



Client legal capability: implications for service delivery

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Outline

- Legal need and capability
 - Concept
 - Some of what we know
- Implications for legal service design and delivery
- What works?





Legal need and capability





Legal need and capability

Inequality in the distribution of legal need and the capability of different groups to effectively deal with legal problems





Concept

“the personal characteristics or competencies necessary for a person to resolve legal problems effectively”

(Coumarelos et al. 2012)

Legal capability varies by **legal problem** (type, severity) and **demographic** characteristics.





Legal capability

Helps make sense of diverse legal problem-solving behaviour.

Including, why **some people take effective action**, but **others struggle** to do so ... notwithstanding widespread availability and provision of legal assistance services.





Pizza
The Wedge
Bogan Pride
Bridesmaids
Bachelorette
Pitch Perfect
Super Fun Night
Pitch Perfect 2
Pitch Perfect 3

Rebel Wilson leaving Supreme Court of Victoria after winning defamation case last Thursday





Legal capability

Rebel Wilson, June 15:

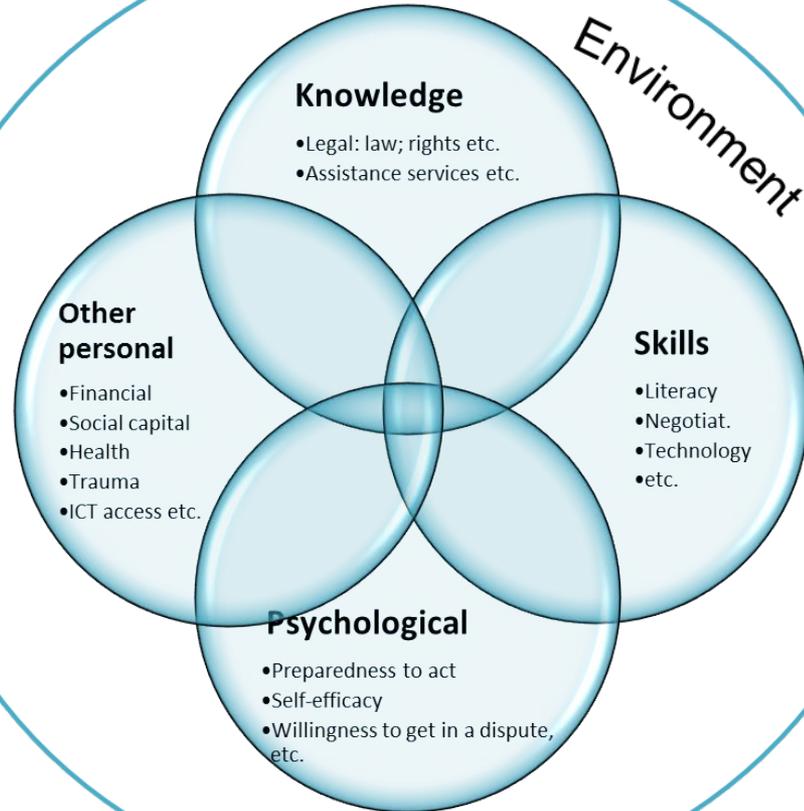
'This has definitely been a long and very hard fight. But I felt like I had to take a stand against a bully.'

Rebel said she had the **money** and **education** (UNSW BA/LLB) to take on the 'harrowing' and 'very expensive' fight.

'I'm a person that's really confident in my own skin and really felt like it was the right thing to do ...'

'Not everyone has the strength to stand up for themselves, but I do.'





Legal capability is multi-dimensional

Knowledge is one dimension

Other skill, psychological and personal dimensions can constrain legal capability, especially for disadvantaged people and groups.

Also wider community and social environment factors e.g. infrastructure and access; geography etc.



Reasons for inaction reflect capability

'Didn't know what to do' a *common reason* for inaction (22% of legal problems) ... but it's *rarely the only reason* (only 0.6%).

Clusters with other reasons.

'Constrained' action	'Informed' inaction
Too stressful	Not important
Cost too much	Resolved quickly
Take too long	Make no difference
Having bigger problems	Didn't need information/advice
Didn't know what to do	No dispute
Would damage relationships	



Disadvantage is linked to lower capability

So, those most disadvantaged and vulnerable to legal problems tend to have less ...

legal knowledge

knowledge of NFP legal services

motivation to act, and

self-help skills and personal resources

... to deal with legal problems without help.





Disadvantage is linked to lower capability

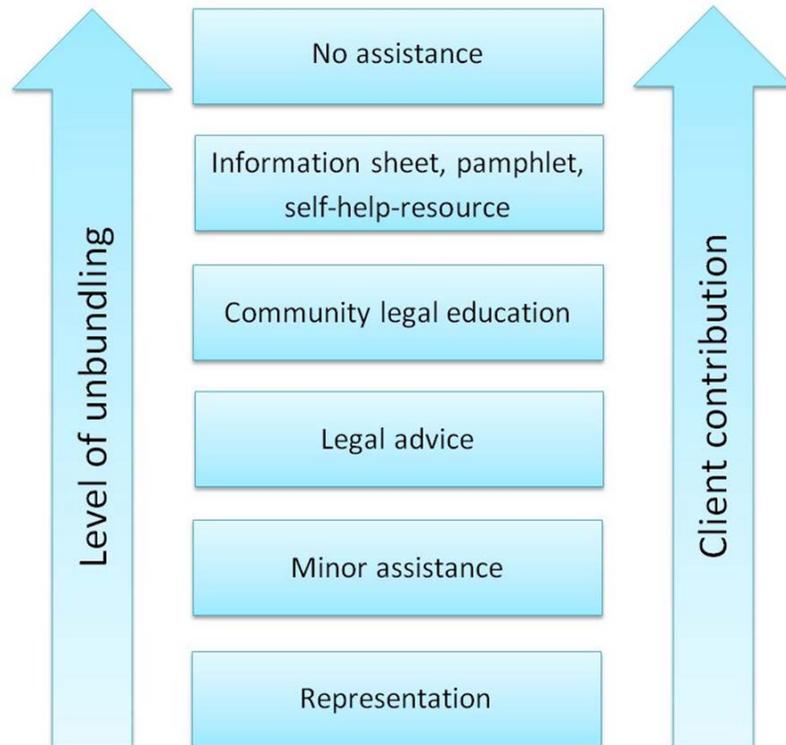
Highest level of action

Level of disadvantage	Act without legal information or formal assistance	Self-help resource	Non-legal adviser	Private lawyer	Not-for-profit legal service	Total (N)
None	25.4% ↓	11.0% ↑	46.8% ↑	14.5% ↑	2.4% ↓	5303
1 or 2 types	28.0% ↓	10.2% ↑	43.3% ↑	12.4% ↑	6.1% ↓	7876
3 or more types	31.4% ↓	3.6% ↑	37.3% ↑	11.2% ↑	16.5% ↓	2467
Average	28.8%	8.7%	43.6%	12.8%	6.2%	15646

Limits to utility of self-help resources, legal information, ICT strategies for more disadvantaged people?



Ladder of unbundled legal services



As legal assistance is increasingly unbundled...

...the greater the client contribution to outcomes...

... and the greater the legal capability required...

Those with lower legal capability may thus require more intensive assistance to have equal A2J



Service implications





Service implications

- Diverse legal need and capability across community, thus no one-size-fits-all solutions.
- Take a more holistic approach to justice, to cater to diverse needs.
- Design service strategies to match needs ... so, **put the client at the centre of service design:**
 - What are client / user needs?
 - What expect clients / users to realistically do & achieve?





Service implications

- While legal knowledge is important, it is only one factor affecting legal capability.
- Likely limits to utility of CLEI & ICT strategies for various types of users (but what are they?)
- Can better services be designed to overcome some challenges?



Better services?

- Combinations of service strategies may more appropriately meet the needs of particular client groups, e.g.
 - Diagnosis + CLI may be enough ... for those able to help themselves
 - CLEI + advice ... for some people and types of problems
 - CLI + outreach + minor assistance ... for those that need more
 - Duty (CLI, advice, advocacy)
 - Representation ... for those 'most in need'; etc.
- Ability to dial services 'up' or 'down' (tailoring) to match need and capability?
- Assess client need and capability + triage to services on the basis of 'what works' (... but need to know how ... and 'what works')



What works?





What works?

To fill out the A2J jigsaw we need to know:

What works, for whom, when, in what circumstances, at what cost and to what end?

Build evidence-base of what works and for whom, by considering client legal capability and outcomes.

Innovation: build a smarter justice system capable of learning about what works in effectively meeting diverse needs.



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