

Memorandum to the Productivity Commission: Access to Justice Arrangements Inquiry

National Association of Community Legal Centres Inc

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Background

NACLCLC has consistently received anecdotal reports from CLCs that disadvantaged and marginalised peoples are being turned away because the centre cannot provide the legal assistance the person needs, or cannot provide it in the timeframe needed.

Whenever possible, of course, a CLC will refer the person to another service provider. CLCs provide many referrals, including warm referrals, every day. Sometimes, however, there are no other providers available for disadvantaged people. Referrals are recorded by CLCs (although, in NACLCLC's opinion, they are probably under recorded, for example several warm referrals may have been recorded as one activity).

Comparatively few centres record the number of people or the number of times a person is turned away when the CLC cannot assist them and there is no alternative source of assistance.

The Commonwealth Community Legal Service Information System (CLSIS) database that has been used for data collection by CLCs in the Community Legal Services Program since 2003 does not provide for recording turnaways.

It follows that there is no data on any useful scale as to the specific reason/s for the person being turned away without a referral.

NACLCLC has been advocating for some time with centres, the Department and in legal assistance data forums, that the number of these turnaways and reasons for turnaway should be recorded.

Community services sector-wide surveys undertaken by the Australian Council of Social Service (ACOSS) in the 2010/11 and 2011/12 financial years have seen community legal services reporting the highest turnaway rate across all surveyed service types including homelessness, domestic violence, emergency relief, youth and mental health services.¹ The ACOSS survey records that in 2011/12, legal services reported a 20% turnaway rate.

¹ See ACOSS 2012, *Australian Community Sector Survey*, <http://www.acoss.org.au/images/uploads/ACOSS_ACSS2012_FINAL.pdf>; ACOSS 2013, *Australian Community Sector Survey*, <http://acoss.org.au/images/uploads/Australian_Community_Sector_Survey_2013_ACOSS.pdf>.

NACLC's first national sector-wide census ('the NACLC Census') was conducted in late 2013 and included a series of questions about turnaways. Responses are still being received, but we are able to report preliminary findings in this paper. A final paper, incorporating all responses, will be available early in 2014.

Definitions

For the purposes of the NACLC Census, a 'turnaway' was defined for CLCs as:

a person the CLC had to send away because the organisation was unable to assist them or provide a suitable referral.

It is important to note that this definition counts the number of people turned away, and not the number of times (or occasions) that a person was turned away. As the same person may unsuccessfully attempt to access a CLC on multiple occasions for different issues, it is possible that the number of occasions that a person is unable to be assisted with a legal problem is much higher.

Collecting turnaway data

In the NACLC Census, CLCs were asked whether turnaways were recorded, using the above definition. Of the 122 CLCs that answered this question, 47% (57 CLCs) reported that they did not record turnaway numbers, 30% (36 CLCs) indicated that they did and 24% (29 CLCs) reported that they sometimes record this data.

74 CLCs provided an actual or estimated number of people turned away by their centre, in their response to the 2013 NACLC Census. Responses ranged between 0 and 5,000 turnaways in the 2012/13 financial year. Interestingly, the data showed that those CLCs that were recording turnaways reported higher numbers than those CLCs that were making an estimate.

Across the 74 CLCs, 33,616 people were turned away, with 14% of respondents (10 CLCs) reporting that their centre had to turn away more 1,000 people in the 2012/13 year.

In the NACLC Census, 103 CLCs responded to a question about the availability of alternative referral options, with 17% reporting that in the census year they were consulted by people who they could not assist in any way, because their CLC could not provide the needed legal service and there was no viable referral option for that person.

Reasons for turnaway

103 CLCs provided reasons in their NACLCLC Census return for turning people away. CLCs were able to select multiple options from a provided list. The responses were:

Reason	No of CLCs	Percentage of CLCs reporting this reason ²
Person's legal problem outside the CLC's focus	76	74%
Conflict of interest	75	73%
Our CLC had insufficient resources at the time	64	62%
Our centre didn't have the relevant expertise	63	61%
Unable to assist in the timeframe the client needs	55	53%
Other	16	16%

The 3 most prevalent reasons for turning people away were that the person's legal problem was outside the CLC's focus (that is, their remit or current priority area) (74%), a conflict of interest existed with a previous client or other party (73%) and the CLC had insufficient resources (62%).

The 74% of CLCs that responded that the person's legal problem was outside the organisation's focus might reflect a previously reported trend that CLCs are more tightly targeting their areas of service provision. In the ACOSS Community Sector Survey for 2011/12, 85% of respondent legal services reported that their organisation targeted services more tightly or limited service levels to manage demand pressures.

Further, 59% of legal services responding to that survey reported increased waiting times, while 76% required staff and volunteers to work additional hours. 50% of legal services reported reallocating resources to meet demand pressures.

² Please note: a significant number of CLCs selected multiple categories. All decimals have been rounded up or down to the nearest whole number.