



Effectiveness of public legal assistance services

A discussion paper

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This paper contends that, in the context of evaluating legal assistance services, effectiveness refers to a causal link between an activity and an outcome. Accordingly, it is only through research designs which allow for precise measurement and isolation of other significant influences on outcomes that effectiveness can be accurately assessed. For this reason, research which involves appropriate sampling and an adequate comparison group will best assess the effectiveness of strategies. Other research methods may best address issues such as those relating to why an activity has succeeded or how well it has been received by clients.

Legal assistance services and strategies are designed to help people to resolve their legal problems. Those funding and providing services intend that these efforts actually make that difference, and do so efficiently given their limited resources. Given this aim, what does it mean to be ‘effective’ and how can this be demonstrated? As this paper will explain, measuring effectiveness is about measuring whether or not the program achieved its aim or intended outcome.

Recent interest in effectiveness is evident in many policy and strategic planning documents which include recommendations that legal assistance agencies’ activities should be evaluated in terms of the outcomes that they achieve and their associated costs. The *National Partnership Agreement on Legal Assistance Services* (COAG 2010) is a recent example.

There are significant benefits to be gained by evaluating activities in terms of whether they achieve intended outcomes and these are outlined in this paper. However, demonstrating that a strategy

actually *caused* a desired outcome—that is, that the strategy rather than any other factor has actually made the difference—can be an ambitious task. Evaluating effectiveness in *causal* terms requires careful planning, dedicated resources, and particular expertise and methodology. This is especially the case in sectors such as the legal assistance sector, which have not, as yet, widely used this approach.

Evaluation research can also be used to examine issues other than effectiveness and cost. For example, it can inform questions of process, such as why an activity succeeded or failed, and how was it perceived and received by key stakeholders. While these questions are also important, the focus of this paper is on the evaluation of the *outcomes* of activities, that is, their *effectiveness*.

In terms of scope, this paper provides an introduction to evaluating effectiveness rather than a ‘how to’ guide. A list of resources is included at the end of this paper for readers interested in comprehensive guides to conducting outcome-based evaluation.

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The aim of this discussion paper is to encourage and support the evaluation of effectiveness in the legal assistance sector by:

- explaining the meaning of key terms such as *effectiveness*, *cost-effectiveness*, *efficiency* and *evidence-based practice*
- demonstrating how evaluating activities in terms of their outcomes can challenge commonly held assumptions and provide valuable evidence to inform practice and further strategy development
- indicating how outcomes can be identified for measurement
- introducing relevant evaluation methods, particularly in terms of their ability to accurately measure the effectiveness (and potentially cost-effectiveness and cost-benefit) of services.

What is effectiveness?

In the context of identifying the outcome or effect of an activity, the term ‘effectiveness’ has a very particular meaning—and a meaning which is more tightly defined than in everyday use. The key feature of this definition is that it refers to a *causal link* between an activity (or intervention) and a desired outcome whereby it is the activity, rather than any other factor, that has actually made the difference. Definitions of effectiveness and other key terms are proposed as follows:

DEFINITIONS OF KEY TERMS USED

An intervention is **effective** if it directly increases the likelihood that a desired outcome will occur, and that it does this independently of the effects of other concurrent factors which may also potentially increase the likelihood of that outcome occurring.

An intervention is **efficient** to the extent that it achieves a desired outcome economically, with minimum waste of resources and effort.

An intervention is **cost-effective** if it achieves a desired outcome more efficiently, with a lower resource cost, than a specific alternative intervention.

Importantly, the definitions of each of these terms—*effective*, *efficient* and *cost-effective*—all refer to a *desired outcome*, or the *aim* of the intervention.

Just as the desired outcome or the aim of the intervention is a key part of the definition of effectiveness, it is also central to the measurement of effectiveness. For this reason, a first step in any evaluation of effectiveness is to be clear about the **aim** of the project—what it is meant to achieve.

Then, attention can be given to identifying what needs to be measured in order to determine whether that aim has been achieved.

Great care needs to be taken in selecting an appropriate research methodology as not all research methodologies allow for the precision required to measure effectiveness. The strengths and weaknesses of different methodologies in measuring effectiveness will be discussed later, however, to begin, this paper examines the value of investing in effectiveness evaluation, and in particular, its role in ‘evidence-based practice’.

Why evaluate effectiveness?

Crucial to measuring and improving the effectiveness of legal assistance services is the concept of *evidence-based practice*. Evidence-based practice has a long history in the health services sector and is being more widely employed in a diverse range of other sectors including education, public policy, criminal justice and quality management. It involves applying best quality evidence in making decisions about the delivery of services and formulation of policies. Centrally relevant to best quality evidence is evidence regarding *outcome effectiveness*, obtained using systematic outcome-evaluation processes.

The benefits to be gained from systematic outcome-evaluation processes are such that in recent years, the major American and British legal service agencies have developed and implemented comprehensive evaluation frameworks. In 2006, the American Bar Association (ABA) published *Standards for the Provision of Civil Legal Aid*, which included the following statement on the measurement of effectiveness:

The effectiveness of a provider can be measured by the tangible, lasting results of its efforts on behalf of its clients. Lasting results can be achieved by favorably resolving individual legal problems; by teaching persons how to address the legal problems that they face; by improving laws and practices. ... The focus of legal work is sharpened if the provider deliberately identifies the results that it seeks to achieve. (ABA 2006, pp. 66–67).

The ABA argued that evaluation of legal assistance activities can provide a range of benefits (2006, pp. 91–92) and some of the benefits they identified are also applicable in Australia, including:

- *To improve the provider’s operations.* A fundamental purpose of evaluation is to examine how effectively a service provider or a specific project is functioning in order to make informed decisions about adjustments that might be appropriate.
- *To test the success of innovative delivery techniques.* A provider should evaluate its innovative efforts to determine if they are accomplishing the intended outcomes and are

cost-effective. Such an evaluation is particularly valuable when the provider is considering whether an innovative approach should be made permanent or expanded.

- *To inform planning and budgeting.* Evaluations can be important in guiding allocation of resources.
- *To inform training plans.* Evaluations can identify needs for staff training in substantive knowledge, practice skills, management skills, cultural competence, service delivery and utilisation of technology.

Examples of how the evaluation of effectiveness can inform and change practice

The following examples illustrate how the findings of health and education intervention evaluations have challenged commonly held assumptions, and have helped to refine and improve practice. Included are examples of strategies that have parallels in the legal assistance sector. While the individual findings may not translate directly, they do highlight the importance of evidence-based research for the development of public policy and for the delivery of legal assistance services.

Preventive/early interventions

Ker et al. (2008) published a review of evaluations of advanced and remedial driving skills education programs which involved a total of 310,000 participants. The programs were based either on mailed-out educational material or on face-to-face education. The various forms of education reduced post-education incidence of traffic offences by between only 1% and 5%, and incidence of traffic crashes by between only 1% and 3%. The authors concluded that this did not provide value for money.

Comment: These programs are an example of educational activities that are intended to prevent problems which may occur in the future. The skills and knowledge imparted by the programs may not be remembered and acted upon when the problem arises. Extrapolating to the legal assistance sector context, it may be that community legal education activities which focus on immediate, concrete problems would represent more effective use of the limited available resources than educational activities addressing hypothetical issues.

Inter-agency referral procedures

Akbari et al. (2011) reviewed evaluations of interventions for improving clinicians' procedures for referring patients from primary health services to medical specialists. This review found that passive distribution of printed referral guidelines was an ineffective strategy. However, educational activities conducted by medical specialists and the provision of 'appropriate referral criteria' checklists which must be completed at referral time were found to improve the outcomes of referral procedures.

Comment: Legal assistance services are increasingly endeavouring to develop referral arrangements in partnership with other legal and non-legal services. Many factors can prevent referral processes from working optimally—it is important to use rigorous outcome-evaluation research to identify which strategies are effective and which are not.

Telephone-based advice services

Most states in the US have a quitline service for cigarette smokers. Such services originally operated passively—that is, they responded to calls but never followed up callers. However, on the basis of evaluation research which demonstrated the ineffectiveness of the latter approach, nearly all US quitlines now operate proactively. This means that after a smoker initially makes contact, quitline staff make repeated contact with the smoker at appropriate intervals. They provide step-by-step guidance through the process of preparing to quit and maintaining their non-smoking status (Stead, Perera & Lancaster 2006).

Comment: International and Australian legal needs research (Coumarelos, Wei & Zhou 2006; Pleasence 2006) tells us that many people take no action when faced with a legal problem and many do not follow through with referrals. It is therefore likely that 'passive' referral strategies will be no more effective in the legal assistance sector. Indeed, some people who seek help with a legal problem are in that situation due to multiple and complex needs (Coumarelos, Wei & Zhou 2006) which may require repeated attempts or active follow up by service providers to resolve. In such circumstances, passive telephone-based legal advice services may not be optimally effective.

Don't take effectiveness for granted

Outcomes-focused evaluations have to date been rare in the legal assistance sector. However, there are some evaluations conducted in other jurisdictions which have demonstrated that some well accepted strategies may not necessarily achieve the outcomes which are expected of them, and may actually have the negative effect of diverting limited available resources away from more useful alternative strategies. At the very least, these evaluation studies highlight the complexities associated with trying to establish a causal relationship. For example, research has yielded the following:

- Involving lawyers in mandatory mediation of contested cases involving children was associated with a lower rate of successful dispute settlement (Wissler 2010).
- Participation by divorcing parents in classes aimed at educating them about the impact of divorce on children and teaching them co-parenting skills was associated with an increase in contested post-judgement proceedings (McClure 2002).

- Offering legal representation to a group of clients who were seeking unemployment benefits delayed the adjudication process and did not increase their overall likelihood of success with claims in comparison with a group of clients who were not offered representation (Greiner & Pattanayak 2011).
- Providing advice by telephone and in writing to a group of clients about how to manage their debt problems did not significantly increase their knowledge about financial issues or reduce their debt problems, in comparison with a group of clients who were not given advice (Pleasence & Balmer 2007).

It would take further research to assess whether these findings are applicable to the current Australian context.

Evaluating the effectiveness of legal assistance strategies: how are we doing so far?

In preparing this paper, the researchers reviewed NSW legal assistance agencies' most recent annual reports and found that those reports generally included very little information regarding the effectiveness of agencies' activities in terms of achieving outcome goals. In most cases, reporting involved counting, listing or describing activities in terms of the numbers (for example) of legal advice and minor assistance occasions of service, publications distributed, represented cases, telephone enquiries received, and/or participants in community legal education activities. Such activity counts can be acceptable as valid proxy measures of outcome effectiveness, but only when reliable evidence is already available which shows that those activities do, in fact, reliably deliver the desired outcomes. Such evidence is often scarce in the Australian legal assistance sector.

A range of relevant policy and planning documents published in recent years were also examined in order to identify any explicit guidelines regarding how the effectiveness of legal assistance services should be measured and reported. Several influential Australian and international documents published have asked for the measurement of the effectiveness of services and other activities in terms of the outcomes they achieve. However, those documents generally provided little guidance regarding how to measure effectiveness.

In Australia, a recent framework, the *National Partnership Agreement on Legal Assistance Services* (COAG 2010) includes outcome evaluation in a list of performance indicators, but emphasises counting of process events and activities, and measuring clients' satisfaction.

For example, the *National Partnership Agreement on Legal Assistance Services* sought to 'count' the following:

- the number of successful legal aid service outcomes delivered by legal aid commissions, as demonstrated through increase in the number of successful outcomes and client satisfaction feedback
- the number of early intervention services delivered by legal aid commissions
- the total number of services delivered by legal aid commissions
- the development and implementation of an information and referral strategy that ensures comprehensive access to information and seamless referral for preventative and early intervention services, as demonstrated through:
 - client satisfaction feedback
 - the number of referral arrangements identified and implemented
 - the number of referrals.

Even if it was possible to clearly define all of the terms in these indicators (e.g. *Can 'early intervention' be defined for all processes? What is a 'successful legal aid service outcome'?*), the indicators have limited utility as measurements of outcome. All of these performance measures are currently part of the *Review of the National Partnership Agreement on Legal Assistance Services Draft Evaluation Framework Discussion Paper* (Allen Consulting Group 2012)

American and British legal service agencies have developed more comprehensive and outcomes-focused evaluation frameworks. For further details see the American Bar Association's *Standards for the Provision of Civil Legal Aid* (2006) and the Legal Services Corporation's *Performance Criteria* (2007). The UK framework developed by the Legal Services Commission is discussed later in this paper.

The research investment involved in rigorously reporting against such evaluation frameworks should not be underestimated. Apart from measurable aims and clear definitions, they require considerable resources, capacity and the will to implement. Without these, appropriately designed outcomes-focused evaluation will rarely be possible.

First step in measuring effectiveness: what is the aim of the service/intervention?

If we wish to evaluate and thereby improve and optimise the effectiveness, efficiency and cost-effectiveness of legal assistance services, it is important to begin by considering what those services aim to achieve. Identifying specific, measurable outcome goals, and then measuring

the extent to which these goals are achieved, are fundamental requirements for meaningfully evaluating the effectiveness of most types of legal assistance services (Tull 1994).

The following lists a range of example strategies and desired outcomes that may be appropriate to legal assistance strategies, and briefly discusses some of the issues relevant to identifying specific, meaningful, achievable, relevant and measurable outcomes.

Broad nature of outcomes sought

Community legal education

Community legal education activities and the distribution of printed information might be intended to help recipients to:

- increase their knowledge and skills relevant to their legal rights and responsibilities
- increase their knowledge of appropriate procedures for redressing their rights and fulfilling their responsibilities
- decide what they should do in relation to their legal problems
- be aware of the availability of legal advice, assistance, and dispute resolution services, and how to access them
- understand court processes with which they may need to comply.

Legal education and training sessions can also be delivered to non-legal service providers who work with potential clients of legal assistance services, with similar outcome goals in mind, but with the additional goal of enabling the other service providers to incorporate the new skills and knowledge into their work.

Provision of legal advice (minor assistance)

Legal advice services involve an agency providing specific advice regarding a client's individual circumstances, including the options that may be available to resolve a particular legal problem. Minor assistance may, for example, include the service provider making a phone call, writing a letter or drafting a document on behalf of the client. Essentially, the aim is to enable the client to take charge in addressing and resolving their legal problem. A relevant outcome may be the extent to which clients are able to resolve their legal issues with the legal assistance provided.

Provision of legal representation

Identifying measurable outcomes for the provision of legal representation can be challenging, and is in part dependent upon the nature and context of representation. Whereas in some contexts, such as transactional matters, it might be appropriate to measure the achievement of a client's goal, in other contexts, such as in criminal representation,

effectiveness of representation may be more appropriately measured by whether or not the client receives a fair trial.

Dispute resolution

Dispute resolution is commonly 'evaluated' only in terms of the number of cases which settle. However, the Victorian Law Reform Commission's *Civil justice review* (2008) recommended that its effectiveness should also be evaluated in terms of narrowing issues, bringing about earlier resolution of disputes, reducing the length and cost of proceedings, assisting courts to manage their caseloads, and providing fair outcomes. Many of these outcomes would also be applicable to other legal service activities.

Conducting strategic test cases, legal policy work and other activities

Some legal assistance agencies address legal problems which affect many people by providing law reform and policy submissions on proposed legislation, or by conducting strategic test cases to establish legal precedents. In principle, it may be possible to analyse the law reform process to determine if a particular action had an impact on the final outcome. However, many complex factors directly and indirectly influence the outcomes of such activities, and those factors may take a long time to do so. The effectiveness of those activities is therefore difficult to evaluate other than by carefully analysing the processes involved and objectively considering whether a legal assistance agency's efforts directly contribute to whatever campaign, project or service objectives are ultimately achieved.

Defining a measurable aim

From the examples above it is clear that legal assistance agencies address a wide range of problems using different strategies and with a variety of desired outcomes. The methodology used to identify desired outcomes will vary depending upon the issue, strategy and its intent. Great care must be taken to understand these particular circumstances before defining an aim. At times it will be appropriate to consider the client's desired outcomes (such as in certain civil matters) and at times other more systemic outcomes such as access to a fair trial will be the aim (as may be the case in criminal matters). Without a carefully selected and clearly defined aim an evaluation study is unlikely to be successful.

An example of a methodology which is used to identify individual client outcomes in the health sector is Goal Attainment Scaling (GAS). GAS is a flexible procedure for evaluating services which have a variety of possible outcomes. GAS has been used in various health service areas for the past 40 years and may be relevant to identifying outcomes of direct client services such as legal advice, assistance and representation.

Essentially, GAS involves the following steps:

1. Identify the specific problem which the client wishes to have resolved.
2. Record the client's current status relating to the problem.
3. Identify a meaningful and ideally, achievable, goal relating to the problem.
4. Specify how and when the relevant outcome data will be collected.
5. Proceed with provision of service.
6. At an appropriate time and subject to the circumstances of the case, contact the client to determine the extent to which the outcome goal has been achieved.

The first three of these steps are likely to be routinely occurring already (but may not currently be routinely recorded) in cases which involve one-to-one contact with clients.

Given that GAS is a methodology which involves the client in the identification of outcomes, it is important to be aware that in the legal sector, in addition to what the client would like to achieve, where outcomes are often contested and contingent on a range of other factors (e.g. circumstances and merits of the case, funding, findings of the court), there may be particular challenges in using this approach, including:

- Clients may be unaware of or unable to understand and analyse the range of possible outcomes which are inherent in their legal problem.

- Clients may lack objectivity and may have difficulty in realistically assessing the merits of their situation, and may therefore have inaccurately high or low expectations regarding outcomes.
- A client's goal may not be 'fair' or 'just' or legally acceptable.
- Legal problems will often have more than one potential solution, each of which may be associated with different risks, benefits, costs and probabilities of achieving particular goals.

Another approach taken in the UK is based on a list of 'substantive benefits' or possible client outcomes that have been identified for each matter type (see Table 1). Agencies are required to report against the 'benefits' which have been achieved for clients.

Some considerations in accurately measuring effectiveness

Once the outcomes that a strategy or service is aiming to achieve have been identified and clearly defined, it is then possible to consider how to measure the impact of the strategy on these outcomes. Following are the key considerations of determining the sample size, dealing with extraneous factors and selecting an appropriate research methodology.

TABLE 1: UK LEGAL SERVICES COMMISSION'S TARGET BENEFITS TO BE ACHIEVED BY SERVICE PROVISION

<i>Category of legal problem</i>	<i>Example outcome benefits</i>
Consumer contracts	The sum owed or liability is reduced Goods or services are replaced or repaired
Community care	Provision of service is secured, or the costs are covered A vulnerable adult is protected more effectively
Debts	A debt is reduced or written off Affordable payment arrangements are negotiated on behalf of client
Employment	The client receives increased periodical payment or a lump sum An employer's [adverse] action is delayed or prevented
Housing	The client is housed, re-housed or retains home Repairs or improvements are made to the client's home
Immigration	Humanitarian protection is granted Citizenship is granted
Family	The client receives a lump sum or property adjustment The client's liability to pay the other side is reduced or avoided
Clinical negligence	The client receives damages, periodical payments or an apology Other party's action benefits people other than client (e.g. changed policy)
Mental health	Statutory recommendation for guardianship or supervised aftercare Reclassification of form of mental disorder
Personal injury	The client receives damages or periodical payments The client receives an apology

What type of sample of clients is required?

After the outcome goals are identified, it will be necessary to decide who or what to measure in order to assess effectiveness. In general, it is neither necessary nor cost-effective to measure service effectiveness in relation to all of an agency's clients. Surveys and quantitative evaluations usually examine information which is collected from only a sample of clients (e.g. 100 clients who participate in a satisfaction survey) with the intention of generalising the findings to a larger, definable population (e.g. all clients who have accessed an agency's services in the past year). The accuracy with which sample data reflects the population is strongly influenced by the size of the sample and the statistical representativeness of the sample.

In simple terms, if a small sample of the population is taken there is an increased chance that the results obtained will be incorrect. By providing more precision, larger sample sizes enable detection and measurement of smaller, but still 'socially useful', intervention effects.

A large sample size per se does not, however, guarantee that findings will be unbiased and accurate in a representative sense. In many situations, it can be more important, and more useful, to invest limited resources in obtaining an accurately representative sample rather than in obtaining a large sample.

The representativeness of a sample is determined by how potential participants are selected and are then recruited. A generally preferred method of selection is random selection, where each member of the relevant population has an equal chance of being invited to be part of the evaluation sample. In contrast, displaying posters (or other forms of advertising) which ask for volunteers is almost certain to cause a bias, since certain people are more likely to be included. If potential participants are randomly selected (e.g. from an organisation's database), a variety of methods can then be used to recruit individuals, such as letters of invitation, telephone contact, or face-to-face invitations from service providers. Any of these methods can potentially introduce different types of bias into the sample.

Thus, it is very important in surveys and other evaluations that the relevant population is explicitly defined, that participant selection and recruitment methods are carefully defined and are described in detail, and that the participation rates at each stage of an evaluation are reported. Where feasible, it is useful to collect relevant information regarding the invited people who do not participate in an evaluation. Doing this can enable identification of important differences between evaluation participants and non-participants, and can enable statistical adjustments to the sample data so that it will more accurately represent the population.

What about 'extraneous' factors which contribute to the outcomes?

Outcomes that are seen to occur following an intervention are nearly always due to multiple causes, one of which may or may not be the direct effect of the intervention. If the contribution of the non-intervention cause is not subtracted, the intervention will incorrectly be credited with having achieved all of the outcome effect.

For example, consider the experiences of two equivalent groups (Group A and Group B) which each include 100 people who, at the outset, have a particular type of legal problem. Group A (the 'intervention group') is provided with advice by a legal assistance agency whereas Group B (the 'control group') is not provided with such assistance. One year later, the 200 people are contacted and it is found that 60% of the members of Group A have solved their problem, as have 50% of the members of Group B. In these circumstances, the net effectiveness (i.e. the true effectiveness) of the agency's assistance is not 60%, it is actually 10% (60% minus 50%).

If extraneous influences are not eliminated or taken account of in measuring the extent to which an intervention is *effective* in causing outcomes, they will constitute plausible alternative explanations for the outcomes. In other words, the impact could be wrongly attributed to the intervention.

Below are examples of some common extraneous, non-intervention factors—found across a number of social research studies—which can contribute to determining the outcomes of legal problems:

- Many people are likely to seek help with a problem when its severity peaks, even if it does so only briefly. Some problems will thereafter diminish in severity or get resolved before an outcome follow up occurs, even if no assistance is provided. Thus, it is usually inaccurate to conclude that all favourable outcomes are due directly and exclusively to the assistance having been effective.
- Many people who seek help with legal problems have some pre-existing capacity to solve them. That is, they have some relevant knowledge, skills and experience which will help them to solve that problem by themselves, independent of any assistance that they receive.
- Outcomes can be influenced by additional sources of advice and assistance which arise after a formal assistance service starts to be provided and before the outcome follow up occurs.
- The selective loss of some of the participants who were initially recruited into an outcome evaluation can influence results. Participants who have good outcomes can be easier to contact for various reasons and this can produce an overly optimistic set of outcome data.

Evaluation of legal assistance service effectiveness should be based on research methods which eliminate or take into account as many external influences as possible, subject to practical feasibility and available evaluation resources.

Accurately measuring effectiveness requires understanding, selection and implementation of the specific evaluation methods that will provide the most accurate, reliable answers in each particular set of circumstances.

Choosing the appropriate methodology

Evaluation methods range in their capacity to demonstrate that an intervention is effective. In any given set of circumstances, a careful decision needs to be made regarding what constitutes an appropriate evaluation design in view of any known limitations, ethical concerns and the resources available to implement it.

Below is a brief discussion of different research methodologies and some of their strengths and weaknesses in the context of measuring effectiveness.

Quantitative follow up and control group designs

Quantitative designs with control or comparison groups that allow for the measurement and isolation of significant factors are widely recognised as being able to best assess effectiveness. The quantitative designs below are listed broadly in ascending order, according to the control and precision they provide in measuring effectiveness.

- The **single-group design with a follow up** involves one group of clients whose outcomes are recorded at an appropriate point in time after a service or an intervention has been provided.
- The **single-group design with both a baseline assessment and a follow up** involves one group of clients whose status in terms of relevant factors is recorded before a service is provided, and again following provision of service, enabling changes in the clients' status to be measured over time.
- The **non-equivalent control group design** involves comparing the outcomes of one group of clients who are provided with a service with the outcomes of another reasonably similar group of clients who do not receive the service.
- The **equivalent time samples design** involves examining the outcomes of two different groups of clients during two comparable periods of time. For example, the first time period maybe prior to the introduction of a new service and the second period may be after the introduction and stabilisation of the new service.
- **Randomised controlled designs** involve formal random allocation of clients to two or more groups, to create groups which can be regarded as initially being equivalent. One group

receives the intervention which is being evaluated, whereas the other (control) group receives either no intervention or a different intervention. Given appropriate methodological precautions, randomised studies can eliminate the effects of most extraneous causes of outcomes. There are, however, circumstances in which randomised studies are not optimal. For example, many people refuse to participate in randomised evaluations, thereby potentially causing a sample bias problem which may outweigh the benefits of the randomised design. Two examples of randomised designs are:

- The **randomised waiting list control group design** involves clients being randomly allocated to receive a service either immediately or after a fixed delay (e.g. three months).
- The **randomised concurrent control group design with a follow up** involves the two or more groups being monitored over the same time period and thus eliminates the problem of needing to delay provision of service to one group.

It must be acknowledged that, at times, ethical considerations may render control group designs unacceptable in the legal services sector. It is also important to recognise that even when ethically acceptable, the most rigorous studies that include appropriate control groups can have limitations. It can be difficult to define, isolate and measure what is meant by effectiveness. In addition, the more controlled the design, the less likely it is to correspond to the 'real world' in which legal assistance strategies are delivered.

Quantitative designs may also not provide answers to all the questions of interest to legal service providers. Legal service providers may be interested in issues other than the effectiveness of a strategy, such as how the strategy operates in practice and why it is or is not effective. Qualitative methods are often appropriate for investigating such questions.

Qualitative methods

Qualitative research commonly involves interviewing individuals in-depth or conducting focus groups. Qualitative methods may best address issues relating to why an activity has succeeded or how well it has been received by clients. Qualitative methods may also uncover any unintended and unexpected consequences of an intervention. However, as noted above, qualitative methods do not have the same capacity for precise measurement of outcomes as do the range of quantitative designs.

Common qualitative methods include:

- **In-depth interviews** with respondents that allow them to provide detailed opinions and descriptions of their experiences in their own words. However,

participants may not be aware of or understand all important aspects of a situation —they may not ‘know what they don’t know’, may not be objective, may not be able to clearly articulate what they do know, and may not be motivated to provide complete, accurate answers to questions.

- A **focus group** involves a facilitator conducting a discussion with a selected group of (typically) three to ten people. Focus group participants hear each other’s responses to the questions posed by the facilitator and they make comments which are influenced by what other participants say. A focus group can enable a rapid assessment of the extent to which there is a relatively consistent, shared view or a diversity of views about an issue. Focus groups, however, share many of the limitations of in-depth interviews.

Qualitative methods can assist in understanding why intended outcomes are or are not being achieved and can be useful for identifying problems and potential improvements in services or policies. They are most appropriate for developing hypotheses which can later be tested using quantitative research methods. However, qualitative research usually involves only a small number of participants who are not required to be ‘statistically representative’ of the population that they come from. Also, the fact that people state that a service achieved a particular outcome for them does not necessarily mean that it actually did so in their case, or that it would for other people. These limitations mean that qualitative research *cannot* be used to accurately measure outcome effectiveness.

Other designs and approaches to evaluation

Case studies are a common way of describing and providing ‘real life’ examples of the nature and operation of services and policies. Case studies may draw upon any type of qualitative or quantitative evidence. Their credibility is therefore determined by the reliability, accuracy and representativeness of the evidence which they cite. Case studies can be very persuasive and illuminating, however they often do not take into account all of the possible alternative explanations (‘causes’) of outcomes. Thus, case studies should be considered cautiously in terms of their ability to provide reliable evidence of effectiveness.

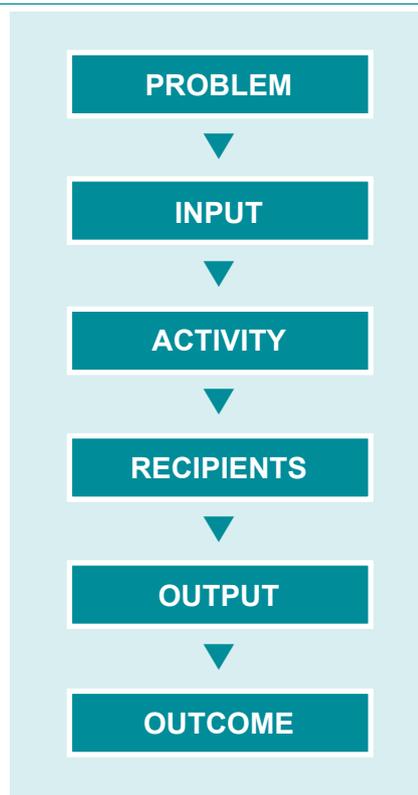
Client satisfaction surveys, if conducted in a methodologically sound manner (Oliver 1997), can be useful for measuring the quality of specific aspects of an assistance process and can enable problems to be isolated. Satisfaction measurement can also be useful in measuring very immediate, but perhaps unsustainable, outcomes. However, as explained by Sitzia and Wood (1997), there are many influences which can bias and limit the accuracy and usefulness of satisfaction surveys:

- Clients who consent to participate in a satisfaction survey may have quite different attitudes in comparison with clients who do not participate.
- Satisfaction is strongly influenced by clients’ perceptions of any discrepancy between their expectations (preferences, feelings of entitlement, etc.) regarding the benefits of the service and their actual experiences of that service. Disadvantaged clients in particular may be pessimistic and may not believe in the legitimacy of their own desires and expectations. That is, clients may be ‘satisfied’ with outcomes that are quite unsatisfactory when viewed objectively.
- Satisfaction ratings can be influenced by ‘social desirability’ bias—clients may report greater satisfaction than they actually feel because they believe that positive comments are more socially acceptable. In addition, clients may be reluctant to complain in a satisfaction survey for fear of receiving unfavourable treatment in the future, particularly if the data collection is not anonymous.

Program logic models or ‘outcome models’ (see Figure 2) are not ‘methodology’ but are essentially diagrammatic representations of the sequence of steps which are considered necessary for a project to achieve its intended outcomes.

Typically, the diagram identifies resource inputs, activities, outputs and outcomes. It explicitly identifies the assumptions that link each step to the next step. A program logic model can facilitate the challenging and refining of those assumptions, and

FIGURE 2: PROGRAM LOGIC MODEL



can provide a framework for designing evaluation questions. It is important to appreciate that such models only plausibly represent a simplified summary of the expected reality—they do not actually test or prove that the assumptions are valid, and they do not necessarily include all the factors which may influence a program's outcomes.

A note about cost-effectiveness and cost-benefit analysis

A strategy that is shown to be effective in achieving a desired outcome may be costly and in this respect not represent the same value for money as another strategy that does so more efficiently. In the real world of fiscal restraint, the relative costs of different strategies need to be considered.

Economic evaluation methods such as cost-effectiveness analysis (CEA) and cost-benefit analysis (CBA) are essentially ways of measuring efficiency. Examining the resources and costs that go into an intervention in relation to its benefits, outputs or outcomes provides a criterion which can be used to make 'rational' decisions about how best to allocate limited resources.

It is beyond the scope of this paper to provide a detailed discussion of CEA and CBA methods, however, a brief overview follows and the final page of this paper lists further reading such as Bamberger, Rugh and Mabry (2012).

- **Cost-effectiveness analysis** compares the relative costs and the outcomes (effects) of two or more interventions that are potentially competing for the same resources. It is used to determine which intervention achieves the most favourable outcomes or the greatest quantity of particular outcomes at a given cost. The result of a CEA is expressed either in the form of a cost-effectiveness ratio (e.g. the number of legal problems which are solved per \$1000 spent), or an *incremental cost-effectiveness ratio* (i.e. the difference in effectiveness of two or more interventions divided by the difference between their costs).
- **Cost-benefit analysis** involves comparing the total expected cost of two or more options against the total expected net benefits (i.e. including any negative consequences) to see whether the benefits outweigh the costs and by how much. CBA generally requires that all outcomes are measured in (or converted into) monetary terms to make them comparable to each other and to the costs. CBA can be used to examine which of two or more interventions achieves a given level of benefit at the lowest cost, and it can provide a basis for deciding how best to allocate a budget in order to achieve the maximum 'overall benefit'.

Fundamental to both types of analysis is detailed costing of the interventions or services, which involves either measuring or carefully estimating

the quantities of all resources involved in providing each intervention and then assigning prices to those resources. CEA and CBA can only be accurately carried out with good quality data regarding the costs and consequences (outcome effectiveness) of the interventions that are being evaluated.

Conclusions and recommendations

The purpose of this discussion paper is to encourage and support the evaluation of effectiveness in the legal assistance sector. This paper has therefore discussed concepts and processes involved in conducting outcomes-focused evaluations. Interest and demand for such evaluations has been expressed in recent policy and planning documents. However, to date, few effectiveness evaluations with clearly defined aims and appropriate methodologies have been conducted in the legal assistance sector. In addition, certain practical, resource and ethical issues can present barriers to conducting effectiveness evaluations.

This paper has argued that in the context of evaluating outcomes, effectiveness refers to a causal link between an activity and an outcome. Accordingly, it is only through research designs that allow for precise measurement and isolation of significant non-intervention influences that effectiveness can be accurately assessed. For this reason quantitative research that involves appropriate sampling and an appropriate control or comparison group will best assess the effectiveness of strategies. Other research methods may best address issues relating to why an activity has succeeded or how well it has been received by clients.

The evaluation methods required to assess effectiveness can require considerable resources and expertise. Given that funding for such research tends to be very limited in the legal assistance sector, it may be appropriate to consolidate resources and expertise so that fewer, well designed evaluations are produced, rather than more evaluations which fall short of accurately assessing effectiveness. In addition, resources should be provided to increase in-house evaluation capacity and evaluation activity in the legal assistance sector, and to develop a detailed, outcome-based evaluation framework for legal assistance services.

SUMMARY: KEY CONSIDERATIONS IN CONDUCTING EVALUATIONS OF EFFECTIVENESS

- A clearly defined and measurable aim is required.
- A sufficient and representative sample is needed.
- Research design must allow for the isolation and measurement of relevant factors and the subtraction of extraneous factors.
- Qualitative methods, in general, cannot be used to accurately measure outcome effectiveness.
- Quantitative designs which include an appropriate control or comparison group are the most appropriate designs for accurately measuring outcome effectiveness.

References

- Askari, A, Mayhew, A, Al-Alawi, M A, Grimshaw, J, Winkens, R, Glidewell E, Pritchard, C, Thomas, R, Fraser, C 2011, *Interventions to improve outpatient referrals from primary to secondary care (review)*, The Cochrane Collaboration, Wiley, <<http://onlinelibrary.wiley.com/doi/10.1002/14651858.CD005471.pub2/pdf>>.
- Allen Consulting Group 2012, *Review of the National Partnership Agreement on Legal Assistance Services Draft Evaluation Framework Discussion Paper*, prepared for the Australian Government Attorney-General's Department, <<http://www.ag.gov.au/Legalaid/Documents/evaluation%20framework%20discussion%20paper%20-%202027%20July%202012.pdf>>.
- American Bar Association (ABA) 2006, *Standards for the Provision of Civil Legal Aid*, ABA, <http://www.legalaidnc.org/public/participate/legal_services_community/ABA_StandardsfortheProvisionofCivilLegalAid_Aug_2006.pdf>.
- ARTD Consultants 2008, *Developing a performance monitoring framework for community legal centres*, National Association of Community Legal Centres, Australia, <<http://www.naclc.org.au/resources/Performancemonitoringfinalreport151008.pdf>>.
- Coumarelos, C, Wei, Z & Zhou, A H 2006, *Justice made to measure: NSW legal needs survey in disadvantaged areas*, Law and Justice Foundation of NSW, Sydney.
- Council of Australian Governments (COAG) 2010, *National Partnership Agreement on Legal Assistance Services*, COAG, <http://www.federalfinancialrelations.gov.au/content/national_partnership_agreements/Other/Legal_Assistance_Services_NP.pdf>.
- Greiner, D J, Pattanayak, C W 2011, 'Randomized evaluation in legal assistance: what difference does representation (offer and actual use) make?', *Yale Law Journal*, vol. 121, 2011, <<http://ssrn.com/abstract=1708664>>.
- Ker, K, Roberts, I G, Collier, T, Beyer, F R, Bunn, F, Frost, C 2008, *Post-license driver education for the prevention of road traffic crashes (review)*, The Cochrane Collaboration, Wiley, <http://www.thecochranelibrary.com/userfiles/ccoch/file/Safety_on_the_road/CD003734.pdf>.
- Kurban, N K, Savas, H, Cetinkaya, B, Turan, T, Karta, A 2010, 'Evaluation of nursing students' training in medical law', *Nursing ethics*, 17, pp. 759–768, <<http://nej.sagepub.com/content/17/6/759>>.
- Legal Services Commission 2012, *The LSC manual, volume 3 Part C The Funding Code: Decision Making Guidance*, <http://www.legalservices.gov.uk/manual_r03_volume_3_pt_c.pdf>.
- Legal Services Corporation 2007, *Legal Services Corporation: performance criteria*, 2007 ed., <<http://www.lsc.gov/sites/default/files/LSC/pdfs/LSCPerformanceCriteriaReferencingABASstandards.pdf>>.
- Marshall, M, Gray, A, Lockwood, A, Green, R 2010, *Case management for people with severe mental disorders (review)*, The Cochrane Collaboration, Wiley, <<http://onlinelibrary.wiley.com/doi/10.1002/14651858.CD000050/pdf/standard>>.
- McClure, T E 2002, 'Postjudgment conflict and cooperation following court-connected parent education', *Journal of Divorce & Remarriage*, 38, pp. 1–16.
- Pleasence, P 2006, *Causes of action: civil law and social justice*, 2nd ed., Stationery Office, Norwich.
- Pleasence, P & Balmer, N J 2007, 'Changing fortunes: results from a randomized trial of the offer of debt advice in England and Wales', *Journal of Empirical Legal Studies*, 4, pp. 651–673.
- Sitzia, J & Wood, N 1997, 'Patient satisfaction: a review of issues and concepts', *Social Science & Medicine*, 45, pp. 1829–1843.
- Stead, L F, Perera, R, Lancaster, T 2006, *Telephone counselling for smoking cessation (review)*, The Cochrane Collaboration, Wiley, <<http://www.thecochranelibrary.com/userfiles/ccoch/file/World%20No%20Tobacco%20Day/CD002850.pdf>>.
- Tull, J A 1994, 'Assessing quality and effectiveness in legal services programs for the poor', *International Journal of the Legal Profession*, 1, pp. 211–222.
- Victorian Law Reform Commission (VLRC) 2008, *Civil Justice Review, Report 14*, VLRC, <<http://www.lawreform.vic.gov.au/sites/default/files/VLRC%2BCivil%2BJustice%2BReview%2B-%2BReport.pdf>>.
- Wissler, R L 2010, 'Representation in mediation: what we know from empirical research', *Fordham Urban Law Journal*, 37, pp. 419–471.

Resources for further reading

- Bamberger, M, Rugh, J & Mabry, L 2012, *Real world evaluation: working under budget, time, data, and political constraints*, 2nd ed., Sage, USA.
- Barry, B 1995, *Justice as impartiality*, ch. 6, Oxford University Press, USA.
- Bell, J 2005, *Doing your research project*, 4th ed., Open University Press, UK.
- Davidson, E J 2004, *Evaluation methodology basics: the nuts and bolts of sound evaluation*, Sage, USA.
- Foxwell, C 2001, *The Service Industry Handbook: Guide to ISO 9001:2000*, Standards Australia International.
- Oliver, R L 1997, *Satisfaction: a behavioural perspective on the consumer*, McGraw-Hill.
- Rao, A, Carr, L P, Dambolena, I, Kopp, R J, Martin, J, Rafii, F, Schlesinger, P F 1996, *Total quality management: a cross functional perspective*, Wiley, USA.
- 'Program evaluation', webpage on RAND Corporation website, accessed September 2012, <<http://www.rand.org/topics/program-evaluation.html>>
- Riecken, H W & Boruch, R F 1974, *Social experimentation: a method for planning and evaluating social intervention*, Academic Press.
- Zeithaml, V A & Bitner, M J 2003, *Services marketing*, 3rd ed., McGraw-Hill Irwin.

Law and Justice Foundation of NSW

What works? program

The Law and Justice Foundation of NSW is an independent, statutory, not-for-profit organisation established in 1967. We aim to contribute to the development of a fair and equitable justice system that addresses the legal needs of the community, and to improve access to justice, particularly for socially and economically disadvantaged people.

Over the past 10 years, the Foundation has built a significant and well respected body of knowledge about the legal and access to justice needs of disadvantaged people in NSW. The logical next step for our research program is to identify strategies that will meet that need. Using our A2JLN analysis to prioritise areas for 'what works' analysis, the Foundation is building an evidence base of what is effective to meet these legal and access to justice needs.

In order to do this we are undertaking:

- systematic reviews of evidence to identify what is currently known about what is effective in assisting people to meet their legal needs
- evaluations of new projects aimed to assist people to access the justice system, in order to learn new lessons.

Published reports

Managing mortgage stress: evaluation of the Legal Aid NSW and Consumer Credit Legal Centre Mortgage Hardship Service

The evaluation process, which culminated in this report, has provided a valuable opportunity for the Foundation to work closely with two key legal assistance agencies to monitor and evaluate strategies and outcomes of a service introduced specifically to assist people in NSW experiencing problems with their mortgage.

From this partnership, the Consumer Credit Legal Centre and Legal Aid NSW have gained independent and expert assistance in measuring and understanding the impact of their work.

The study has provided the Foundation with an excellent opportunity to learn more about what is effective in meeting legal need. It has enabled us to examine the impact of providing prompt and responsive legal assistance and, in particular, to develop research methodologies to assess these types of early intervention strategies.

Outreach legal services to people with complex needs: what works? (Justice Issues Paper 12)

This paper examines outreach legal services to disadvantaged people with complex needs. In undertaking this first systematic review, the Foundation had two purposes:

- to synthesise the best available evidence on the effectiveness of outreach legal services and the features which contribute to effectiveness
- to trial and refine a methodology
- to conduct rigorous systematic reviews of qualitative and mixed method research and evaluation which are common in the field of socio-legal research.

The resulting paper drew together evidence to inform service providers about the features of outreach legal services that increase effectiveness for people with complex needs. It also described for the first time a set of criteria by which qualitative socio-legal research can be assessed for quality and for inclusion in 'what works' style investigations.



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