



Legal needs of people with a disability in Australia

Abstract: Like a number of past surveys, the Legal Australia-Wide (LAW) Survey found that people with a disability are particularly vulnerable to legal problems and are likely to struggle with the weight of the legal problems they face. The LAW Survey showed that people with a disability had high prevalence of legal problems, including high prevalence of substantial legal problems, multiple legal problems and a wide range of different types of problems. In fact, they were the only disadvantaged group to have increased prevalence on all of the measures examined. In addition, LAW Survey respondents with a disability were more likely than other respondents to take action and more likely to seek advice in response to their legal problems. People with a disability were also less likely to have finalised their legal problems.

Source

This paper is a simplified excerpt from the report, **Legal Australia-Wide Survey: Legal need Australia** by Christine Coumarelos, Deborah Macourt, Julie People, Hugh M. McDonald, Zhigang Wei, Reiny Iriana and Stephanie Ramsey (Law and Justice Foundation of NSW, 2012).

About the LAW Survey

The LAW Survey provides a comprehensive assessment of a broad range of legal needs on a representative sample of the population. It covered 129 different types of civil, criminal and family law problems. It examined the nature of legal problems, the pathways to their resolution and the demographic groups that struggle with the weight of their legal problems.

With 20,716 respondents across Australia, including over 2000 in each state/territory, the LAW Survey allows for in-depth analysis at both the state/territory and national level. The major findings were published in a series of nine reports, with a report on Australia as a whole and each state/territory. Some key findings were:

- legal problems are widespread and often have adverse impacts on many life circumstances
- disadvantaged people are particularly vulnerable to legal problems
- many people do nothing to resolve their legal problems and achieve poor outcomes
- most people resolve their legal problems without using lawyers or the formal justice system.

The nine LAW Survey reports are available at:

www.lawfoundation.net.au

Past legal needs surveys have reliably shown that people with a disability have increased vulnerability to a wide range of legal problems and have identified this group as one of the most vulnerable demographic groups (Coumarelos, Wei & Zhou 2006, Currie 2007; Pleasence 2006).

Measuring legal needs

A representative sample of 20 716 respondents across Australia aged 15 years or over were interviewed, including 4095 respondents with a disability. Respondents were asked whether they had experienced a legal problem in the 12 months prior to interview. The LAW Survey covered 129 different types of civil, criminal and family law problems. These legal problems were categorised into 12 problems groups—accidents, consumer, credit/debt, crime, employment, family, government, health, housing, money, personal injury and rights.

In the LAW Survey, ‘disability’ was defined as any long-term illness or disability that had already lasted, or was likely to last, at least six months, and included a wide range of sensory, intellectual, learning, mental health, neurological and physical conditions.

Predicting the prevalence of legal problems

A series of regression analyses were conducted using the Australian LAW Survey data to examine the demographic groups that had increased likelihood of experiencing:

- legal problems overall—that is, increased likelihood of experiencing a legal problem of any type
- substantial legal problems—that is, increased likelihood of experiencing a legal problem that had a ‘moderate’ or ‘severe’ impact on everyday life
- multiple legal problems—that is, increased likelihood of experiencing a greater number of legal problems
- problems from each of the 12 legal problem groups.

The regression results using Australian LAW Survey data replicated past findings that vulnerability to legal problems is not random but varies according to problem type and demographic characteristics. In particular, like a number of past surveys, the LAW Survey showed that several disadvantaged or socially excluded groups had increased vulnerability, and the increased vulnerability of people with a disability was one of the strongest effects. In fact, people with a disability were the only disadvantaged group that had increased prevalence according to all of the measures examined. The above regressions were repeated for each state/territory and showed that people with a disability had increased prevalence according to the greatest number of measures across jurisdictions. Further details of the findings for Australia as a whole are provided below.

Disability and the overall prevalence of legal problems

The regression results showed that people with a disability had odds of experiencing legal problems overall that were about twice as high as the odds for other respondents. Sixty-one per cent of respondents with a disability experienced one or more legal problems compared to 47 per cent of other respondents.

Disability and substantial legal problems

When compared to their counterparts, people with a disability had significantly higher odds of experiencing substantial legal problems. In fact, people with a disability were almost three times as likely to experience substantial legal problems compared to other respondents.

Disability and multiple legal problems

People with a disability were almost twice as likely to experience multiple legal problems compared to other respondents.

Disability and different types of legal problems

The regressions on each problem group revealed that people with a disability had increased odds of experiencing problems from each of the 12 problem groups examined.

Predicting strategy in response to legal problems and finalisation of legal problems

Regression analyses using the Australian data were also conducted to examine how demographic characteristics are related to the strategies used in response to legal problems and the finalisation of legal problems.

In terms of strategy, the LAW Survey defined three broad strategies that respondents took in response to their legal problems: seeking advice from a legal or non-legal professional, handling problems without professional advice and taking no action. Two regression analyses were conducted on strategy. The first regression analysis examined the likelihood of taking action to resolve legal problems, and the second regression analysis examined the likelihood of seeking advice when action was taken to resolve problems.

In terms of finalisation, a regression analysis examined the relationship between demographic characteristics and whether legal problems had been finalised by the time of interview.

Disability and strategy

The regression analyses showed that people with a disability had significantly higher odds (1.4) of taking action and seeking advice (1.2) when action was taken.

Disability and finalisation of legal problems

Respondents with a disability had significantly lower odds of finalisation (0.8) than other respondents. Respondents with a disability had a finalisation rate of 58 per cent, while those without a disability had a finalisation rate of 66 per cent.

Conclusion

The LAW Survey found that Australians with a disability stood out as the disadvantaged group that most reliably had high prevalence of legal problems according to a variety of measures. In fact, they were the only disadvantaged group that had high prevalence of legal problems according to all of the prevalence measures examined – that is, legal problems overall, substantial legal problems, multiple legal problems and problems from all 12 legal problem groups.

People with a disability often have many non-legal needs in addition to their legal needs. They tend to suffer multiple types of disadvantage, such as poverty, poor housing, unemployment and crime victimisation, and, consequently, they have been described as the ‘most socially excluded’ of all disadvantaged groups (Australian Bureau of Statistics 2004a, 2004b; Howard 1999; O’Grady, Pleasence, Balmer, Buck & Genn 2004; Pleasence 2006). It has been argued that the link between disability and legal problems is bidirectional. Not only are people with a disability more likely to experience legal problems by virtue of their disadvantaged status, but the impact of their legal problems may further entrench their social exclusion (Coumarelos et al. 2006; O’Grady et al. 2004; Pleasence 2006). The multiple legal and non-legal problems faced by people with a disability indicate that they may require both legal assistance and broader non-legal support in order to achieve complete resolution of their legal problems. Notably, the coordination of legal and health services has been advocated to address their combined legal and health needs (Balmer, Pleasence, Buck & Walker 2006; Coumarelos & Wei 2009; Pleasence, Buck, Balmer, O’Grady, Genn & Smith 2004). Given that their legal and other needs can span many life areas, people with a disability may also benefit from additional human services, such as financial, housing, welfare, social and family services.

The lower levels of finalisation for people with a disability indicate that they may have a reduced capacity to achieve legal resolution. A number of factors could contribute to this reduced capability, such as the possibility that they have lower legal knowledge or legal capability, the fact that they have

to deal with a greater number of substantial legal problems and the possibility that their health and other non-legal needs complicate the legal resolution process.

The LAW Survey finding that people with a disability were more likely to seek advice when they took action is in keeping with past surveys (Balmer, Buck, Patel, Denvir & Pleasence 2010; Currie 2007). This finding may partly reflect that they have advisers whom they routinely consult about their health and other non-legal needs and, as a result, may turn to these established advisers when legal problems arise. However, it is also possible that they tend to seek advice for their legal problems precisely because they find it difficult to handle these problems alone, without assistance. The tendency of people with a disability to seek advice further underscores the value of this group being signposted to appropriate, quality legal and non-legal assistance in order to achieve satisfactory legal resolution.

References

- Australian Bureau of Statistics 2004a, *Australian social trends*, 2004, cat. no. 4102.0, ABS, Canberra.
- Australian Bureau of Statistics 2004b, *Measures of Australia's progress: multiple disadvantage*, cat. no. 1370.0, ABS, Canberra.
- Balmer, NJ, Buck, A, Patel, A, Denvir, C & Pleasence, P 2010, *Knowledge, capability and the experience of rights problems*, Plenet, London.
- Balmer, NJ, Pleasence, P, Buck, A & Walker, HC 2006, 'Worried sick: the experience of debt problems and their relationship with health, illness and disability', *Social Policy and Society*, vol. 5, no. 1, pp. 39–51.
- Coumarelos, C & Wei, Z 2009, *The legal needs of people with different types of chronic illness or disability*, Justice issues, no. 11, Law and Justice Foundation of NSW, Sydney, <www.lawfoundation.net.au/report/justiceissues11>.
- Coumarelos, C, Wei, Z & Zhou, AZ 2006, *Justice made to measure: NSW Legal Needs Survey in disadvantaged areas*, Law and Justice Foundation of NSW, Sydney, <www.lawfoundation.net.au/report/survey2006>.
- Currie, A 2007, *The legal problems of everyday life: the nature, extent and consequences of justiciable problems experienced by Canadians*, Department of Justice Canada, Ottawa.
- Howard, M 1999, *Enabling government: joined up policies for a national disability strategy*, Fabian Society, London.
- O’Grady, A, Pleasence, P, Balmer, N, Buck, A & Genn, H 2004, 'Disability, social exclusion and the consequential experience of justiciable problems', *Disability & Society*, vol. 19, no. 3, pp. 259–272.
- Pleasence, P 2006, *Causes of action: civil law and social justice*, 2nd edn, Stationery Office, Norwich.
- Pleasence, P, Buck, A, Balmer, NJ, O’Grady, A, Genn, H & Smith, M 2004, *Causes of action: civil law and social justice*, Stationery Office, London.

