

## Legal Aid in Tomorrow's World

### Developments and Solutions from Research

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## Legal Aid in Tomorrow's World

### Overview

1. The impact of the global downturn on legal aid
2. Problem clustering and integrated legal services
3. Outreach, trust and integrated services
4. Geography, capability and technology:  
spreading the net further
5. Some final thoughts

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*"You have a pretty good case, Mr. Pitkin. How much justice can you afford?"*

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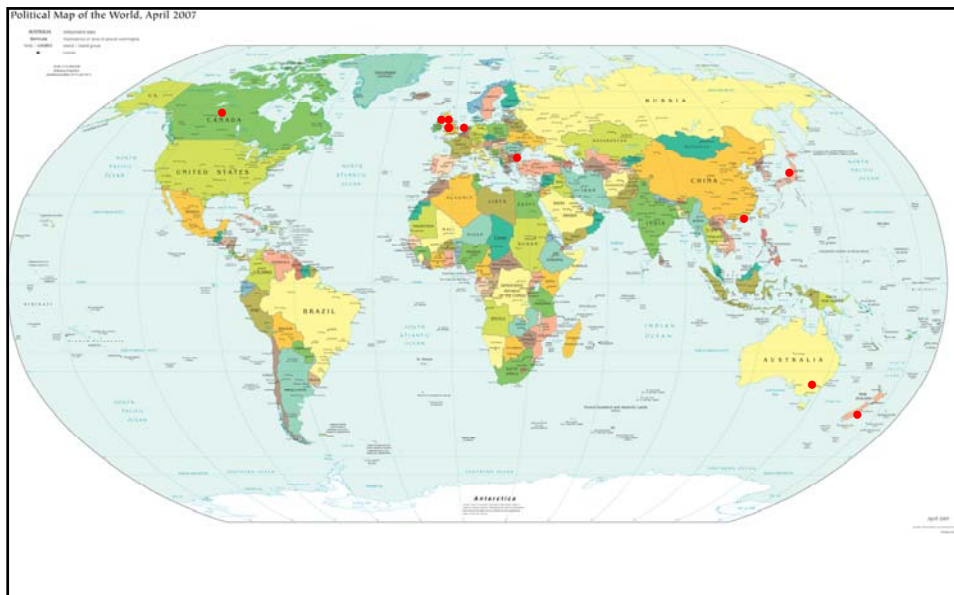
# The Impact of the Global Downturn on Legal Aid

First Findings from the English and Welsh  
Civil and Social Justice Survey 2006-9

## The Impact of the Global Downturn on Legal Aid

The English and Welsh Civil and Social Justice Survey, 2006-9

- Nationally representative household survey of people's experience and response to problems involving rights.
- 10,537 face-to-face interviews of 25 minutes duration
- Similar to Australian National Legal Needs Survey, and the most comprehensive of a line of surveys dating back, coincidentally, to the time of the Great Depression.
- Includes 106 'everyday' justiciable problem types, in 18 categories (no crime).



In recent years, similar surveys have been conducted in a range of jurisdictions. While there are distinct variations in experience, the basic pattern of experience has been remarkably constant.

## The Impact of the Global Downturn on Legal Aid

### English and Welsh Civil and Social Justice Survey, 2006-9

- Justiciable problems are ubiquitous  
But, they are not evenly distributed across the population
- ‘Socially Excluded’ groups are particularly vulnerable
- Social exclusion reinforced through additive effect of problems

Whereas, overall, 36% of CSJS respondents report 1+ problems,

- |                                                         |     |
|---------------------------------------------------------|-----|
| • People with long-term health problems or disabilities | 40% |
| • People aged between 25 and 44                         | 44% |
| • Victims of crime                                      | 48% |
| • The unemployed                                        | 48% |
| • Lone parents                                          | 60% |

report problems more often

## The Impact of the Global Downturn on Legal Aid

### English and Welsh Civil and Social Justice Survey, 2006-9

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#### ... and Around the World (e.g.)

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(Canada) Currie, A. (2007) "The Legal Problems of Everyday Life" in Sandefur (ed.) *Access to Justice*. Bingley: Emerald

(New Zealand) Plesence, P. and Balmer, N.J. (2009) "Mental Health and the Experience of Social Problems Involving Rights: Findings from the United Kingdom and New Zealand," in Vol. 16 of *Psychiatry, Psychology and Law*.

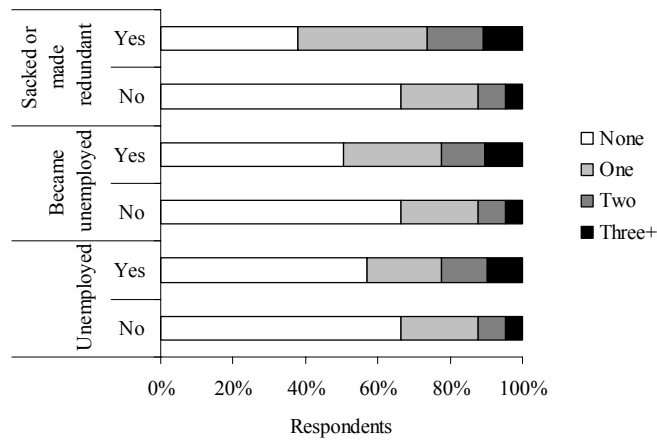
(Scotland) Genn, H. and Paterson, A. (2001) *Paths to Justice Scotland: What People in Scotland Think and Do About Going to Law*, Oxford: Hart

# BUT!

Being unemployed is not  
the same as losing a job

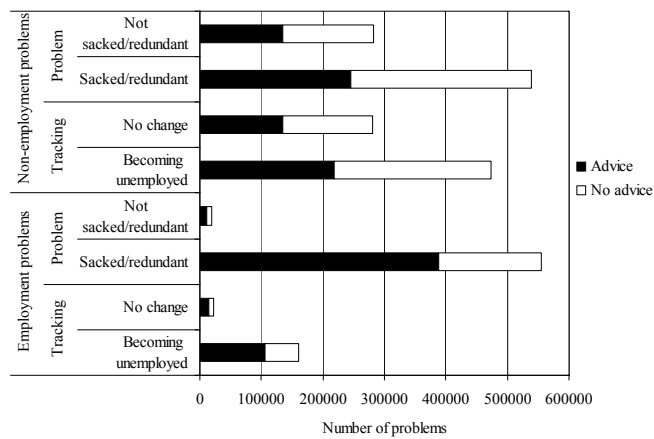
## The Impact of the Global Downturn on Legal Aid

Prevalence of justiciable problems, by loss of employment status, excluding employment problems



## The Impact of the Global Downturn on Legal Aid

Problems per 500,000 population (estimate) by loss of employment status



## The Impact of the Global Downturn on Legal Aid

### Additional Problems and Advice: The United Kingdom Example

- 250,000 redundancies in just the 3 months to December 2008
- In the same period, the unemployment rate rose to 6.3%, up 0.4% on the previous period and 1.1% on the year.
- The European Commission forecasts UK unemployment will rise to 8.2% in 2009, a 1.9% increase. This equates to an additional 525,000 people unemployed over 2009.
- A higher number of redundancies might be expected in 2009.
- Over a three year period, somewhere between 1/3 to 2 million problems might be expected to occur as a result of events in 2009, of which half may lead to advice.  
(This represents up to a 5% increase)

## The Impact of the Global Downturn on Legal Aid

### The Impact of Additional Problems

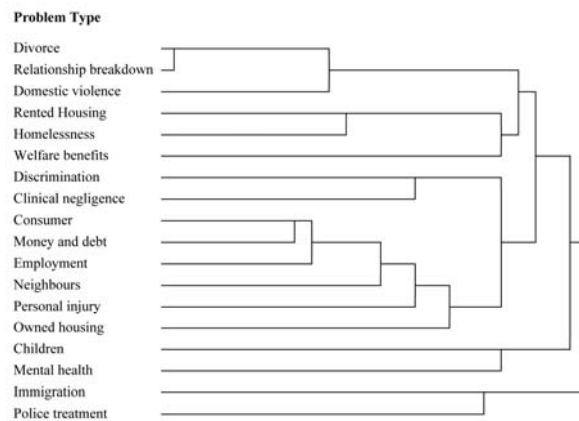
- Not just the additional justiciable problems that are of concern
- The social, health and economic impact of problems has been shown to be substantial
- Using CSJS findings, Ministry of Justice economists have estimated the cost of ill health caused by problems at over £1 billion each year
- Over three years, the overall cost to individuals and the public is over £13 billion. 5% of that is £560 million.

# 2

## Problem Clustering and Integrated Legal Services

## Problem Clustering and Integrated Legal Services

Certain types of problem tend to occur in combination ('cluster')



(CSJS 2004)

## Problem Clustering and Integrated Legal Services

Certain types of problem tend to occur in combination ('cluster')

3 distinct clusters have emerged from the CSJS:

- Family problem cluster  
(domestic violence, divorce, relationship breakdown)
- Homelessness problem cluster  
(homelessness, rented housing, welfare benefits, police)
- Economic problem cluster  
(e.g. debt, employment, housing, welfare benefits)

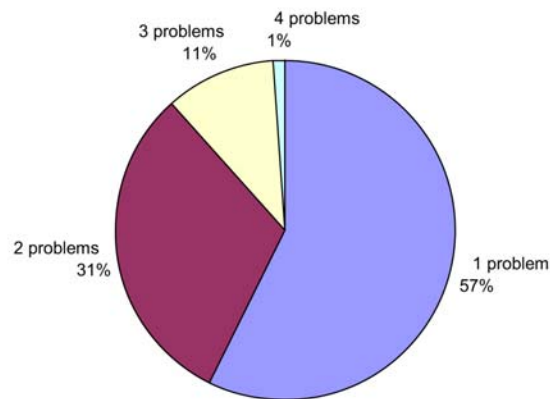
Attributed to overlapping 'defining circumstances'/vulnerability

Also

Moorhead (2006) has explored problems that present together

## Problem Clustering and Integrated Legal Services

### Problems reported by clients: Moorhead (2006)



## Problem Clustering and Integrated Legal Services

### Presentation of multiple problems: Moorhead (2006)

- “The problems suffered by the clients observed were dominated by problems with money, benefits, debt and rented housing (which were often threatened evictions symptomatic of debt problems).”
- “Problems that involved relationship breakdown/children, home ownership, mental health, domestic violence, employment and homelessness problems gave rise to the most complex, and arguably the most serious, problems.”
- “Most problems within clusters interrelate and would benefit from a degree of coordinated management.”

## Problem Clustering and Integrated Legal Services

### Development: Community Legal Advice centres and networks

- Building on research findings on problem clustering (and referral fatigue and other problems of accessibility), Community Legal Advice centres and networks (CLAC/Ns) are being introduced in England and Wales.
- 5 Centres established so far, jointly funded by LSC and local authorities. Up to 14 by April 2010.
- Integrated legal advice services, operating through a single entity (centre) or group of organisations (network).
- “The direction of travel is clearly one where all legally aided social welfare advice and representation is provided by a Combination of Centres, Networks and CLS Direct” (LSC 2006).

## The Impact of the Global Downturn on Legal Aid

### English and Welsh Civil and Social Justice Survey, 2006-9

#### Further Details

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Moorhead, R., Robinson, M. and Matrix Research and Consultancy (2006) *A Trouble Shared: Legal Problems Clusters in Solicitors’ and Advice Agencies*, London: Department for Constitutional Affairs.

Moorhead, R. (2008) *Intersectionality and Client Capacity: The Problems Clusters Pose for Service Design*. LSRC International Research Conference Paper, Greenwich, June 2008.

# Back to recession ...

## Behind clusters: Patterns of vulnerability

### Problem Clustering and Integrated Legal Services (CSJS)

Problem type	Unemployed	Became unemployed	Sacked or made redundant	None of these
	N = 264	N = 269	N = 139	N = 10,048
Discrimination	4.6	3.5	3.3	1.9
Consumer	13.3	16.8	19.6	12.2
Employment	17.5	29.7	100.0	3.5
Neighbours	10.3	10.5	14.6	7.9
Owned housing	1.1	2.4	1.5	1.9
Rented housing	8.1	7.4	5.1	2.8
Money/debt	8.9	11.1	18.4	5.6
Welfare benefits	9.2	9.9	9.8	2.6
Divorce	1.9	3.7	2.1	2.0
Relationship breakdown	1.7	2.7	2.3	1.8
Domestic violence	0.8	0.7	0.0	0.8
Children	1.3	1.9	1.6	1.4
Negligent accidents	5.0	4.4	9.8	3.5
Clinical negligence	3.2	3.2	6.3	1.6
Mental health	0.0	0.8	0.8	0.3
Immigration	0.4	0.3	0.0	0.3
Police	1.3	1.0	0.9	0.9
Homelessness	5.7	2.7	1.8	1.2

# 3

Outreach,  
Trust  
and  
Integrated  
Services

## Outreach, Trust and Integrated Services

### Integrating legal services is just a beginning

- Integrating legal services enables linked problems to be addressed together – BUT, it does not ensure that people who need services access them.
- One means adopted to provide legal services to people/ communities who would otherwise not access them has been 'outreach'.
- There are many examples of outreach around the world (e.g. CLC outreach services for homeless persons, indigenous persons and people in remote areas)
- However, until recently, very limited research on benefits and costs.

## Outreach, Trust and Integrated Services

### Forms of outreach advice

Dewson (2006) has identified 4 models of outreach service:

- *Satellite* model  
establishing stand alone, separate outreach centres for delivering services in community locations.
- *Peripatetic* model  
delivering services in other organisational settings such as hostels, community centres, GP surgeries, housing offices, etc.
- *Detached* model  
contacting people outside of agency or organisational settings, for example, in streets, shopping centres, pubs, at school gates, etc.
- *Domicillary* model  
visiting people in their own homes.

## Outreach, Trust and Integrated Services

### LSRC Money Advice Outreach Pilot Evaluation: Introduction

- The LSRC's Money Advice Outreach Pilot Evaluation has explored a range of outreach services aimed at providing advice to financially excluded people who would not normally seek advice from mainstream services.
- The pilot services were mostly of the *peripatetic* type, but included other types also. All advice was initially face-to-face.
- Evaluation employed a variety of research methods:
  - A survey of 563 potential clients in outreach locations
  - A longitudinal qualitative process evaluation
  - 49 qualitative interviews with service clients
  - Cost-benefit analysis of project/administrative data

## Outreach, Trust and Integrated Services

### LSRC Money Advice Outreach Pilot Evaluation: Findings

The outreach locations survey confirmed:

- The presence of financially excluded persons.
- A high prevalence of serious money problems.
- A significant proportion of people had not sought advice about problems.

The cost-benefit analysis indicated that the pilots were:

- "Very successful" at delivering advice to financially excluded clients.
- "Very successful at delivering advice to those who had not sought advice before."
- Efficient. Although service providers thought they spent longer on outreach cases, analysis of project data indicated outreach cases "tended to take less time."

# BUT!

Important lessons emerged  
for effective outreach

## Outreach, Trust and Integrated Services

### LSRC Money Advice Outreach Pilot Evaluation: Findings

Not all locations are suitable for outreach.

- Demographics vary considerably
- Volumes vary considerably
- Flows of people vary considerably (by time, frequency, groupings, etc.)
- Purposes in attending vary considerably (classes, appointments, social gatherings, etc.)
- Facilities for private consultation / installation of technologies vary considerably
- Organisational routines and restrictions vary considerably
- Security of staff / staff retention may be an issue in some locations

## Outreach, Trust and Integrated Services

### LSRC Money Advice Outreach Pilot Evaluation: Findings

Peripatetic outreach depends upon effective partnership.

- Some potential partners are difficult to engage
- Early engagement is important, at both strategic and operational levels (as is negotiation over practicalities: space, awareness/promotion of advice service, etc.)
- Partnerships need to be managed on an ongoing basis (especially as staff may be lost or change over time)
- As well as raising awareness of an outreach service, partner organisations can act as 'problem noticers', 'signposters', and 'warm referrers' – but varies considerably
- The interests of partners may not always be the same as of advisers

## Outreach, Trust and Integrated Services

### LSRC Money Advice Outreach Pilot Evaluation: Findings

**BUT**, outreach advice comes at a price:

- There are "unavoidable" additional costs to outreach advice (over the cost of a same-basis standard service).
- While the cost *per case* of pilot cases was lower than for 'standard' legal aid funded work, the overall cost was higher.
- Additional costs included those of establishing and maintaining partnerships, travel to outreach locations, etc..

The value of outreach advice is not just in case results, or even the impact of those case results, but also in increasing the likelihood that users obtain early advice in future.

## Outreach, Trust and Integrated Services

### LSRC Money Advice Outreach Pilot Evaluation: Future

- The Money Advice Outreach Pilot projects came to an end in March 2008.
- No further Financial Inclusion Fund (FIF) money was provided to mainstream the projects.

#### BUT

- Funding for a new initiative to provide outreach debt advice in prisons
- Support for outreach as part of FIF funded advice
- Informing outreach expected of CLAC/CLANs to “bring services to clients who do not currently access legal services”

## Outreach, Trust and Integrated Services

### LSRC Money Advice Outreach Pilot Evaluation

#### Further Details

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Day, L., Collard, S. and Davies, V. (2008) *Money Advice Outreach Evaluation: Quality Outcomes for Clients*, London: LSRC

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## Outreach, Trust and Integrated Services

### Trust, the transfer of trust and co-location of services

- Importantly, peripatetic outreach benefits from 'trust transfer'.
- Having trusted intermediaries introduce socially disadvantaged clients to an advice service can confer trust on that service.
- Financially excluded respondents to the Outreach Pilot location survey, in discussing the merits of outreach, mentioned their association of outreach locations with trust and good quality.
- Outreach not the only way trust transfer can be achieved. Co-location of complementary services can do the same

## Outreach, Trust and Integrated Services

### Trust, the transfer of trust and co-location of services

- Co-located services share many of the benefits of outreach services, including trust transfer.
- They also allow for seamless service provision across sectors.
- One much cited model of service co-location is the West Heidelberg Community Legal Service in Melbourne.
- Mary Anne Noone, at La Trobe University, has described other advantages of the WHCLS model:
  - Ease of referral
  - Continuity of care
  - Enhanced inter-professional understanding
  - Clearer boundaries to practice - efficiency

## The Example of Mental Health

Findings from the 2006 New Zealand  
National Survey of Unmet Legal Needs  
and Access to Services

### Outreach, Trust and Integrated Services

#### About the New Zealand Survey

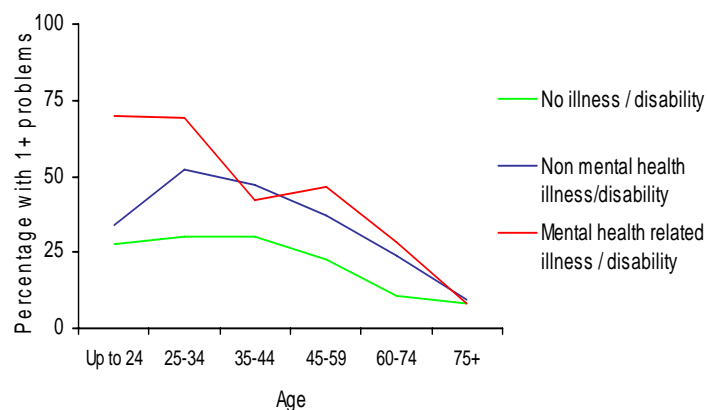
- Derived from the CSJS
- 7,200 telephone interviews with people aged 15+
- Interviews averaged 11½ minutes
- 7 broad problem categories
- Included questions on mental health status

## Outreach, Trust and Integrated Services

### NZ survey: Link between mental illness and rights problems

- Mental illness found to be a highly influential predictor of justiciable problems.
- In percentage terms, 46% of all NZ survey respondents who reported a mental illness also reported a problem. This compared to 24% of other respondents.
- Unlike for physical ill health / disability, the figures did not change a great deal when age standardised.

## Vulnerability to Problems Involving Rights (NZ)



## Outreach, Trust and Integrated Services

### NZ survey: Link between mental illness and rights problems

#### Further Details

Noone, M.A. (2007) "“They All Come in the One Door” – The Transformative Potential of an Integrated Service Model: A Study of the West Heidelberg Community Legal Service," in Pleasence, P., Buck, A and Balmer, N.J. (eds.) *Transforming Lives: Law and Social Process*, Norwich: TSO.

Pleasence, P. and Balmer, N.J. (2009) "Mental Health and the Experience of Social Problems Involving Rights: Findings from the United Kingdom and New Zealand," in Vol. 16 of *Psychiatry, Psychology and Law*.

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## Reaching Out, Technology and Efficiency

### Reaching Out, Technology and Efficiency

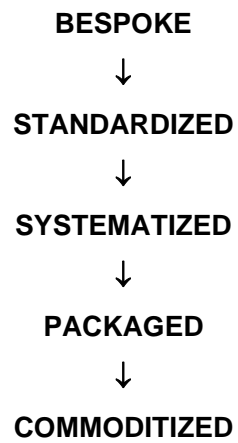
#### Reaching further with technology

Technology provides an increasing range of cost efficient means to extend the legal services net.

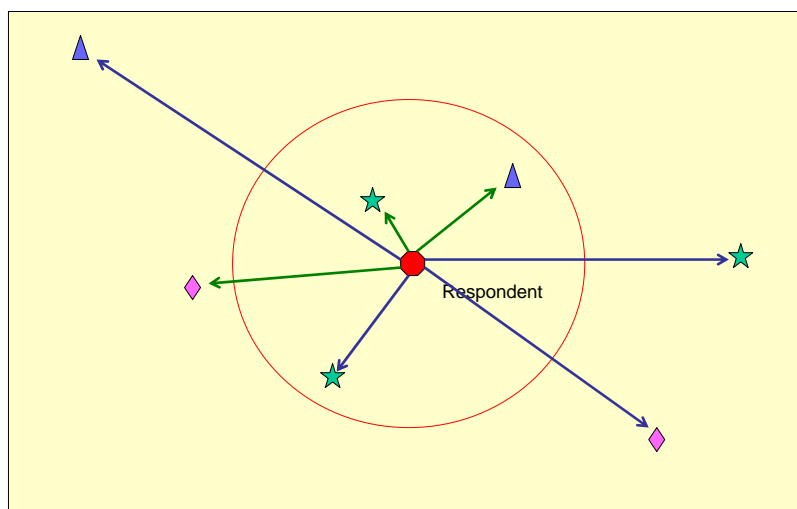
- Telephone information and advice
- Internet information and advice
- Expert system support to remote advice delivery (whether face-to-face, telephone or internet)
- IT also offers other back and front office efficiencies, and the potential for a revolution in legal practice (e.g. booking, book-keeping, accounting, project management, information management, automatic document assembly, remote video communication)

## Reaching Out, Technology and Efficiency

The Evolution of legal services (Suskind 2008)

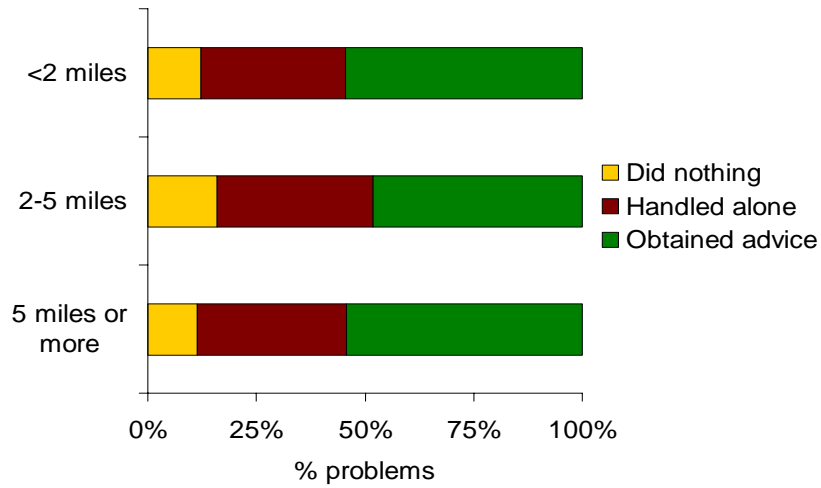


## The obstacle of distance



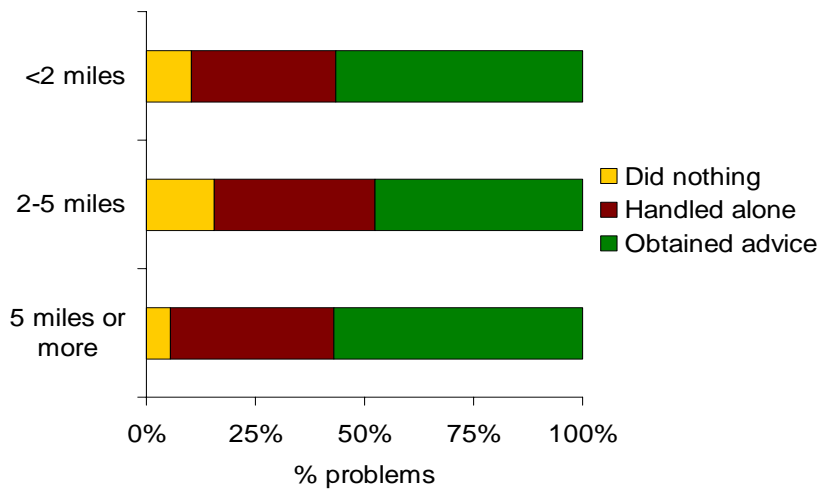
## Reaching Out, Technology and Efficiency

### Strategy by distance to advisor (QM) (2004 CSJS)



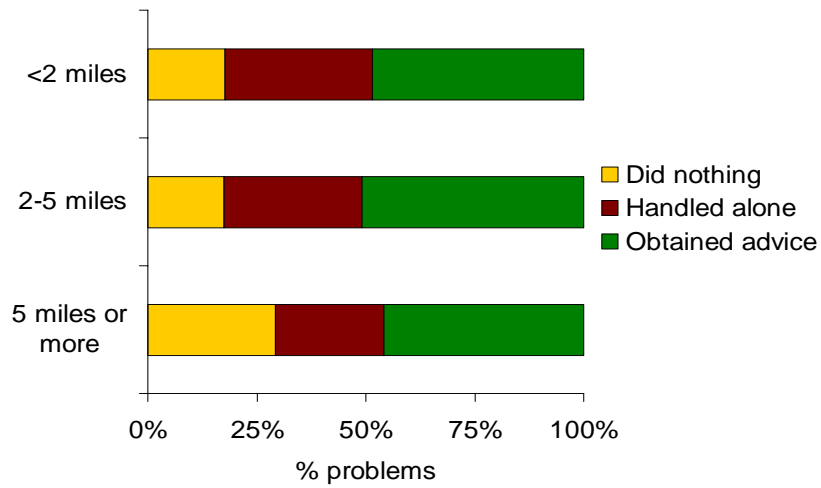
## Reaching Out, Technology and Efficiency

### Strategy by distance to advisor, with motorised transport



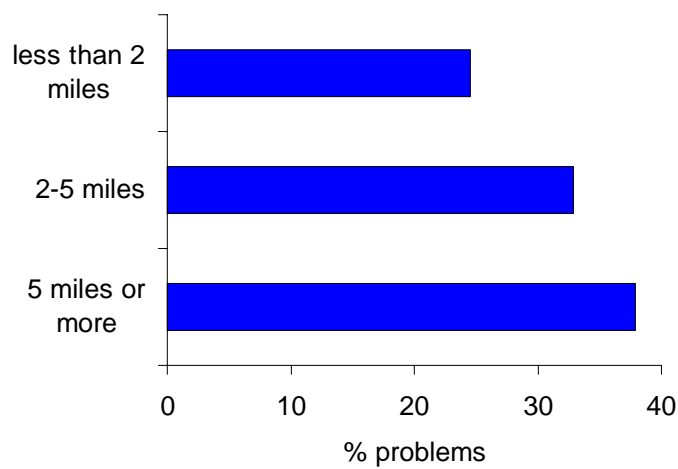
## Reaching Out, Technology and Efficiency

### Strategy by distance to advisor, without motorised transport



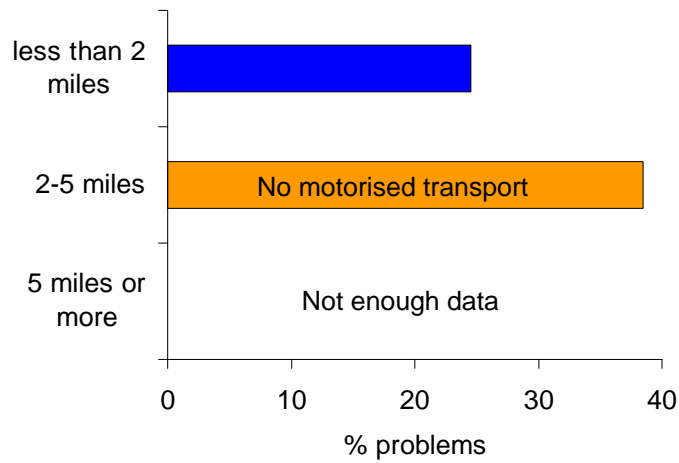
## Reaching Out, Technology and Efficiency

### Use of (only) telephone advice, by distance to advisor



## Reaching Out, Technology and Efficiency

Use of (only) telephone advice, by distance to advisor



Clearly,

telephone and online  
services can improve access

## Reaching Out, Technology and Efficiency

### The use of the telephone and internet

- The use of the telephone to obtain advice is increasingly common
- CSJS 2004 indicated that around half of all first contact with advisers is by telephone
- Of those who make initial contact with advisers by telephone, around half go on to obtain face-to-face advice
- Use of the internet to solve justiciable problems is increasing rapidly
- CSJS findings illustrate this clearly:  
2001 – 4%  
2004 – 10%  
2008 – 17%
- BUT, not all people and not all problems are suited to these modes of delivery.

## Reaching Out, Technology and Efficiency

### Recent studies of telephone advice

#### **LSC Telephone Advice Pilot (2004):**

- 30% of reasons for use of pilot service related to **distance, disability or mobility problems**.
- Preferred by some and valuable for those who face obstacles accessing advice through other means.
- No evident difference in outcome patterns.
- 'The capabilities of the client influence the complexity of problem that can be dealt with.'

#### **US Hotlines Outcomes Assessment Study (2002):**

- No evident difference in outcomes of those who went on to obtain face-to-face advice.
- Clear differences in the capacities of different types of people to benefit from telephone advice.
- Those least likely to benefit: lower education levels, language difficulties, lower income, had suffered family breakdown.

## Reaching Out, Technology and Efficiency

### CSJS (2004) findings relating to the internet

- There is a 'digital divide'. Internet use more common among those who are relatively young, mobile, healthy and wealthy.
- Despite high access levels, the youngest CSJS respondents reported low levels of internet use
- They also reported low rates of success in obtaining what they sought
- The Internet is often used as a tool to locate advisers, rather than to obtain information or advice. This will change.
- Internet use is associated with increased levels of use of other advice services.

## Reaching Out, Technology and Efficiency

### Self-help services

- Lawler, Giddings and Robertson's (2009) recent study of the probate self-help kit produced by Legal Kits of Victoria (LKV) has shown the value of such kits in guiding people through technical processes.
- It also demonstrates how market forces can act as a means of placing clients' needs at the centre of the service development process.
- However, the study also illustrates the tension that exists between "getting the job done" and "empowering clients", which is the underlying philosophy of many community legal services around the world.
- The study also highlights the need for some level of personal capability in order to utilise such a product (e.g. awareness of need for the process).

## Reaching Out, Technology and Efficiency

### Rules for rolling out services

- Hunter, Banks and Giddings (2009) have asked how effective such kits can be for the 46 per cent of Australians they report as being “able to perform only basic or relatively simple prose literacy tasks.”
- Nevertheless, efficiencies brought about through enabling those clients **who can** help themselves to help themselves, frees up resources for services to those **who cannot**.
- Importantly, with reference to a range of Australian innovations in service delivery, Hunter et al have also pointed to the dangers of rolling out new forms of service without proper regard for context.
- Clients vary. Types of legal problems vary. Processes vary.

## The Impact of the Global Downturn on Legal Aid

### English and Welsh Civil and Social Justice Survey, 2006-9

#### Further Details

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5

Some Final Thoughts

## Some Final Thoughts

- Increased demand for services resulting from the global downturn will present a particular challenge to civil (and perhaps criminal) legal aid schemes around the world.
- The importance of civil legal aid has never been greater. The cost of unresolved social welfare law problems is great.
- To meet the challenge, services must continue to integrate and evolve.
- Technology provides many opportunities for extending reach and efficiency, but it must be rolled out with due regard for context.
- Always, the right services should be delivered to the right people at the right time.
- “Advice services should mirror the needs and behaviour of those who wish to use them”
- **Public legal services exist for those who need to use them, for the benefit of us all.**