²³ Louis Schetzer et al, 'Access to Justice and Legal Needs: A project to identify legal needs, pathways and barriers for disadvantaged people in NSW. Stage 1: Public Consultations' (Research Report, Law and Justice Foundation of New South Wales, August 2003) 73-74.

¹²⁴ Bonnie Rose Hough, 'Let's Not Make it Worse: Issues to Consider in Adopting New Technology' (2012) 26 (1) *Harvard Journal of Law and Technology* 243, 261.

¹²⁵ *ibid* page.

¹²⁶ Jeff Giddings et al, 'Legal Services in Rural Communities: Issues for Clients and Lawyers' 26 (2001) *Alternative Law Journal* 57, 62.

¹²⁷ Louis Schetzer et al, 'Access to Justice and Legal Needs: A Project to Identify Legal Needs, Pathways and Barriers for Disadvantaged People in NSW: Background Paper' (Research Report, Law and Justice Foundation of New South Wales, August 2002) 45, 65.

(d) Conclusion / Observations

ICT initiatives, particularly telephone services, have the potential to assist RRR clients. However as we note in Part 1 Section 2.3, telephone services must be well promoted, employ suitably trained and qualified staff who have sound knowledge of appropriate referral services, and implement effective ICT systems to support service delivery.

4 Homeless clients

4.1 Access

Homeless people face a range of barriers when accessing legal services.¹²⁸ In relation to homeless peoples' ability to access legal services through ICT, the most significant factors include:

- (a) a lack of stable housing, which usually involves a lack of or limited access to private telephone use, no consistent number for people to return calls to, limited internet access, no one place to store documents and no address to receive mail;¹²⁹
- (b) a lack of resources, such that using ICT such as telephones to receive legal advice can be increasingly expensive as a result of the client having to use pay phones and mobile phones;¹³⁰
- (c) transience, or the need to move from place to place, which results in a lack of knowledge of available services;¹³¹
- (d) competing or higher priorities (such as securing accommodation), meaning that clients often act when the legal issue has reached crisis point (such as an imminent eviction or custody hearing). This means that the types of legal issues presented by homeless people may generally not be suited to the types of legal services that are available through ICT systems, such as limited advice over telephone;¹³² and
- (e) disability, poor health and addiction, which can impair clients' capacity to identify and understand legal issues, obtain assistance and to comprehend verbal and written information such as oral advice given over a telephone.¹³³

4.2 Efficacy

For the reasons stated above, it seems possible that face-to-face services are generally more suited to addressing the needs of homeless people. Further, it has been suggested

¹²⁸ Homeless people include those with no conventional accommodation (primary homelessness), those who frequently move from one form of temporary shelter to another (secondary homelessness), and those who live in boarding houses on medium to long term basis (tertiary homelessness): Suzie Forell et al, 'No Home, No Justice? The Legal Needs of Homeless People' (Research Report, No 2, Law and Justice Foundation of New South Wales, July 2005) 1, page xvi.

¹²⁹ Suzie Forell et al, 'No Home, No Justice? The Legal Needs of Homeless People' (Research Report, No 2, Law and Justice Foundation of New South Wales, July 2005) 1, pp 118-119.

¹³⁰ Suzie Forell et al, 'No Home, No Justice? The Legal Needs of Homeless People' (Research Report, No 2, Law and Justice Foundation of New South Wales, July 2005) 1, 147.

¹³¹ *ibid* page 121

¹³² *ibid* page 114.

¹³³ *ibid* page 124 and 147.

that legal services should take a holistic approach to addressing the various issues faced by the homeless, which may include legal and non-legal issues.¹³⁴

Thus the key attributes of effective services for the homeless include:

- (a) offering timely legal assistance;
- (b) having legal officers skilled in communicating with people with complex needs and accessible from places that homeless people frequent;
- (c) being conducted in less formal environments;
- (d) having longer appointment times;
- (e) offering continuity of services; and
- (f) having the capacity to coordinate a range of services (e.g. caseworker support, alcohol and drug treatments and housing services).

(g) Telephone

Despite the above, it has been suggested that free telephone services, such as LawAccess, can assist people who are isolated from legal and other services through homelessness.¹³⁵ However, whether telephone services are appropriate for homeless clients may depend on the following key attributes of the telephone service:¹³⁶

- (i) *The capacity of the telephone service to accept calls regarding any legal issue.* A telephone service should be equipped to deal with the most common legal issues faced by homeless clients, being debt, family law, domestic violence and housing matters. Staff members should be trained to assist the caller in identifying the most urgent legal issue. If the service cannot provide the requisite advice or information about the issue, it should be able to 'warm refer' the client to another provider – that is, the CLC should contact the appropriate service provider, introduce the client and then transfer the call directly.¹³⁷
- (ii) *Maintaining an up-to-date database of legal information and information about legal services.* This will ensure that the client is given the most up-to-date information and most importantly, can be referred to the most appropriate service provider that is closest to the client's location.
- (iii) *Ability to connect directly to a solicitor.* If a homeless client rings from a public telephone or does not have a return number, the client should be able to speak directly with a solicitor rather than have someone call back later.
- (iv) *Wide promotion.* A common finding amongst homeless people is that they are unaware of the services that are available to them. Telephone

¹³⁴ *ibid* pp 178-179.

¹³⁵ Suzie Forell et al, 'No Home, No Justice? The Legal Needs of Homeless People' (Research Report, No 2, Law and Justice Foundation of New South Wales, July 2005) 1, 145.

¹³⁶ *ibid* page 145-146.

¹³⁷ *ibid* page 145.

services must therefore be promoted around the places where homeless people tend to frequent.

(h) Internet

Websites offer an effective means of communication and information dissemination to the homeless. However, a general finding is that homeless people tend to have relatively lower levels of literacy and education.¹³⁸ Thus it has been recommended that information presented on website be straightforward and easy to understand, but not too general as the homeless experience complex legal problems.¹³⁹

(i) Video conferencing

The general principles regarding video conferencing that we discuss in Part 1 Section 3 apply to homeless clients. Further, the efficacy of web-based video conferencing is diminished as disadvantaged people are more likely to experience technical difficulties and be less satisfied with the service.¹⁴⁰ This may be caused, for example, by slow download speeds as a result of accessing the internet via public internet stations.

We note the trial under the NBN Program by Welfare Rights Centre (South Australia) Inc which aims to connect lawyers with the homeless through NBN-enabled webcam communication. Access to this free service will be facilitated through partnerships between host outreach organisations and participating community legal centres.¹⁴¹

(j) Conclusions / Observations

A holistic approach to service delivery in a face-to-face manner may be better suited to the needs of the homeless rather than the implementation of ICT systems. However, telephone services may complement face-to-face services.

5 Victims of Domestic Violence

5.1 Access

The victims of family or domestic violence are most often women.¹⁴² It is well understood that victims of domestic violence live in fear of the perpetrator and that a fear of retaliatory violence is the main reason that victims tend to under-report incidents of domestic violence.¹⁴³ It is for this reason that women may also fear seeking assistance from legal service providers, particularly via ICT as the use of ICT systems may be

¹³⁸ *ibid* page 149; Christine Coumarelos et al, 'Legal Australia – Wide Survey: Legal Need in Queensland' (Research Report, No 9, Law and Justice of New South Wales, 2012) 5.

¹³⁹ Suzie Forell et al, 'No Home, No Justice? The Legal Needs Of Homeless People' (Research Report, No 2, Law and Justice Foundation of New South Wales, July 2005) 1, 141.

¹⁴⁰ *ibid* page 12.

¹⁴¹ Standing Council on Law and Justice, Parliament of Australia, Harnessing the benefits of technology to improve access to justice (2012) 13.

¹⁴² Rachael Field, 'FDR and victims of family violence: Ensuring a safe process and outcomes' (2010) 21 ADJR 185, page 189.

¹⁴³ Hon JJ Spigelman AC, 'Violence against women: The dimensions of fear and culture' (2010) 84 ALJ 372, page 374.

tracked by perpetrators.¹⁴⁴ For example, a user's website browsing history may be tracked despite being cleared by the user, and email accounts may be monitored for communications etc.

In its submission to the Senate Committee Inquiry into Legal Aid and Access to Justice, the National Network of Women's Legal Services (**NNWLS**) stated that ICT is:

not a replacement for face to face services and legal representation...Technology does however, allow a limited level of service to be provided to some women. Video conferencing, internet access and hotline advice services are ways of providing legal services to communities and groups of women living in [RRR] communities. These should only be seen as complementary to other more direct forms of legal assistance.¹⁴⁵

In this context, CLCs must first consider the safety of victims when considering how to implement ICT systems to provide legal services.¹⁴⁶ For example, CLCs should have sound privacy policies and practices in place to prevent any unauthorised disclosure of identifying information.¹⁴⁷ CLCs should also keep up to date with developments in technology in order to advise victims how to use ICT systems without detection.¹⁴⁸ An example is the North Queensland Women's Legal Service which offers free telephone advice from a 1800 number that does not appear on the caller's telephone bill.¹⁴⁹ We discuss further measures to enhance efficacy below.

5.2 Efficacy

(a) Telephone

The general findings and recommendations applicable to telephone services set out in Part 1 Section 2 of this report are applicable in the context of the provision of legal services to victims of domestic violence. However, the following key findings are particularly relevant:

- (i) It has been found that when seeking advice, women prefer to deal with other women and those who can understand their situation.¹⁵⁰ Thus telephone services should employ female staff where possible, such as is done by the North Queensland Women's Legal Service.
- (ii) Due to the nature of domestic violence situations, legal assistance may be required at any time. Telephone services may consider implementing interactive voice response so that clients may be able to receive automated services 24 hours a day, and automated call back systems that prioritise callers with domestic violence issues so that less time is spent in

¹⁴⁴ See generally Jac sm Kee, 'Cultivating Violence through Technology? Exploring the connection between Information and Communication Technologies (ICT) and Violence against Women (VAW)' Association of Progressive Communications Women's Networking Support Programme (available at http://www.genderit.org/sites/default/upload/VAW_ICT_EN.pdf).

¹⁴⁵ National Network of Women's Legal Services, 'Inquiry into the Current Legal Aid and Justice Arrangements' Submission No. 86 to Legal and Constitutional Committee, September 2003, page 3.

¹⁴⁶ Mandy McKenzie, 'Under Surveillance Domestic Violence and Technology' DVIRC Quarterly (2) Winter 2007 13, page 15.

¹⁴⁷ *ibid* page 15

¹⁴⁸ *ibid* pages 15-16.

¹⁴⁹ North Queensland Women's Legal Service Inc website: <http://www.nqwls.com.au/default.htm>.

¹⁵⁰ Legal and Constitutional References Committee, Parliament of Australia, Legal Aid and Access to Justice (2004) 69.

the queue. These systems have been implemented by Legal Aid Ontario (Canada).¹⁵¹

- (iii) Calls to telephone services should not appear on the callers' telephone records.

(b) Internet

The general findings and recommendations applicable to internet-based services set out in Part 1 Section 4 of this report are applicable in the context of the provision of legal services to victims of domestic violence. However, the following key findings are particularly relevant:

- (i) The use of apps may broaden the range of locations from which legal advice can be provided and received, making the services more private and accessible.¹⁵² An example is the South Australia Legal Services Commission's legal aid app that allows users to locate any Commission office, call any Commission's telephone advice services or access the commission's publications/information.¹⁵³
- (ii) Websites should educate users about the safe use of technology in domestic violence scenarios. For example, see the website of the National Network to End Domestic Violence (United States) (available at www.nnedvfund.org).

(c) Video conferencing

The general findings and recommendations applicable to video conferencing set out in Part 1 Section 3 of this report are applicable in the context to the provision of legal services for victims of domestic violence.

(d) Conclusion / Observations

All ICT initiatives aimed at assisting victims of domestic violence should be designed with safety as a key consideration. This includes measures such as ensuring anonymity of callers to telephone services and the provision of information about the safe use of ICT systems. CLCs may consider implementing automated services after business hours and the prioritisation of callers who are victims of domestic violence.

6 Aboriginal and Torres Strait Islander Clients

6.1 Access

Legal assistance to Aboriginal and Torres Strait Islander (*Indigenous*) people is generally focussed on criminal law matters, with some priority given to family law matters and virtually zero assistance given in civil law matters.¹⁵⁴ This is largely due to the over-

¹⁵¹ Standing Council on Law and Justice, Parliament of Australia, Harnessing the benefits of technology to improve access to justice (2012) page 15.

¹⁵² Suzie Forell et al, 'Legal assistance by video conferencing: what is known?' (Law and the Justice Foundation of New South Wales, November 2011) page 16.

¹⁵³ Standing Council on Law and Justice, Parliament of Australia, Harnessing the benefits of technology to improve access to justice (2012) page 17.

¹⁵⁴ National Pro Bono Resource Centre, 'ATSILS Pro Bono Guide' (2009), page 7.

representation of Indigenous people in the criminal justice system and the corresponding focus of legal service delivery by the Aboriginal and Torres Strait Islander Legal Service (**ATSILS**).¹⁵⁵

Despite a growing demand for child protection, family and civil law matters, ATSILS has reported being unable to service clients experiencing difficulty with these matters due to insufficient funding for significant extension of services beyond criminal matters.¹⁵⁶

Thus the implementation of appropriate ICT systems may play a role in improving access to legal services for Indigenous people affected by family and civil law matters, particularly those living in remote communities. It has been suggested that improved service delivery in family and civil law matters may even lead to a decrease in criminal offending, as research suggests that civil and family law issues in Indigenous communities can escalate into criminal behaviour.¹⁵⁷

However, an overarching concern is the general lack of knowledge about civil and family law by Indigenous people.¹⁵⁸ Any ICT initiatives will need to be considered in light of this and CLCs should consider whether educational initiatives need to be undertaken in order to ensure uptake of the services.

Further, a distinction needs to be made between Indigenous people living in metropolitan areas and those living in remote communities. This is because the availability of both phone and internet services in remote communities is generally very low - remote communities have little access to the internet and make little use of it. Thus the delivery of legal services by ICT to remote communities will need to be considered alongside overarching policies aimed at increasing ICT services and infrastructure to remote areas.

6.2 Efficacy

(a) Telephone

Of all the ICT initiatives, the provision of telephone services to Indigenous people may represent the most effective use of resources as it appears that many Indigenous people have access to a telephone.¹⁵⁹

We note that the response to the Allens CLC Survey from the Aboriginal & Torres Strait Islander Women's Legal Service NQ Inc reports a high level of uptake and success of its telephone advice service in family law matters.¹⁶⁰ However, this finding may relate to Indigenous people living in non-remote areas, as another CLC lists a lack of access to telephone services as a barrier for 'Indigenous people living in Indigenous communities'.¹⁶¹ The latter view is consistent with a 2011 report (the **ALRC Report**) examining levels of ICT use within three remote

¹⁵⁵ Chris Cunneen and Melanie Schwartz, 'Funding Aboriginal and Torres Strait Islander Legal Services: Issues of equity and access' (2008) 32 Crim LJ 38, page 39.

¹⁵⁶ *ibid* page 49.

¹⁵⁷ Melanie Schwartz and Chris Cunneen, 'From Crisis to Crime: The Escalation of Civil and Family Law Issues to Criminal Matters in Aboriginal Communities in NSW' (2009) 7(15) ILB 18, page 18.

¹⁵⁸ *ibid* page 23.

¹⁵⁹ See Appendix 2 Survey Results: Aboriginal & Torres Strait Islander Women's Legal Service NQ Inc.

¹⁶⁰ *ibid*.

¹⁶¹ Survey result of CLC that did not wish to be named in this report.

communities in the Northern Territory which found that none of the communities had reliable mobile phone coverage and that two of the three communities had only one shared public telephone.¹⁶²

We note that the Aboriginal and Torres Strait Islander Legal Service (Qld) (**ATSILQ**) offers a free call 24 hour service which is available for assistance in criminal, family and civil matters.¹⁶³ However, there is no dedicated telephone advice service and the provision of telephone advice is given on a case-by-case basis only. This is because callers to the service generally call to request representation in court with criminal matters.¹⁶⁴

Further, we note that in New South Wales, the police are required to contact the equivalent 24 hour service of the Aboriginal Legal Service (NSW/ACT) Limited whenever an Indigenous person is taken into custody, thus enabling that person to be connected with a lawyer who can advise them of their rights.¹⁶⁵ Such a procedure is not mandated in Queensland.

In a trial of a telephone service provided to Indigenous women for the purpose of drafting affidavits in family law matters, the following key findings were made:

- (i) Indigenous workers and elders should be involved in designing and planning the telephone service; and
- (ii) long lead-in times and continuity of services are important for trust to be developed by communities as the women were less likely to communicate with a solicitor they thought would not be involved in their matter to completion.¹⁶⁶

(b) Internet

According to the 2006 Community Housing and Infrastructure Needs Survey, approximately 36% of Indigenous households had access to the internet compared to 67% of non-Indigenous households.¹⁶⁷ However, access to the internet for Indigenous people living in remote communities is extremely low, with the ALRC Report finding that only 6% of such people had a laptop or home computer, only 58% of such people had used a computer at some time and only a third of those people had used the internet.¹⁶⁸

For those able to access the internet, websites may be an effective source of information and the general discussion on internet based services in Part 1 Section 4 of this report applies. However, we note that Indigenous people suffer

¹⁶² ARC Centre of Excellence for Creative Industries and Innovation, the Centre for Appropriate Technology and the Central and Council, 'Home Internet for Remote Communities' (2011) page 11.

¹⁶³ Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd website: http://www.atsils.com.au/01_cms/details.asp?ID=1

¹⁶⁴ Information provided by customer service representative of Aboriginal and Torres Strait Islander Legal Service (Qld) 20 August 2013.

¹⁶⁵ Regulation 33 Law Enforcement (Powers and Responsibilities) Regulation 2003 (NSW); Custody Notification Service website: <http://www.alsnswact.org.au/pages/custody-notification-service>.

¹⁶⁶ Pro Bono Partnerships and Models – Law and Justice Foundation, 'Family Law Affidavit Project Evaluation Report' (18 July 2013).

¹⁶⁷ Australian Bureau of Statistics, 'Australian Social Trends 2008: Internet Access at Home' page 5.

¹⁶⁸ ARC Centre of Excellence for Creative Industries and Innovation, the Centre for Appropriate Technology and the Central and Council, 'Home Internet for Remote Communities' (2011) page 11.

from lower literacy and numeracy skills compared to the non-indigenous population,¹⁶⁹ which may affect their ability to read and comprehend legal information. Thus it may be beneficial for legal information to be provided in an easily comprehensible format, or even through the use of audio-visual media presentations. We note that ATSILQ provides a range of fact sheets on its website.

(c) Video conferencing

As per our discussion on video conferencing in Part 1 Section 3, we note that any video conferencing initiative would need to be considered in light of the need for the service and only where both end users are able to access the requisite technology. In this respect, it has been suggested that persons in remote communities would face difficulties in accessing such technology.¹⁷⁰

One respondent to the Allens CLC Survey suggested that ISDN video conferencing may become irrelevant due to advances in new technology such as web-based video conferencing facilities.¹⁷¹ Legal Aid NSW and the Aboriginal Legal Service NSW/ACT ran a joint web conferencing trial in Walgett and Grafton (NSW) during 2012-2013. Aboriginal field officers at these locations would use web conferencing to link their clients to civil and family lawyers at Legal Aid NSW.¹⁷² Results or key findings from this trial are not yet available.

(d) Conclusion / Observations

ICT systems might be implemented to enhance legal service delivery to Indigenous people in family and civil law matters. Such initiatives might include increased telephone advice services, provision of easy to comprehend website information and web-based video conference using field officers in remote communities to link clients with lawyers in metropolitan areas.

7 Refugee Clients

7.1 Access

Refugees face a number of barriers to accessing legal assistance through ICT systems. Refugees lack knowledge and familiarity of the Australian legal system and its institutions, they may have limited or no English language skills, and they may lack access to technology such as phones and computers due to limited financial resources. Persons who are detained in immigration detention facilities may also lack access to effective ICT systems in those facilities. Further, due to the complexity of Australian immigration law, the implementation of ICT systems to provide legal advice may be challenging.

¹⁶⁹ Melanie Schwartz and Chris Cunneen, 'From Crisis to Crime: The Escalation of Civil and Family Law Issues to Criminal Matters in Aboriginal Communities in NSW' (2009) 7(15) ILB 18, page 43.

¹⁷⁰ See Appendix 2 Survey Results: Aboriginal & Torres Strait Islander Women's Legal Service NQ Inc; survey result of CLC that did not wish to be named in this report.

¹⁷¹ Survey result of CLC that did not wish to be named in this report.

¹⁷² Legal Aid New South Wales, Using technology to provide legal services to Aboriginal communities, (18 July 2013).

There is generally little to no research exploring the effectiveness of ICT for refugee clients. However, we make some general observations below.

7.2 Efficacy

(a) Telephone

In Queensland, the Refugee and Immigration Legal Service Inc (**RAILS**) provides a telephone advice service for people who cannot attend face-to-face advice sessions, such as people living in RRR areas or detention centres and people with a disability.¹⁷³

RAILS prefers to see clients in person to give advice, and this may be due to the complexity of issues, general communication difficulties or the need to have translators present.

However we note that Victoria's Refugee and Immigration Legal Centre (**RILC**) uses its telephone advice line as a first port of call for all callers seeking advice.¹⁷⁴ This may be an effective way to provide telephone advice, screen clients, or refer clients to its face-to face service or other providers where required.

(b) Internet

Websites can be used to provide general legal information. However, due to the spectrum and complexity of legal issues affecting refugees, this may not be an effective endeavour in this context. Rather, information about the CLC's services provided in numerous languages may be a more effective alternative. For example, RILC provides an overview of its services in 23 foreign languages.¹⁷⁵

¹⁷³ Refugee and Immigration Legal Service Inc., 'Confidential Submission – LPITAF Review – Discussion Paper', (2012) page 3.

¹⁷⁴ Refugee and Immigration Legal Centre website: <http://www.rilc.org.au/Advice-and-Casework/Advice>.

¹⁷⁵ Accessible at <http://www.rilc.org.au/Advice-and-Casework/information-in-other-languages>.

Part 3 - Knowledge Management

1 Introduction

This part outlines various considerations relevant to managing the flow of information and expertise (commonly known as 'knowledge management') between CLCs.

Knowledge management aims to optimally use and direct the wisdom, knowledge and information within an organisation in order for it to meet its business aims. In the context of the CLCs operating in Queensland, this involves providing access to legal resources (such as precedents and factsheets) and specialist practitioners who may be able to assist in the legal services provided to their clients.

This section of the report assumes that a single ICT system will be adopted for use across the CLCs and that such system will contain designated resources accessible to all CLCs.

2 Interaction between state CLC bodies

QAILS currently represents 33 CLCs, each of which operates independently and manages its own knowledge management and information technology systems. Each of the CLCs operates across various areas of law, with services ranging from the provision of standalone advice to casework and court representation.

The services provided are generally targeted at those clients experiencing some form of disadvantage and it is possible, though uncommon, that different CLCs may be representing opposing parties in one matter. It follows that preservation of client confidentiality and privacy between each CLC is of great importance (and is also required by the legal practice obligations of CLC staff).

At the time of this report, the sharing of resources and precedents between CLCs is limited, and the development of shared resources could potentially benefit the operation of all CLCs. The use of technology (e.g. in the form of a shared, but password-protected resource repository) would greatly facilitate the access and use of resource sharing. We note that 41% of respondents to the Allens CLC Survey stated that a centralised database of legal information and/or precedents is desired.

A review published by the New South Wales Government¹⁷⁶ has considered the operation of the NSW Legal Assistance Forum (**NLAF**) – a body established to improve the delivery of pro bono legal services to disadvantaged people. The NLAF's activities include knowledge management and the coordination of responses to legislative changes across the relevant service providers. The review reported strong support for the NLAF and its activities and as such, further consideration to the NLAF's activities in managing the interactions between state CLC bodies may be beneficial.

If resources were to be shared, the initial stages of consolidating and refining the resources to be meaningful across all CLCs would require some coordination and

¹⁷⁶ Attorney General and Justice of New South Wales, 'Review of the delivery of legal assistance services to the NSW community' (June 2012).

cooperation but the benefits to be derived from these resources (much of which would be in saved time) may be significant.

3 Centralised vs. decentralised model

If a single knowledge management ICT system that services all CLCs is to be adopted, it seems worth considering whether the system should be managed centrally (e.g. by QAILS) or by the various CLCs as may be required. Management of the system will involve monitoring and updating resources, addressing any concerns relevant to the system provider (e.g. security and maintenance) and addressing any issues around confidentiality, privacy and client conflicts.

Centralised models for the management of information systems generally appear more efficient due to lowered administrative management (and costs) and decreased duplication. Having a single system through which knowledge is shared also promotes ease of access to resources. De-centralised models will allow for more tailored solutions for the needs of the individual organisations using the information system but are generally more expensive.

In order to take advantage of the benefits of both centralised and de-centralised models, QAILS could consider adopting a model which allows for the centralisation of most functions with some de-centralised management of specified areas by the individual CLCs. This might allow the CLCs to take advantage of reduced administrative costs and for a single body to oversee the implementation and maintenance of the system. Functions such as monitoring compliance with confidentiality and privacy obligations could be managed by the CLCs who are arguably better placed to do so.

The use of a secure web-based intranet is a possible ICT solution. The network architecture should allow access by CLCs but only to shared precedents and to documents that that CLC is authorised to access (by way of client authority).

4 Knowledge Flow and Training

The knowledge management solution for the CLCs should assist CLC staff in locating appropriate resources – both written and human. As legislation and case law continue to develop, it is also important that lawyers are kept well-informed of recent updates.

Having an easily updatable register of CLC staff (and external contributors) along with their areas of speciality and contact details would help CLC staff to engage with specialists when such assistance is required. Specialist staff could also use an integrated database system to form interest groups through which resources could be collaboratively developed and shared to keep abreast of legal developments.

Regular training is already a necessary requirement for CLC legal staff, as part of their continuing professional development requirements. Having adequate technology to attend the training through web-based video conferencing (e.g. by using the Webex services provided through the NACLC) would facilitate the provision of training to CLC staff.

Video conferencing technology might allow a more cost effective method of receiving legal training by reducing administrative and transport costs, as well as (where available) providing a simple method of recording training for future reference. The greater

flexibility and potentially reduced costs that would come from adequate video conferencing technology would mean that CLC legal staff would be better equipped to provide services to their clients.

5 Conclusion / Observations

The implementation of an ICT solution for the CLCs should incorporate or anticipate:

- (a) system architecture which allows the sharing of certain resources and precedents;
- (b) the centralisation of management functions and certain resources;
- (c) the segregation and protection of client-specific information;
- (d) the formation of interest groups across areas of law and the use of expert practitioners; and
- (e) the use of video conferencing for training purposes.

Schedule 2

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Schedule 3

Surveys

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