

Summary Crime Program – Victoria Legal Aid

Client Triage Processes for Summary Crime Duty Lawyer Services

Victoria Legal Aid

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Reshaping Justice: Client-centred service delivery, technology and innovation Research Symposium, 20 June 2017, Sydney NSW.

Dwayne



Hi, my name is Dwayne. I'm 42 years of age. I live by myself, work as a cleaner and earn \$750 per week. I suffer from anxiety and depression and don't like to get out much. I'm feeling very anxious about Court as I've never been in trouble before. Ok, I admit, I use cannabis regularly but it helps me sleep. I grow it and the police found my "crop" behind the garage. I don't want to go to jail!

Sharon

Hi, my name is Sharon but I'm known as Shazza! I'm 36 years of age and have 4 kids under 10. I have a Health Care Card and get payments from Centrelink. The police pulled me over for being a "bit over" and having a suspended drivers licence. I've never been in trouble for driving before - it's not really a crime is it? I need my licence to get my kids to school.



Setting the scene

- The Summary Crime Program is VLA's largest service delivery program and is the first point of entry to the criminal justice system for most of our clients.
- In the 2015-16 financial year:-

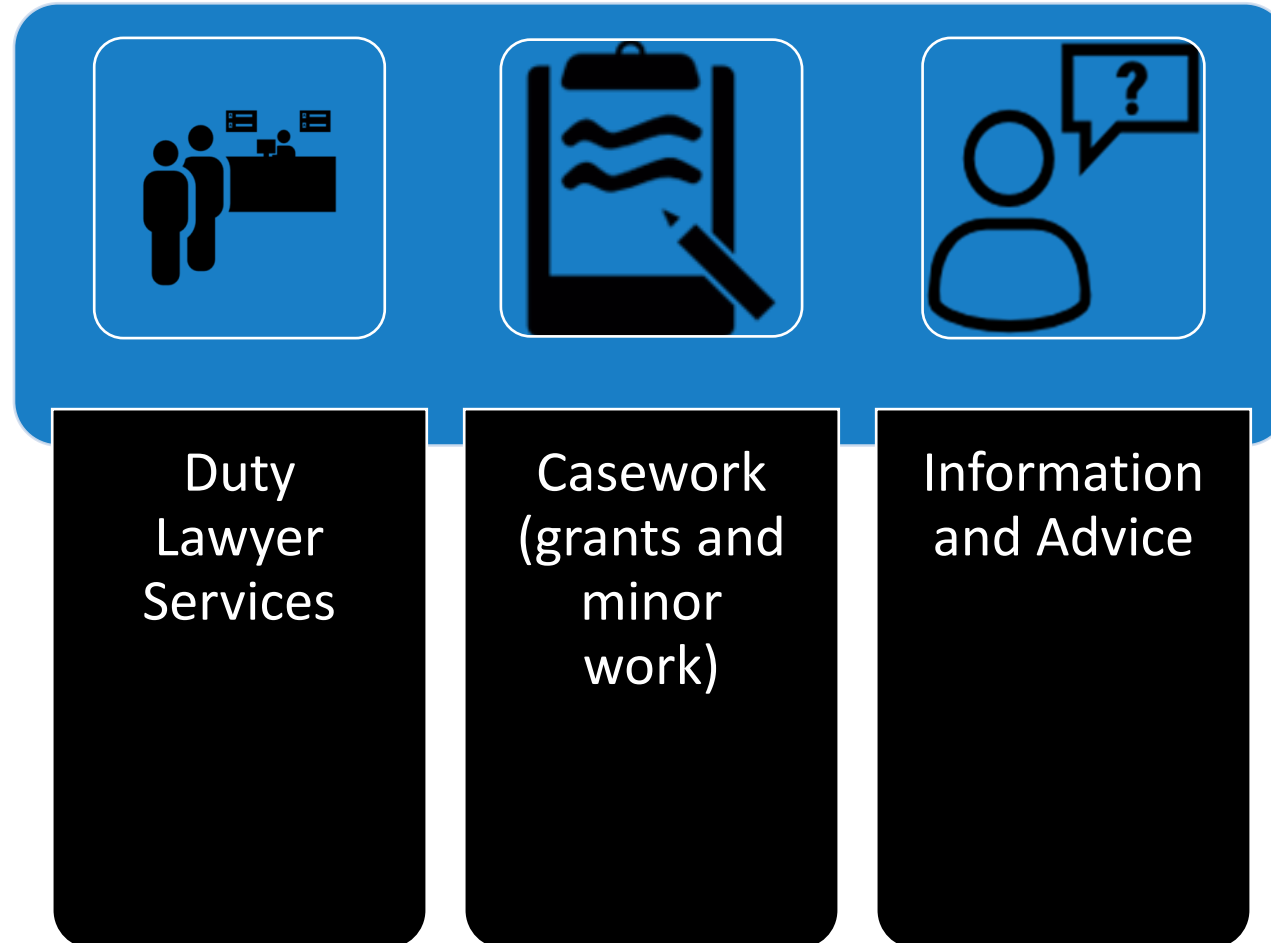
VLA funded
14,591 grants
of legal
assistance

VLA provided
56,034 in
house duty
lawyer
services at
Magistrates
Courts across
Victoria

Operating
expenditure of
\$37.6m

- Nearly a quarter of all program expenditure for VLA

Setting the scene



Setting the scene

In 2012-2013 we made significant changes to eligibility for summary crime services due to unsustainable demand pressure.

Prior to this duty lawyer service provision had been universally available

Doctor
earning
\$350,000
per year



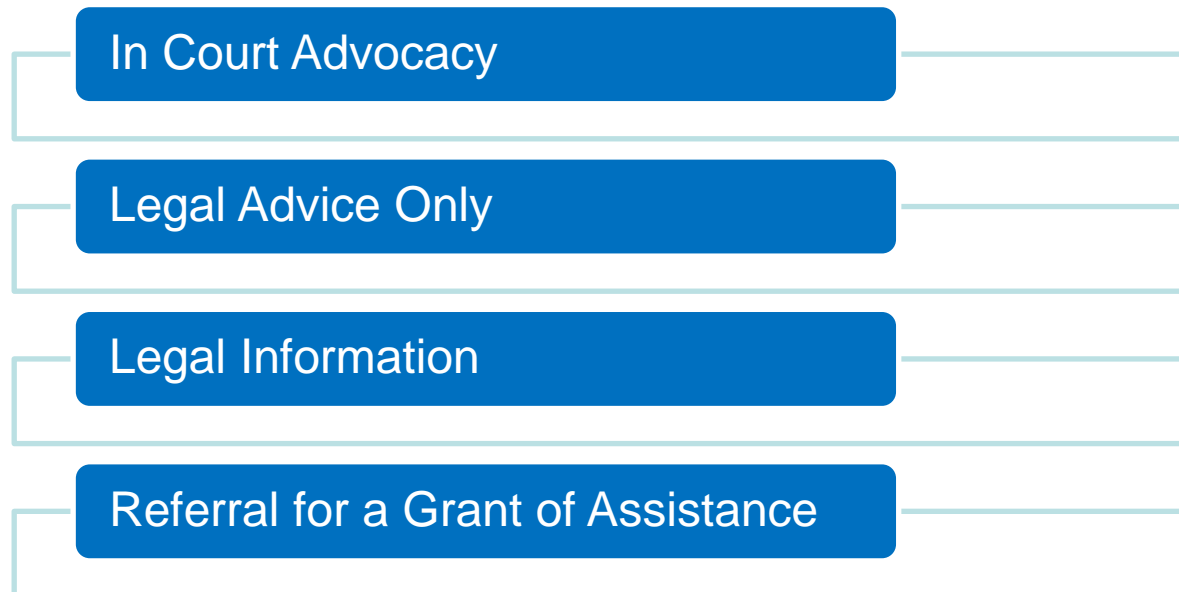
Intellectually
disabled person
with mental
health issues

Person wanting to
dispute a speeding
charge

Introduction of Duty Lawyer Guidelines

- ➔ Underlying principle of the change
- ➔ Introducing guidelines/triage enables identification and prioritisation eligible clients.
- ➔ Focus is more client centered.

Duty Lawyer service is conducted by non legal and legal staff





Income Test

NB:- All people who are in custody and are appearing in court for the first time in relation to a matter must be helped by the Duty Lawyer Service. No means test is to be applied for this help.

For all other accused people Legal Advice and In-Court Advocacy should not be provided unless the client meets the income test.

Legal information available to everyone.

Duty Lawyer Guidelines

In-Court Advocacy



In-Court Advocacy should be provided for a client who meets the income test and who:

- faces a significant charge; or
- falls into a priority group and faces a significant or a straightforward charge; or
- for other compelling reasons cannot reasonably be expected to represent themselves.

Duty Lawyer Guidelines



Legal Advice Only

Should provide 'Legal Advice Only' to a client who meets the income test but is not in a priority client group and faces a straightforward charge i.e. a charge where the legal issues are narrow and the penalties are likely to be low level fines and licence loss.

Duty Lawyer Guidelines

Who are Priority Clients?

- People with an intellectual disability, an acquired brain injury or other mental health issue;
- People who are experiencing homelessness;
- People who cannot effectively communicate in English; or
- People who identify as Indigenous Australians



Duty Lawyer Guidelines

What is a significant charge?

One where the accused is at a real risk of imprisonment, a Community Corrections Order or a substantial fine (i.e. a total fine of more than \$1500). This necessarily requires an assessment of prior convictions

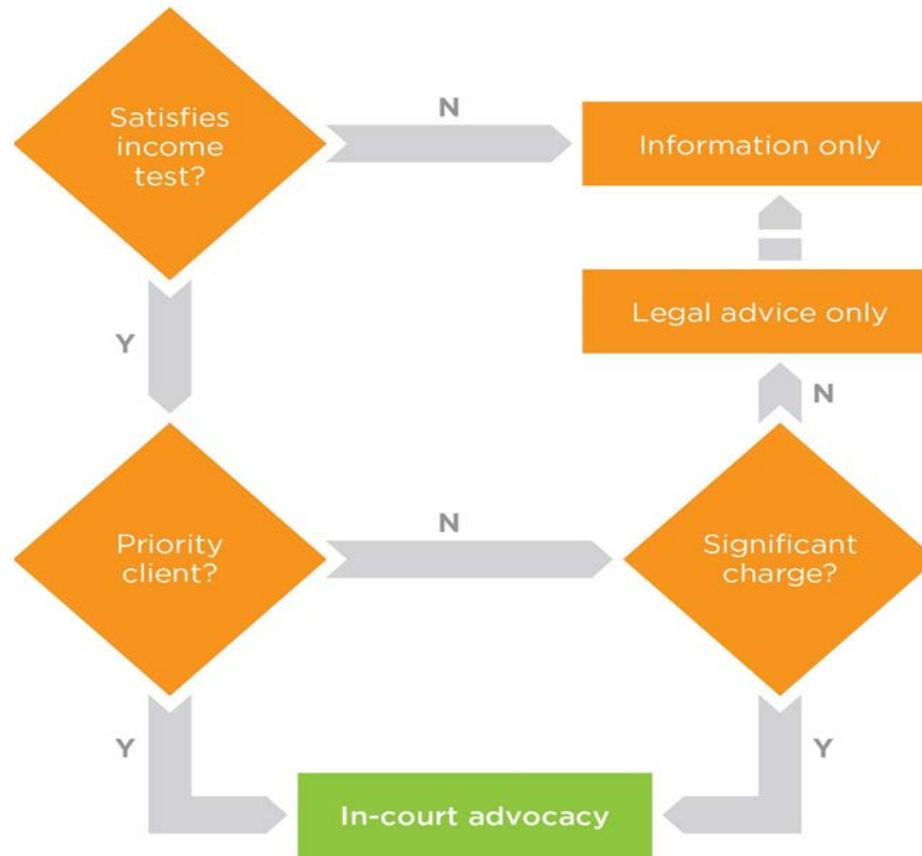
What is a straightforward charge?

One where the legal issues are narrow and the penalties are likely to be low level fines and licence loss.

Where the accused person is not facing a significant charge and is not in a priority group, a Duty Lawyer may exercise his or her discretion to provide In-Court Advocacy where there are compelling reasons why the accused person cannot represent themselves

Duty Lawyer Guidelines

DETERMINING ELIGIBILITY FOR A DUTY LAWYER SERVICE (MAGISTRATES' COURT)



Duty Lawyer Guidelines



Dwayne



Income Test:



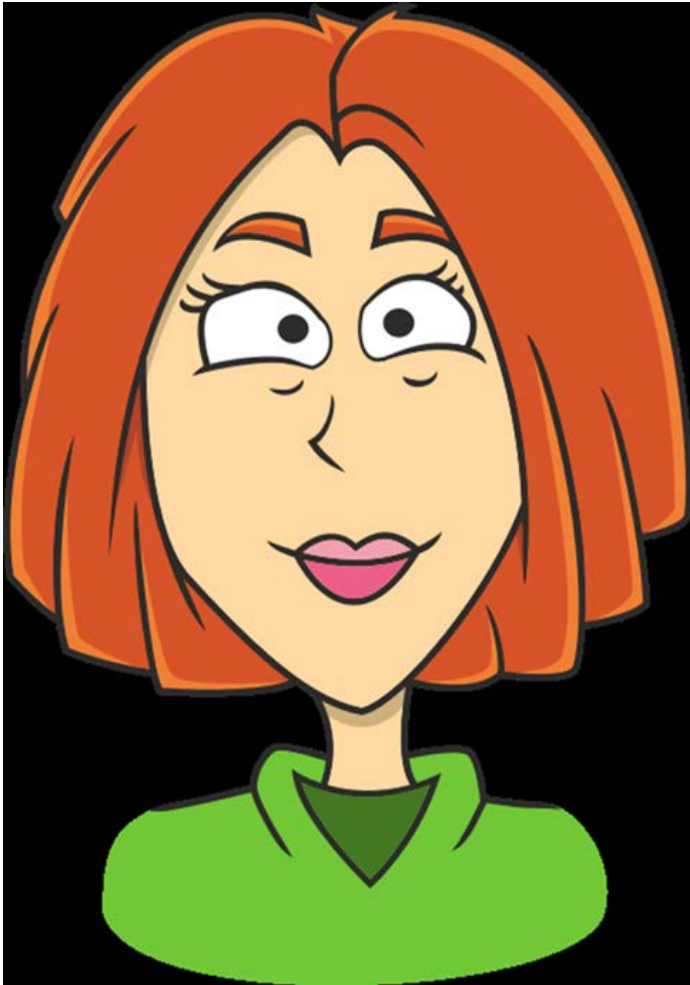
Priority Client:



Type of service
eligible for:

**In Court
Advocacy**

Sharon aka Shazza



Income Test:



Priority Client:



Type of service
eligible for:

**Advice
Only**

Guidelines in practice – what we've learnt



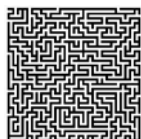
Vital for coping with demand
Generally targeted the right people and the right matters



Important for administrative staff and lawyers regarding process
and importance of saying "no".



Increase in number of self represented accused
Concern for courts, police
Creates delay
Some self rep's lack skills/confidence to represent themselves



Increase in complexity of matters



Viable defences often not run

Law and Justice Foundation NSW Evaluation

- During the 12 months of the pre-change period “in court advocacy” comprised 89.4% of Duty Lawyer Service and “legal advice”- 10.6%.
- However in 2015-2016 “in court advocacy” had decreased to 77.1% and “legal advice” had increased to 17.3%.
(NB: In that year saw an 11.5% overall increase in the total number of in court services because of the increase overall in the amount of people trying to access our services.)
- General view was that the benefits of assessing and triaging clients outweighed the difficulty in doing so and saw more consistency.
- System works best for clients who are more capable of helping themselves, who will be pleading guilty and looking at fines or CCO’s.
- Legal information and advice – Doesn’t work so well for those clients who have minor charges but who may have learning difficulties, mental health issues and may find written information hard to process

Where to next?

Guidelines were a shift towards being more client centred however some improvements can be made:-

Certain types of people should receive more intensive legal assistance at “earlier stages” to get better outcomes and to try and reduce the prospect of reoffending.
Eg: Diversion

May need to broaden our “priority” client group to include those aged 18-25 years, those victims of Family Violence

Consider using IT to assist in appropriately managing client expectations and to enhance information and communication.

Consider use of multi-disciplinary teams for enhanced client centered approach.
Legal Health Checks