



Limits of legal information strategies: when knowing what to do is not enough

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Abstract: *One aim of community legal information and education strategies is to promote community understanding of law and what to do about legal problems. Key to this is a focus on providing the knowledge required for individuals to identify that they have a legal issue and to take appropriate action towards its resolution. While the Legal Australia-Wide (LAW) Survey indicates that ‘not knowing what to do’ about a legal problem is indeed a substantial barrier to taking action, how often is it the only reason for inaction? Why else may people not take action and what does this mean for legal assistance strategies?*

*Further analyses of the LAW Survey demonstrate that ‘not knowing what to do’ about a legal problem was rarely the only reason respondents cited for doing nothing to try to resolve a legal problem and was more commonly reported in combination with several other reasons for inaction. Indeed, two distinct clusters of reasons for inaction were observed: one, including ‘not knowing what to do’, pointing to ‘**constrained**’ inaction and the other pointing to ‘**informed**’ or appropriately decided inaction. Policy and service implications of the findings are discussed. To be effective, community legal information and education strategies may need to extend beyond the provision of awareness, knowledge and understanding of legal issues to also develop the skills and confidence (or motivation) required to encourage action in response to legal issues.*

This paper presents **new findings** from the Legal Australia-Wide Survey (LAW Survey). The first major findings for Australia as a whole were published in **Legal Australia-Wide Survey: legal need in 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 2,000 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. The nine LAW Survey reports are available at www.lawfoundation.net.au/publications.



Background

The Legal Australia-Wide (LAW) Survey indicated that some people who experience a legal problemⁱ do not take any action to try and resolve it.

Across Australia, respondents sought advice for 51 per cent of legal problems, handled 31 per cent of legal problems without advice and took no action for the remaining 18 per cent of legal problems.ⁱⁱ When no action was taken, respondents were then asked if they agreed or disagreed with each of a list of possible reasons.ⁱⁱⁱ

Overrepresented among respondents who didn't do anything to try to resolve their legal problems were people with a non-English main language, people with lower levels of education, those who had been unemployed in the prior 12 months and Indigenous people living in remote areas (Coumarelos, Macourt, People, McDonald, Wei, Iriana, Ramsey 2012; Iriana, Pleasence & Coumarelos, 2013). Of concern, people who took no action in response to legal problems achieved the poorest outcomes (Coumarelos et al. 2012).

A key explanation for people not taking action is a lack of knowledge — simply, that they 'don't know what to do'. Legal information and education strategies — such as community legal education (CLE), rapidly growing repositories of online information resources, plain legal self-help guides and pamphlets — are commonly promoted as tools to overcome knowledge barriers and better assist people to identify and resolve legal problems early and prevent them escalating.

But is the picture a bit more complex than this? While it may be common that people do not know what to do about their legal problem, how often is this *the only reason* for inaction? What other reasons do people cite for not taking action for their legal problems? And, when are the reasons for inaction sensible in the circumstances, and when do they signal unmet legal need?^{iv}

Recent legal needs research points to legal capability as relevant to understanding legal problem-solving

behaviour amongst different groups of people. Legal capability refers to the personal characteristics or competencies (knowledge, skill, psychological, resources) needed to effectively resolve legal problems (Balmer et al. 2010; Coumarelos et al. 2012; McDonald & People 2013; Pleasence, Coumarelos, Forell & McDonald 2014).

This paper reports new analyses of reasons for inaction using the LAW Survey national dataset, and asks what implications do these other reasons have for legal information and education strategies?

New analyses from the LAW Survey

LAW Survey respondents were able to endorse (say 'yes' or 'no' to) a range of reasons for taking no action to try to resolve a legal problem (see Table 1). Table 1 reports two percentages: first, the proportion of problems where each reason was the *only* reason cited for taking no action; and second, the proportion of problems where the reason was cited as *one* (of one or more) of the reasons for taking no action.

Table 1 indicates that respondents rarely indicated only one reason for inaction. For example, respondents cited 'didn't know what to do' as *the only* reason for inaction for less than one per cent (0.6%) of legal problems where no action was taken. Similarly, each of the other reasons for inaction was the only reason cited for a small proportion of problems (0.1 to 4.2%). The two most frequently cited single reasons for inaction were that the problem was resolved quickly (4.2%) and that trying to take action would make no difference (2.3%).

Table 1 secondly shows that respondents cited 'didn't know what to do' as a reason for not taking action for only 21.7% of the problems where no action was taken. The most frequently cited reasons for doing nothing about a problem were that 'it would make no difference' (57.0%), 'the problem was resolved quickly' (56.7%) and 'that the problem was not very important' (43.6%). Among these more common reasons may be quite informed responses to the problem at hand, where there is an appropriate reason for inaction.^v

Table 1: Reasons for taking no action to resolve a legal problem

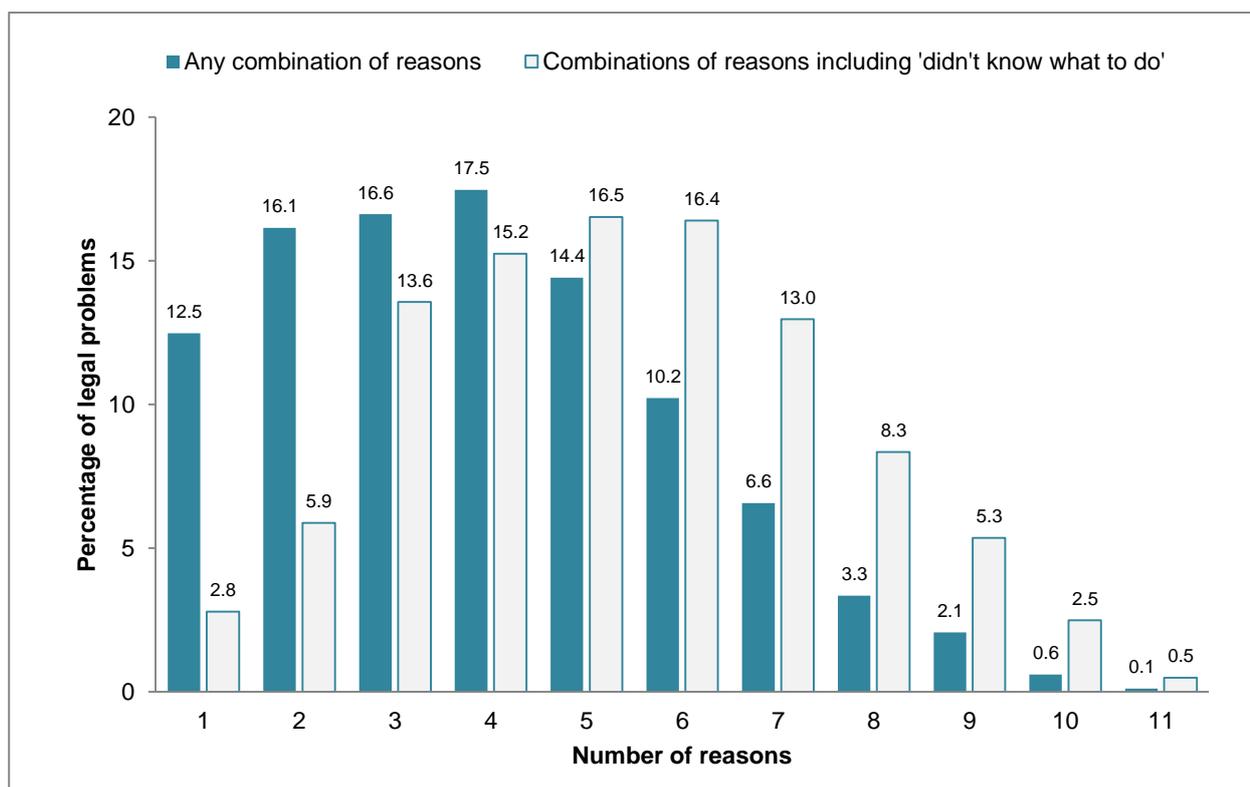
Reasons for taking no action	Only reason cited %	Cited as a reason %
Problem resolved quickly	4.2	56.7
Would make no difference	2.3	57.0
Didn't need information/advice	1.0	39.8
Problem not very important	0.7	43.6
Didn't know what to do	0.6	21.7
Was at fault/there was no dispute	0.5	27.7
Would be too stressful	0.3	30.0
Would take too long	0.3	35.8
Would damage relationship with other side	0.2	12.9
Had bigger problems	0.2	31.5
Would cost too much	0.1	27.4
Total	12.5	

Note: n=3305 legal problems. The total percentage of single reasons includes 2.2 per cent of reasons in the open-ended 'other reason' option. Problems where respondents did not provide any reason for not taking action were excluded (n=191).

Figure 1 reports the number of reasons respondents provided for not taking action to try and resolve a legal problem. The figure shows first, the total number of reasons endorsed where *any* combination of reasons was provided, and second, the number of reasons where 'didn't know what to do' was cited as one of the combination of reasons.

Figure 1 shows that 'didn't know what to do' was identified as the only reason for taking no action for 2.8 per cent (or 20) of the 719 problems where 'didn't know what to do' was cited by respondents as a reason for inaction.^{vi}

Figure 1: The number of reasons provided for taking no action to resolve a legal problem.



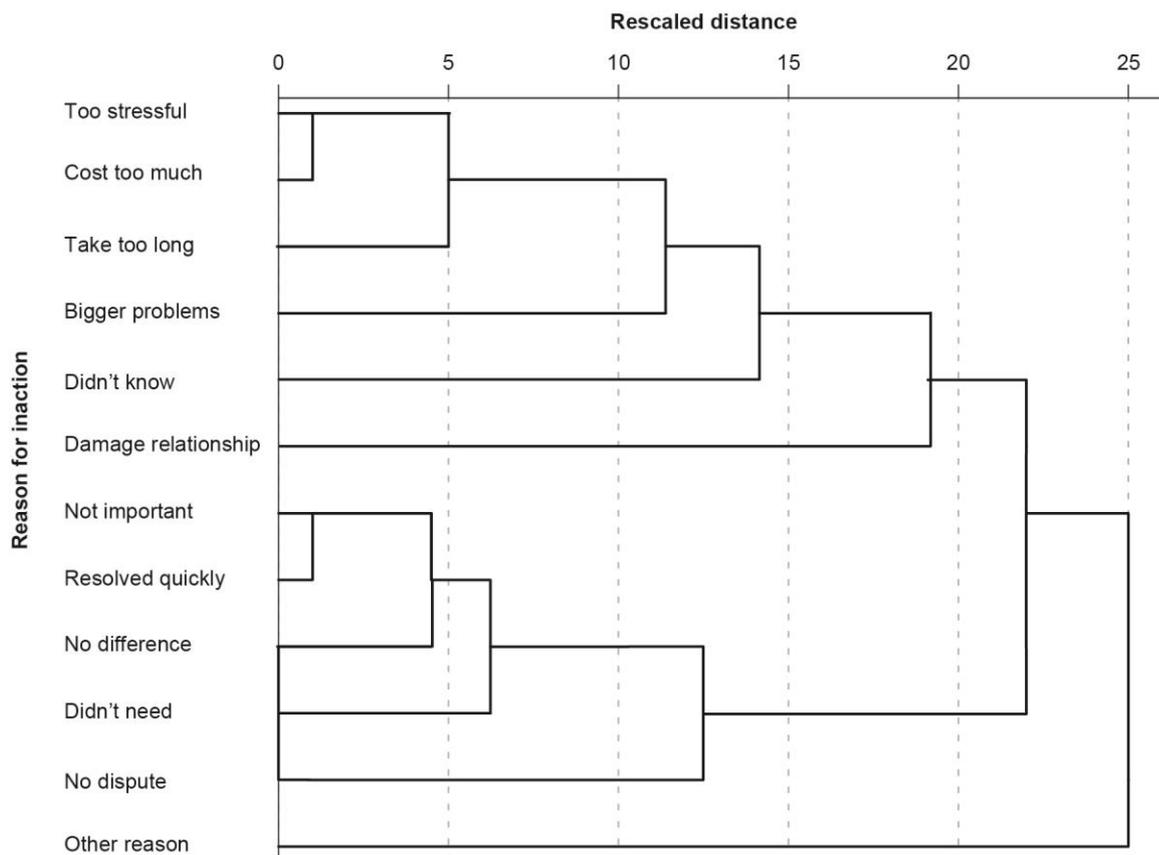
Note: n=3305 legal problems for any combination of reasons and 719 legal problems for combinations of reasons that included 'didn't know what to do'. Reasons in the open-ended 'other reason' option are not included in the count of reasons.

Respondents identifying ‘didn’t know what to do’ as a reason for inaction tended to also cite a comparatively higher number of other reasons for inaction. In Figure 1 this is evident in ‘didn’t know what to do’ tending to be cited in combination with a higher number of other reasons. For instance, five or more reasons for inaction were cited for 65.5 per cent of problems when ‘didn’t know what to do’ was endorsed as one of the reasons for inaction. In contrast, *any* five or more reasons for inaction were cited for only 37.7 per cent of problems where no action was taken. ‘Didn’t know what to do’ therefore tended to feature among a complexity of reasons for inaction. Other reasons more commonly cited in the combination with five or more reasons included that it ‘would be too stressful’, ‘would take too long’, ‘would cost too much’, ‘would damage the relationship with the other side’ or that the respondent ‘had bigger problems’.^{vii}

To explore how the different reasons may interact and co-occur hierarchical cluster analysis was used. Cluster analysis can determine whether particular reasons for inaction tend to be provided for the same problem, but cannot determine whether there is any causal relationship between reasons for inaction. The cluster analysis placed reasons for inaction that tended to be provided together in the same cluster, and reasons that tended not to co-occur in different clusters.

Figure 2 summarises the results of the cluster analysis in the form of a tree diagram. Note that branches of the tree diagram join together reasons for inaction that tended to co-occur – the shorter the branch, the greater the co-occurrence. Figure 2 revealed two clear clusters of reasons for inaction.^{viii}

Figure 2: Tree diagram — clustering of reasons for inaction



Note: N=3305 problems. The cluster analysis used complete linkage with Jaccard scores.

The first cluster appears to indicate **constraints to action**, including the reasons that it ‘would be too stressful’, ‘would cost too much’, ‘would take too long’, that the respondent ‘had bigger problems’, ‘didn’t know what to do’ and it ‘would damage the

relationship with the other side’. By contrast, the second cluster appears to indicate **informed inaction**, and includes the reasons that ‘the problem not very important’, ‘the problem resolved quickly’, ‘it would make no difference’, ‘didn’t need

information/advice' or there was 'no dispute/it was the respondent's fault'.^{ix} Notably, the reasons for inaction in the first cluster were ones that tended to be cited less frequently (see Table 1), but when they were cited, tended to involve a higher number of reasons for inaction per problem, than the second cluster.

As noted above, respondents cited that they 'didn't know what to do' for a total of 21.7 per cent of the legal problems where no action was taken. The LAW Survey also measured respondents' awareness of public legal services. Overall, for nearly half of the legal problems where no action was taken (49.0%), respondents were rated as having low awareness. Critically, respondents with low awareness of public legal services were significantly more likely to cite that they 'didn't know what to do' as a reason for inaction compared to respondents with high awareness of public legal services (56.9% and 43.1%, respectively).^x Perhaps unsurprisingly, lower awareness of public legal services is reflected in higher inaction due to not knowing what to do.

Discussion and conclusion

One aim of community legal information and education strategies is to promote community understanding of law and what to do about legal problems. However, these new analyses from the LAW Survey indicate that:

- 'didn't know what to do' was rarely the only reason that respondents cited for not taking action about a legal problem.
- 'didn't know what to do' was more commonly among one of several reasons for inaction.
- 'didn't know what to do' was found to cluster with the following reasons for inaction: that it 'would be too stressful', 'would take too long', 'would cost too much', 'would damage the relationship with the other side' and that the respondent 'had bigger problems'.
- a separate cluster of reasons was observed which was indicative of informed or appropriate inaction.
- respondents who had low awareness of public legal services were significantly more likely to cite 'didn't know what to do' as a reason for inaction.

Whether well-founded or not, issues of stress, time, cost, damaging relationships and having bigger problems to deal with are bound up together and form complex and inter-locked barriers to action. This particular cluster of reasons are also indicative of **constraints** on acting to effectively resolve legal

issues, rather than **informed** decisions to appropriately take no action in the circumstances (see also Balmer et al. 2010; Coumarelos et al. 2012). They are also striking in the way in which they signal potential unmet legal need and point to limited legal capability (see Coumarelos et al. 2012; Pleasence et al. 2014).

The findings are also consistent with earlier research that barriers to action are complex, contextual and linked to legal capability (Balmer et al. 2010; Coumarelos et al. 2012; Genn 1999; Genn and Paterson 2001; Pleasence 2006; Pleasence, Coumarelos, Forell & McDonald 2014; Sandefur 2007). Genn and Paterson (2001), for example, found that people's capacity to tackle legal problems varies considerably and depends upon their capability and resources — some have knowledge and the self-confidence to act on their own, while others are paralysed by their problems. Critically, legal knowledge and understanding, such as awareness of one's legal rights, is only one aspect of legal capability and one part of the explanation for inaction.

Strategies to encourage appropriate action in response to legal problems need to engage with this complexity. Strategies that aim simply to improve community legal knowledge and understanding may, in and of themselves, be insufficient to equip some people to act appropriately, because they do not address skill, psychological and resource barriers to action (see also Coumarelos et al. 2012; Pleasence et al. 2014).

As is already suggested by emergent research into effective CLE practice, and the accumulated expertise of on-the-ground CLE practitioners, effective community legal information and education strategies do not merely provide awareness, knowledge and understanding of legal issues, but also develop the skills and confidence (or motivation) required to encourage action in response to legal issues (Coumarelos et al. 2012; Federation of Community Legal Centres 2011; Kirby 2011; Pleasence et al. 2014; Public Legal Education and Support Task Force 2007; Wilczynski, Karras & Forell 2014; see also www.lawforlife.org.uk). To do this, legal information and education strategies have to be informed by the legal needs and capability of the target audience.

Some practical examples of community legal information and education strategies which also address skills and confidence include:

- CLE undertaken as part of a legal outreach program, which provides knowledge but also introduces the solicitor who is available to provide further assistance. This can be a vital step in building the trust and confidence in the service provider, required for effective referral and outreach (Forell, McDonald, Ramsey & Williams 2013; McDonald, Forell, Wei & Williams 2014)
- *Getting off the referral roundabout: effective legal referral*, a CLE package to skill non-legal workers to refer clients to legal assistance services (Kingsford Legal Centre, 2006)
- *Legal capability for everyday life*, a program which aims to build the legal capability of disadvantaged clients across a number of dimensions (Gilfillan Partnership Research and Consultancy Services, 2013).

Further, for some legal problems and target audiences, the primary aim of a particular information or education strategy may *not* be to increase knowledge, but to build confidence, to motivate action or to provide skills. This in turn has implications for evaluation and understanding the ‘success’ of different community legal information and education strategies.

However, it is equally important to acknowledge the limits of what can be expected from community legal information and education strategies, particularly for clients with complex reasons for inaction and, as a result, less propensity to take action (Pleasence et al. 2014, p.111). LAW Survey findings indicate that these groups include Indigenous people living in remote areas, and people with a non-English main language, lower levels of education, and the unemployed (Coumarelos et al. 2012).

Because inaction can then result in legal problems escalating, compounding and becoming more urgent and complex to deal with when they come to the attention of service providers, there are likely to be some types of legal matters and groups of clients for which more intensive forms of legal assistance service are required to successfully resolve legal problems (Coumarelos 2012; McDonald & People 2014; Pleasence et al. 2014).

Legal information and education will not be enough to resolve some legal issues or the legal issues of certain client groups (Coumarelos et al. 2012; Giddings & Robertson 2003; Pleasence et al. 2014).

The findings here suggest that community legal information and education strategies are best understood as vital *components* of a suite of service strategies, forming a holistic legal assistance framework. While CLE may be an effective stand-alone strategy for those able to act and successfully help themselves in particular legal problem circumstances, for many others, particularly those with complex reasons for inaction, more intensive forms of assistance may be required. If CLE has any role in these cases, it may be simply to lead or link such clients to the additional legal assistance services required. CLE strategies therefore, may be best considered as complementing rather than replacing legal advice and assistance, particularly for those with complex reasons for inaction (see Coumarelos et al. 2012; Pleasence et al. 2014). A realistic appraisal of the potential use and impact of various CLE strategies — for different types of legal problems and clients of varying capability — is an essential part of appropriately matching assistance to legal need and capability (Pleasence et al. 2014).

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Endnotes

- ⁱ The term 'legal problem' is used throughout this paper for easy reference to a problem that is justiciable in that it raises legal issues with the potential for legal resolution, regardless of whether the respondent recognised this or took any action involving the justice system (cf. Genn 1999).
- ⁱⁱ LAW Survey respondents were asked a series of in-depth questions about up to three of their most serious legal problems. Where no action was taken in response to one of these problems, respondents were asked whether or not they didn't do anything to try to resolve the problem for each of the 11 reasons listed in Table 1 via a series of closed questions, and were also asked to specify any other reason they had via an open-ended question. Accordingly, respondents were able to endorse multiple reasons for inaction (see Coumarelos, Macourt, People, McDonald, Wei, Iriana & Ramsey 2012).
- ⁱⁱⁱ Note that the way in which the LAW Survey measured reasons for inaction may have affected the number of reasons endorsed by respondents. Had LAW Survey respondents been asked only a single open-ended question they may not have spontaneously recalled the same number of reasons. Note also that the LAW Survey did not ask respondents to rate the importance of the reasons provided so it is not possible to identify the main reasons for inaction in each matter.
- ^{iv} For example, Balmer, Buck, Patel, Denvir & Pleasence (2010) drew a distinction between informed and constrained inaction in response to legal problems. The former means correctly deciding that taking action is unnecessary; while the latter means that the individual wants to act but is constrained from doing so by factors such as a lack of legal knowledge and capability.
- ^v Taken at face value, some of the common reasons given for inaction — such as the problem being resolved quickly or not being very important — suggest that inaction may have been sensible. However, gaps in the legal knowledge of the general public suggest that lay judgements about the seriousness of legal problems, the party at fault and the available remedies and availability of legal assistance may sometimes be erroneous. Other reasons for inaction — such as it being too stressful or costly to act, not knowing what to do, having bigger problems, and not wanting to damage the relationship with the other side — indicate various personal or systemic constraints and suggest that respondents may have wanted to act but were constrained from doing so (see Coumarelos et al. 2012).
- ^{vi} This figure contrasts to that reported earlier in Table 1, where the 20 problems for which 'didn't know what to do' was the only reason cited for inaction comprised 0.6 per cent of *all* legal problems where no action was taken (n=3305).
- ^{vii} The same approach was used to examine the distribution of the other listed reasons for inaction in Table 1. By comparison, reasons such as 'problem resolved quickly', 'would make no difference', 'problem not very important', and 'didn't need information/advice' tended to be one of the reasons when respondents cited a smaller number of reasons for inaction (e.g. citing 2–4 reasons).
- ^{viii} The number of clusters was determined by subjective inspection of the tree diagram in conjunction with consideration of the jumps in the fusion coefficient at each stage of the analysis. Clusters evident as a rescaled distance of 20 are discussed.
- ^{ix} The option of 'other reasons' for inaction that were provided in response to the open-ended question did not cluster in either group. This is not unexpected as it contained a small numbers of diverse reasons for inaction.
- ^x $\chi^2=23.16$, $F_{1,2915}=13.63$, $p=0.000$. Note that the LAW Survey respondents were not asked about their awareness of particular public legal services that they reported using. This might have inflated awareness among those who sought advice compared to those who took no action.