

**Review of the Legal Aid NSW
Sydney Central Ground Floor
Civil Law Advice Service**

Report to the Director, Civil Law Division

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Legal Aid NSW
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1. Overview

1.1. The problem

- Waiting times of 5-6 weeks for the last six months.
- Unrealistic client expectations causing dissatisfaction with the service.
- A perception that the service is not targeting the right clients/legal matters.
- Concerns that 20 minutes is not long enough to provide a meaningful service.
- Staff frustration with the service due to unrealistic client expectations and limited ability to assist some clients.
- Lack of staff to meet demand for the service.
- Lack of reliable data to assess the client demographics.

1.2. Key recommendations

There are no magic solutions, but the following strategies are recommended to address these problems:

1. Develop an organisation wide approach to improving client referral and the provision of legal information through strategies such as referral guides, referral protocols with key organisations, referral and information training and lists of recommended information resources.
2. Establish a registry function at Sydney Central to assist clients to fill out legal aid applications and to access information about their legal problem. This help desk area would include a phone for clients to call LawAccess NSW, easy to understand information about the law, and a computer with access to resources such as LawAccess Online.
3. Improve screening/triage based on legal matter to reduce demand and ensure a more targeted service.
4. Manage client expectations and inappropriate referrals to the service.
5. Clarify the guidelines on what the Advice Service will do.
6. Limit the waiting time to 3 weeks.
7. Increase advice sessions to 30 minutes with longer times for clients who need interpreters or who have a disability.
8. Improve staff training and monitoring of the Advice Service.
9. Improve data collection.
10. Implement a planning process to review the role of the Advice Service in the context of the broader directions of the civil law program.

A complete list of recommendations is available in section 5.

1.3. Implementation plan

1. Establish a working group chaired by the Senior Solicitor, Civil Law comprising 1-2 practice heads, Regional Program Coordinator and 1-2 solicitors (and representation from CSO, SPP and grants as appropriate) to prioritise and progress recommendations concerning:
 - scope of the service and screening guidelines for region of residence, repeat clients, and legal matters
 - reviewing information about the service
 - providing information about the law to clients.
2. The civil law executive to progress recommendations concerning:
 - operation of the service including staffing, waiting times, length of appointments and urgent matters
 - minor assistance
 - quality and training
 - improving data collection by solicitors.
3. Director, Civil Law and Senior Solicitor, Civil Law to liaise with Business and Client Services to progress recommendations concerning:
 - Client Service Officers.
3. Director, Civil Law to liaise with Director SPP/Grants to progress recommendations concerning:
 - liaising with LawAccess NSW on a range of matters
 - liaising with LIAC to identify ways to work more closely with the Civil Law Division
 - referral guidelines, resources and protocols
 - use of statistics for planning
 - investigating the possibility of a registry function to assist clients with legal aid applications
 - working cooperatively to identify and meet need.
4. Director, Civil Law to progress recommendations concerning:
 - Initiating a planning process to assess the role of the Advice Service in the context of broader directions of the civil law program.

2. Background and need

The Civil Law Division of Legal Aid NSW currently operates a five day per week advice roster on the ground floor of the Sydney Central Office. The waiting list for appointments has been between five and six weeks for the last six months leading to client dissatisfaction and missed appointments. Divisional resources are being stretched as new services are being provided such as a duty service at the NSW Supreme Court.

Solicitors have raised concerns that the advice service is not reaching people who are most at need or delivering the most appropriate services in the context of legal assistance services in NSW.

This review aims to identify ways to reduce waiting times, improve services and ensure that the service is targeted at, and accessed by, those at most need.

3. Scope of the review

The terms of reference were to review the Sydney Central Ground Floor Civil Law Advice Service. Specifically, this review:

- analyses the demographics of users;
- analyses the types of matters being dealt with;
- identifies trends over the past three years;
- considers referrals to the civil litigation practice at the Sydney Central Office;
- considers the findings from recent civil law reviews;
- identifies referral pathways with LawAccess NSW and other key agencies;
- identifies gaps in service delivery; and
- makes recommendations on how the advice service might be improved to ensure the civil law program is servicing communities most at need.

Given the limited time available (6 weeks), the focus of the review was on ways to improve the operation of the service in the short to medium term. I have, however, identified a range of issues that could be further explored in the longer term. I do not examine staff performance or quality of services. I have not examined minor assistance and pathways to litigation in detail.

The focus of the report is on the Sydney Central Ground Floor Civil Law Advice Service. However, I interviewed a member of the government law group and a regional solicitor and information about those services is included where relevant.

The term 'Advice Service' is used to denote the Sydney Central Ground Floor Advice Service. 'CSO' is used to denote Ground Floor Client Service Officers.

4. Method

The following data sources were used.

- Internal interviews - Civil law staff (4 practice heads, 8 solicitors, principle solicitor); 1 SPP solicitor; Ground floor CSOs (2), Dora Dimos; CLSD.
- External interviews – LawAccess NSW, 1 generalist community legal centre, 1 specialist community legal centre, Legal Information Access Centre.
- Legal Aid NSW Central Sydney advice and minor assistance data from FY 2006 to FY 2009.
- One off data collection between 30 November and 11 December on source of referral and referral destination for Advice Service clients.
- LawAccess NSW referral destination and area of law data, FY 2009.
- Referral destination data for civil law information inquiries.
- Law and Justice Foundation of NSW Data Digest.
- Relevant literature including Legal Aid NSW reviews of their civil law services.¹

No client interviews were carried out. Advices were not reviewed.

¹ Legal Aid NSW Civil Law Client Survey 2008, IRIS research, April 2009-12-23
Civil Law ALS Outreach Review, Dora Dimos, Legal Aid NSW, March 2008
Civil Law Policy Review, Dora Dimos, Legal Aid NSW, May 2008
Civil Law Review, Dora Dimos, Legal Aid NSW, November 2003
Strategic Framework for Access to Justice in the Federal Civil Justice System, Attorney-General's Department, September 2009

5. List of recommendations

5.1. Referral and information pathways

1. Clarify the scope of the service and make this consistent across Legal Aid NSW if possible.
2. Provide targeted information and education about the Advice Service to key referring organisations, eg LawAccess NSW, Law Society, community legal centres, courts including updating the Civil Law Advice Brochure (see Annex 3) and updating the Law Society Solicitor Referral Service areas of law sheet.
3. Review Internet and telephone book information to ensure that it accurately reflects civil law advice services and directs clients to LawAccess NSW in the first instance.
4. Monitor the types of matters referred to the Advice Service by LawAccess NSW.
5. In consultation with regional offices, develop a checklist of points for client service officers to tell clients when booking them in to the Advice Service. This could include: length of appointment, documents to bring, that it is one-off advice; may not get a grant of aid, checking with the client whether they already have a grant. Send a modified version to clients.
6. Screen clients on a discretionary basis rather than through changes to policy.
7. Continue to use CSOs to screen and refer clients and take bookings.
8. Work with CSOs to explore ways to improve screening, triage and referral. For example:
 - a. Improve communication between CSOs and Civil Law, eg regular meetings, key contact person in civil, include CSOs in emails about changes to civil law issues, information sessions for CSOs on civil law issues.
 - b. Develop tip sheets for CSOs for common legal matters that include referral pathways and limitation dates. See the Parramatta (Annex 4) and Government Law information sheets as examples of how this might be done.
 - c. Update the CSO referral sheet.
 - d. Develop a coordinated training program for CSOs, eg training about key legal agencies, Law for non-lawyer training, services visits, plain language resources training. Ensure that CSOs link into relevant LSO training.
 - e. Investigate the possibility of Legal Aid NSW using ServiceLink and/or having access to the LawAccess NSW referral database.
 - f. Coordinate referral activities across Legal Aid NSW.
 - g. Explore the possibility of reducing CSO workload in other areas.

-
- h. Consult regularly with LawAccess.NSW about referrals to and from the Advice Service, including how to manage client expectations.
 - i. Develop checklists for CSOs when dealing with clients, eg check where the client has already been for advice, explain services provided by LawAccess NSW, tell clients that they can ring back to make an appointment with the civil law advice service if necessary, check if the client already has a grant.
 - j. Develop protocols for making warm referrals.
 - k. Ensure that clients are made aware of the availability of a phone in the waiting room to call LawAccess NSW or other service provider.
 - l. Provide legal information to clients.
 9. Monitor and review the effectiveness of using client service officers to provide screening and referral.
 10. Implement the following additional strategies to improve triage and referral of clients.
 - a. Develop a list of matters where it would be more appropriate to refer clients to LawAccess NSW or a similar preliminary assistance service. (See *Annex 1 for further discussion*). Consult with other sections of Legal Aid NSW, CLSD, LawAccess NSW and other organisations as appropriate. (See *Annex 4* for a copy of the Parramatta office screening guide for LSOs).
 - b. Develop a list of recommended referral destinations (LawAccess NSW has a list of preferred referral destinations).
 - c. Develop referral protocols with key legal service organisations, eg work with LawAccess NSW, courts and inner-city CLCs to clarify roles, referral protocols and gaps in services.
 - d. Investigate the possibility of LawAccess NSW making warm referrals to the Advice Service if the client has already contacted the Advice Service about a matter.
 - e. Review the possibility of screening based on postcode, noting that this needs to be done on a whole of Legal Aid NSW basis.
 - f. Ensure that up-to-date information is provided to key referrers about Legal Aid NSW civil law services.
 - g. Develop guidelines and procedures for dealing with repeat clients, eg customer service officers checking how many times a client has been to the advice service and referring to a solicitor in civil law to deal with if appropriate.
 - h. Investigate alternative approaches to meeting legal need in some areas, eg classes for personal injury, worker's compensation, neighbourhood disputes; provision of information packs.
 11. Clarify what assistance local courts provide with civil law matters and give to solicitors.

12. Provide a copy of the CSO referral sheet in the advice room and copies of the CLC handbook to all staff.
13. Investigate how to build staff knowledge and provide appropriate referral to private solicitors who do civil law legal aid work. Develop a list of useful resources on dealing with solicitors, eg Making a complaint, Questions you should ask your lawyer.
14. Promote the availability of the CARS referral service to staff, particularly for clients with a mental illness.
15. Provide a registry function at Sydney Central to assist clients with filling out legal aid applications and accessing information about their legal problem. This help desk area would include a phone for clients to call LawAccess NSW, easy to understand information about the law, and a computer with access to resources such as LawAccess Online.
16. Improve the provision of legal information resources through:
 - a. identifying key resources for common legal matters (including non Legal Aid NSW brochures and DVDs and investigate the best ways to inform staff about these, eg use of the Intranet, Internet and bookmarks. This could be done in conjunction with other services such as LawAccess NSW, LIAC and the Legal Information and Referral Forum.
 - b. ensuring that key information is provided in the advice room and that it is kept up-to-date
 - c. discussing ways to work with LIAC including the possibility of providing training for CSOs (and other interested staff) on key resources
 - d. circulating the Law and Justice Foundation's Plain Language Law Newsletter
 - e. investigating the possibility of getting the Law Handbook online
 - f. providing a computer and printer in the waiting room for clients to check legal resources on the Internet.

5.2. Operation of the service

17. Investigate whether additional staff are available for the Advice roster, either from the Civil Law Division or other Divisions.
18. Use paralegals to help with minor assistance.
19. Keep the appointment system.
20. Close the books once the waiting time exceeds three weeks and suggest that clients call back the following week. Keep statistics on unmet demand.
21. Develop a consistent approach to waiting times across Legal Aid NSW offices.
22. Keep statistics on waiting times and regularly review.

23. Review key limitation dates and work with client service staff to ensure that clients with urgent limitation dates are seen and/or appropriate referrals are made.
24. Ring or text clients the day before the appointment (considering privacy issues) and investigate the possibility of sending text messages via computer.
25. Increase advice sessions to 30 minutes. This would reduce appointments from 18 to 14 per day and may add to the problem of longer waiting times, but is also an acknowledgement of what is already happening in practice. Improved screening may also result in a higher proportion of disadvantaged clients with more complex needs who will need longer appointment times.
26. Allow 45 minutes if an interpreter is required or if the client has a disability.
27. Review minor assistance guidelines and promote to staff including as part of staff induction.
28. Ensure that supervisors monitor minor assistance as part of file reviews to ensure that staff don't over commit and that minor assistance doesn't turn into case work.
29. Record minor assistance provided during an advice session in CASES.

5.3. Quality/Solicitor training

30. Investigate whether a quality review process should be introduced for advices.
31. Review training provided to solicitors rostered to the Advice Service including checking advices.
32. Investigate possibilities for cross-sectoral training through avenues such as the NLAFF Training Reference Group.
33. Investigate ways for staff to keep up to date with changes to the law including using the intranet.
34. Investigate the possibility of Legal Aid NSW having access to LawPrompt.

5.4. Data collection

35. Improve data collection for matter type, employment status, benefits and country of birth through reviewing data collection mechanisms and changes to forms/CASES as appropriate.
36. Collect source of inquiry for information services and referral destination for advices.
37. Review the possibility of collecting disability status for advice service clients.
38. Review options for collecting data on assistance provided to other services.
39. Review what statistics it would be useful for the Civil Law Section to receive on a regular basis for monitoring and evaluation purposes.

5.5. Working with others

40. Work with NLAF to map cooperative arrangements across the civil law sector and identify areas where cooperation could be improved.

5.6. Gaps in services

41. Work with the commonwealth government and the NSW legal assistance sector to examine options for meeting employment law needs.
42. Assess the most appropriate role for Legal Aid NSW in meeting the need for assistance with court documents.

5.7. Future directions

43. Implement a planning process to assess the role of the Advice Service in the context of the broader directions of the Civil Law Program.

6. Role of the service

There are no written guidelines on the role of the service. Interviewees identified the following features of the Advice Service as being particularly useful.

- Crucial for face to face services – particularly for disadvantaged clients.
- Minor assistance – debt, credit, consumer, drafting applications, Centrelink review process.
- Pointers on going to court.
- As a pathway to legal aid.
- The fact that solicitors have litigation experience adds to the quality of the advice and minor assistance in those areas.
- Keeps staff in touch at a grass roots level across a range of areas – also assists with law reform and identifying gaps in services.

Staff felt that it is important that Legal Aid NSW provides a generalist civil law advice service that is not means tested.

7. Client profile

7.1. Socio-economic status

Table 1: Gender by year, Sydney Central Civil Law Advice Service 2006/07-2008/09 and ABS

Gender	2006-2007	2007-2008	2008-2009	All	ABS
Female	44%	48%	46%	46%	51%
Male	56%	52%	54%	54%	49%

Source: LAO, CASES, Australian Bureau of Statistics, Census 2006

Table 2: Age, Sydney Central Civil Law Advice Service 2006/07-2008/09 and ABS

Age Group	Number	Percent	ABS
0-14	63	1%	20%
15-24	610	5%	14%
25-34	2,110	18%	14%
35-44	2,784	24%	15%
45-54	2,897	25%	14%
55-64	1,850	16%	11%
65+	1,468	12%	14%

Source: LAO and CASES, Australian Bureau of Statistics, Census 2006

Table 3: Aboriginal status, Sydney Central Civil Law Advice Service 2008/09 and ABS

Aboriginal Status	Number	Percent	ABS
Non-Indigenous	995	96%	98%
Indigenous	44	4%	2%

Source: CASES, Australian Bureau of Statistics, Census 2006

Table 4: Employment status, Sydney Central Civil Law Advice Service 2008/09

Employment Status	Number	Percent
Employed	151	24%
Not employed	487	76%

Source: CASES

Table 5: Benefit status, Sydney Central Civil Law Advice Service 2008/09

Benefit Status	Number	Percent
Yes	286	27%
No	774	73%

Source: CASES

Note: This figure doesn't tally with the employment status data. This is a mandatory field in CASES with No Benefit being the default setting. This may mean that in some instances where No Benefit is recorded, it is actually missing data.

Table 6: Benefit type, Sydney Central Civil Law Advice Service 2008/09

Type of Benefit	Number
Disability	101
Newstart	78
Age pension	48
Parenting	26
Other	13
Carer	12
Sickness	5
Youth	4
Veterans	4
Special benefit	3
Widow	2
Sole parent	2
Student	1

Source: CASES

Table 7: Country of birth, Sydney Central Civil Law Advice Service 2008/09*

Country of Birth	Number	Percent
English speaking	540	57%
Non-English speaking	404	43%

* Missing 11%

Source: CASES.

Table 8: Country of birth, top 20,
Sydney Central Civil Law Advice Service
2008/09*

Country of Birth	Number
China	67
Iran	20
Lebanon	15
Sri Lanka	13
Iraq	12
Egypt	12
India	11
Vietnam	11
Philippines	10
Fiji	10
Indonesia	10
Bangladesh	10
Afghanistan	9
Hong Kong	9
Pakistan	8
Malaysia	8
Italy	7
Taiwan	7
Nigeria	7
Korea	6

* Missing 11%

Source: CASES

Findings

- A number of staff felt that the service was seeing an inappropriate proportion of high socio-economic status clients.
- It is difficult to determine the extent to which clients of the Advice Service fall within the legal aid target group because advice service data is unreliable for two of the key indicators for assessing socio-economic status: employment and benefit status. Forty percent of records don't have employment status, and the data on benefit status may be masking a high proportion of missing data.
- Available data shows:
 - 76% of clients were not employed
 - 27% are on benefits (see caveat on this data)
 - 43% were born in a non-English speaking country (19% of these were born in China or Hong Kong)
 - 4% have an Aboriginal background
 - Women (46%) are under-represented in relation to their proportion of the population

- Under 24 year-olds, and 55-64 year-olds are under-represented in relation to their proportion of the population.

7.2. Region of residence

Table 9: Region of clients, Sydney Central Civil Law Advice Service 2006/07-2008/09

ABS Region	No Immigration Matters	No Matters	% Matters
Inner Sydney	418	2,716	23%
Eastern Suburbs	66	942	8%
Lower Northern Sydney	79	807	7%
St. George–Sutherland	160	1,572	13%
Inner Western Sydney	127	658	6%
Northern Beaches	45	553	5%
Central Northern Sydney	48	550	5%
Canterbury–Bankstown	475	1,198	10%
Central Western Sydney	541	1,059	9%
Fairfield–Liverpool	285	541	5%
Blacktown	112	309	3%
Outer South Western Sydney	42	155	1%
Outer Western Sydney	45	151	1%
Gosford–Wyong	17	111	1%
Illawarra	22	97	1%
Hunter	4	69	1%
North Western	4	42	0%
Murrumbidgee	30	42	0%
Mid North Coast	14	40	0%
Central West	9	36	0%
South Eastern	4	21	0%
Richmond–Tweed	2	21	0%
Interstate	22	86	1%

Source: LAO and CASES

Findings

- *Table 9* shows that a relatively high proportion of Advice Service clients come from outside the Sydney Central catchment (62%). Twenty-eight percent of these areas either don't have Legal Aid NSW offices or have offices without a civil law advice service, eg Hurstville, Rockdale, Dee Why, and Hornsby. Thirty-four percent, however, do have a civil law advice service including Blacktown, Liverpool, Fairfield and Bankstown. If immigration advices are removed, 25% of clients come from areas with a civil law advice service. It isn't

possible to ascertain what proportion of clients is accessing the Advice Service because they work in the CBD.

- LawAccess NSW refers clients to the Sydney Central Advice Service if it has a shorter waiting time than other services. They also refer clients to Sydney Central if it is more convenient for the client.

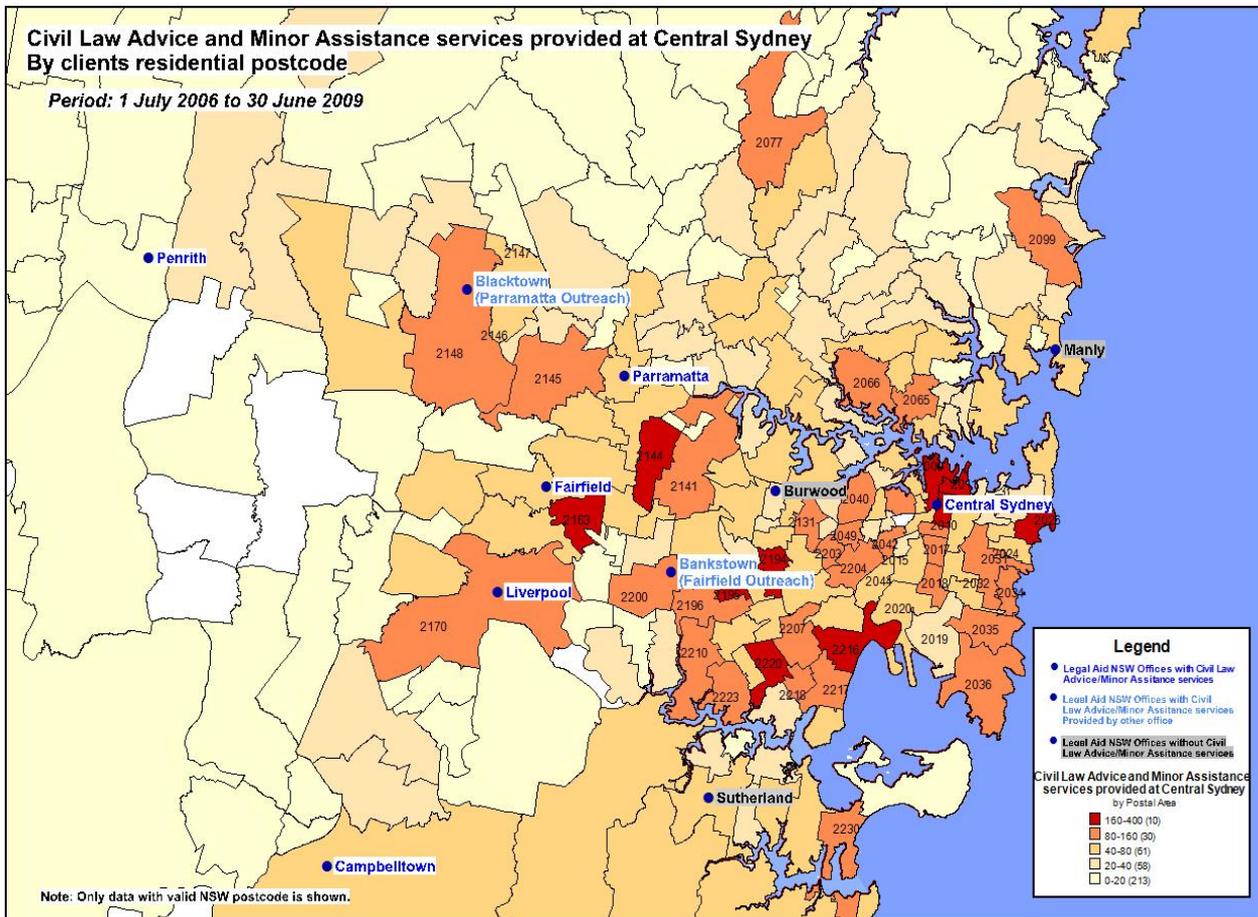


Figure 1. Region of residence of Advice Service clients

7.3. Legal Matter

Table 10: Matter type, Ground Floor Civil Law Advice Service 2008/09

Matter Group	Number	Percent
Consumer	117	22%
Employment	100	19%
Personal injury & accidents	64	12%
Debts (non consumer)	61	11%
Landlord/Tenant	44	8%
Wills/Estates/Death	38	7%
Discrimination & harassment	34	6%
Real property	22	4%
Environment/Neighbours	19	4%
Human rights/Civil liberty	15	3%
Mental health	7	1%
Civil matters arising from crime	6	1%
Business/investment	5	1%

(27%) Advices were coded as Civil – other.

Source: CASES

Table 11: Matter type, Sydney Central Government Law Advice Service 2008/09*

Matter Group	Number	Percent
Immigration	193	86%
Social security	32	14%

27% of advices were coded as Civil – other.

* Assuming that all immigration and social security matters are dealt with by the government law service

Source CASES

Table 12: Changes in legal matter, Sydney Central Civil Law Advice Service 2006/07-2008/09

Matter	2006-07	2007-08	2008-09
Immigration	929	817	826
Consumer/Debts	424	257	461
Social security	396	289	222
Personal injury & accidents	237	133	160
Employment	100	95	207
Wills/Estate/Death	93	83	110
Landlord/Tenant	81	57	110
Discrimination & harassment	75	49	64
Real property	57	44	51
Environment/Neighbours	46	32	65
Mental health	35	26	24

Source: CASES

Findings

- The top five legal matters for the ground floor advice service in 2008/09 were consumer (22%), employment (19%), personal injury and accidents (12%), non-consumer debts (11%) and landlord and tenant (8%).
- In terms of significant changes over time, employment law advices increased by 107% and landlord tenant advices increased by 36%. There were decreases for social security matters (44%) and personal injury and accidents (32%). Consumer/debt advices decreased between 2006/07 and 2007/08 and then increased to a similar level as 2006/07 in 2008/09.

7.4. Repeat clients

Findings

- A number of staff raised concerns about repeat clients using the advice service inappropriately. They felt that three or four appointments was reasonable if it involved follow on work for a matter, but were concerned about repeat clients who were simply seeking a second opinion or where no additional assistance could be given with a matter. There was also concern expressed about repeat clients turning into de facto case work.
- As can be seen from *Table 13*, the vast majority of advice service clients (95%) only saw the service once or twice between April and November 2009. This indicates that reducing repeat clients probably won't greatly reduce pressure on the service. However, it is probably worth putting some processes in place to deal with the 'serial offenders.'

Table 13: Frequency of Legal Aid NSW civil law clients receiving advice/minor assistance services, Central Sydney, April to November 2009

Frequency	Number	Percent
1	1,997	83%
2	277	12%
3	69	3%
4	24	1%
5	11	0%
6	5	0%
7	8	0%
8	3	0%
9	2	0%
10	1	0%
16	1	0%

Source: CASES

8. Referral and information pathways

8.1. How clients find out about the advice service

It is important to know how people find out about the Advice Service in order to know where to target information about services. Accurate information helps to manage expectations and reduce inappropriate referral. Targeting services that deal with high priority client groups can improve reach to these clients.

Table 14: Legal Aid NSW Civil Law Client Survey 2008

Source of finding out about Legal Aid NSW	Percent
Family or friends	29%
Court	8%
Telephone book	5%
Government department	5%
Internet	4%
Police	4%
Solicitor	3%
CLC	3%
Centrelink	3%
Community event	3%
Already knew about	2%
Comminute service	2%
Used legal aid before	1%
Salvation Army/St. Vincent de Paul	1%
LawAccess NSW	1%

N = 351

Source: Legal Aid NSW Civil Client Survey 2008 p.28 (Covers civil law information, advice, minor assistance, case grants and CLE across Legal Aid NSW.)

Table 15: Source of inquiry, Legal Aid NSW civil law advices, 2006/07–2008/09

Referral Source	Percent
Friend	45%
Community worker	18%
Court/chamber magistrate	10%
Centrelink	6%
Community legal centre	6%
Newspaper	5%
Police	3%
Telephone book	2%

Referral Source	Percent
Legal Aid NSW publications	2%
Private solicitor	2%
Law Society of NSW	1%

Missing = 93%

Source: Data Digest, Legal Aid NSW advice data

Table 16: Source of inquiry for Sydney Central Ground Floor Civil Law Advice Service, Nov 30 – Dec 11, 2009

How did the client find out about the advice service?	Total	Percent
Been before/already knew about	30	37%
Friend or family	14	17%
Internet	10	12%
LawAccess NSW	9	11%
Telephone book	7	9%
Other	3	4%
Government department	3	4%
Community legal centre	2	2%
Community organisation	1	1%
GP/Health professional	1	1%
Ombudsman/Dispute resolution	1	1%
Police	1	1%

N = 82

Source: Two-week survey of Sydney Central Ground Floor Civil Law Advice Service clients

Table 17: Top 10 legal matters referred from LawAccess NSW to Head Office Civil Litigation 2008/09

Matter Category	Total
Consumer/Debts	802
Employment	613
Environment/Neighbours	178
Wills/Estates/Death	178
Landlord/Tenant	134
Motor vehicle	120
Real property	118
Personal injury & accidents	112
Immigration	44
Business	20

Source: LawAccess NSW, unpublished data

Findings

- Legal Aid NSW no longer collects source of inquiry data and the data that was collected is very poor (93% missing data). However, analysis of available data (*Tables 14–16*) shows some patterns for how people find out civil law services across Legal Aid NSW.
 - Family and friends are a common way for people to find out about civil law services. This is consistent with other research on pathways.
 - The two–week survey of clients of the Ground Floor Advice Service found a high level of clients who already knew about the service or had used it before (37%). This is much higher than the Legal Aid NSW–wide civil law client survey (4%). This indicates a high proportion of repeat clients.
 - A relatively high proportion of clients appear to find out about services through the internet and the phone book (9.7% for the client satisfaction survey and 21% for the two–week survey).
 - Referring organisations vary for the different data sources but include courts, LawAccess NSW and community organisations.
- The top 10 legal matters referred by LawAccess NSW to Head Office Civil Litigation (*Table 17*) gives an indication of referral pathways from LawAccess NSW. The top 5 legal matters referred during 2008/09 were consumer/debt issues, employment, environment/neighbours and wills/estates.
- Information about civil law advice services is available on the Legal Aid NSW internet site but it is difficult to find (it is under Get legal help: Rural Outreach).
- The community legal centre solicitor interviewed thought that the advice service was means tested and generally didn't refer clients to the service.

Recommendations

1. Clarify the scope of the service and make this consistent across Legal Aid NSW if possible. *See section 6.3 for further discussion.*
2. Provide targeted information and education about the Advice Service to key referring organisations, eg LawAccess NSW, Law Society, community legal centres, courts including updating the Civil Law Advice Brochure (*see Annex 3*) and updating the Law Society Solicitor Referral Service areas of law sheet.
3. Review Internet and telephone book information to ensure that it accurately reflects civil law advice services and directs clients to LawAccess NSW in the first instance.
4. Monitor the types of matters referred to the Advice Service by LawAccess NSW.

8.2. Client expectations

Findings

- A common theme among staff was that clients have expectations of the advice service that are not met. This led to dissatisfied clients (a high proportion of complaints about the advice service can be linked to client expectations) and stress for staff.
- Unrealistic client expectations about the advice service included:
 - Clients thought that they would get their own lawyer/representation/legal aid.
 - Clients were disappointed at the amount of time they were given, particularly if they had waited a long time for an appointment.
 - Clients thought that that the solicitor would know everything about the law.
 - Clients expected to be given more advice than they were, particularly if they had already been given advice from another service, eg if LawAccess NSW had given advice about motor accidents.
 - Clients thought that the solicitor would prepare their documents.
- Staff felt that the level of expectation and dissatisfaction was higher if clients had waited a long time for an appointment or had travelled a long distance.
- Staff reported that clients with business matters often had higher expectations and were more demanding.
- Unrealistic expectations were the result of inappropriate referrals in some instances, eg chamber registrars telling clients that the service would be able to help with court documents, witnessing powers of attorney or drafting wills; police not understanding what the service will do; inaccurate information from Office of Industrial Relations about what the service could do about employment matters.

Recommendations

Expectations need to be managed both at the referring end and when booking clients in to the Advice Service. The recommendations from *section 8.1* are therefore also relevant for managing expectations.

5. In consultation with regional offices, develop a checklist of points for client service officers to tell clients when booking them in to the Advice Service. This could include: length of appointment, documents to bring, that it is one-off advice; may not get a grant of aid, checking with the client whether they already have a grant. Send a modified version to clients.

8.3. Triage and referral

Findings

- There was general agreement on the need for better screening and triage to services such as LawAccess NSW to ensure that the Advice

Service is seeing the most appropriate clients. One person suggested that 50% of current advices could have been referred to another service. Several staff felt that the regional civil law advice services were better targeted to the Legal Aid NSW target group than the Sydney Central Advice Service. This was felt to be partly due to better screening by the LSOs. Lack of screening led to frustration among staff about the limited assistance that they could provide.

- A range of examples were provided of clients/matters that could be more tightly screened which are summarised in the list below. See *Annex 1: Screening on Legal matter* for a more detailed discussion of this.
 - Legal matters that are particular to people with a lot of money, eg employment contracts for high salaries, commercial contracts, multimillion dollar properties.
 - Legal matters where the advice service can only provide limited advice that may not be substantively different to the advice provided by LawAccess NSW or other providers, eg workers compensation.
 - Clients who come back a number of times with the same issue even though Legal Aid NSW can't provide any additional assistance (*See the section on repeat clients for discussion of this*).
 - Clients who wanted to know about their legal aid application.
 - Clients seeking multiple opinions about their matter.
 - Geographic location.
- At the same time, there was a consistent opinion that Legal Aid NSW advice services should be available to everyone and that targeting should be done in a flexible way rather than through tightening policy guidelines. There was little support among staff for means testing advice service clients, both for practical and philosophical reasons.
- Staff were concerned that increased triage doesn't result in clients being put on to a referral merry-go-round. CSOs commented that some clients come back to them because they didn't get the service they expected from LawAccess NSW. Staff were also concerned that increased screening doesn't result in clients who need to access the service being screened out.
- The cost to clients with mobiles of contacting multiple services or being put on hold was also raised.
- Although there are some guidelines on legal matters dealt with by the Sydney Central Civil Law Advice Service, they vary and there were varying understandings among staff and external interviewees about which matters the Advice Service will assist with. LawAccess NSW, for example, doesn't have guidelines on matters that shouldn't be referred to the Advice Service. *See Annex 1: Screening on Legal matter* for further discussion of this.
- Some screening is currently done for the Advice Service. Table 19 shows that between 2006/07 and 2008/09, 67% of callers were booked in for an advice appointment, 19% were referred to LawAccess NSW, and 14% to other organisations. However, client

service staff said that they generally don't screen clients because they are unclear about the guidelines and are reluctant to turn clients away.

Table 18: Referral destination, civil law matters, Sydney Central Information Sessions 2006/07–2008/09*

Referred To	Total	Percent
Appointments	11,785	67%
LawAccess NSW	3,262	19%
Another organisation	2,452	14%
Total	17,499	

* Referral destination is only coded once which may result in under-reporting in some areas.

Source: Legal Aid NSW Sydney Central Switchboard

- CSOs are keen to work with the Civil Law Division to improve screening and referral of clients. They would like clear guidelines for screening and tips on ways to deal with clients who insist on using the Advice Service.
- CSOs use a referral sheet that needs updating. They would like to have access to the LawAccess NSW database. They have had some training in referral, eg from LawAccess NSW, but would like more. For example, they would like training and tip sheets about civil law issues.
- CSOs can do warm referrals, eg if a client is calling from a regional area and there is no Legal Aid NSW office in the area they will transfer them to LawAccess NSW and introduce the caller. However, there doesn't appear to be any protocols about when this should be done.
- Information in the LawAccess NSW database is available on the internet via ServiceLink (<https://www.hsnet.nsw.gov.au/login/ServiceLink.aspx>), a state wide human services database. This is available to Legal Aid NSW staff.
- There appears to be little coordination of referrals across Legal Aid NSW, in terms of training, protocols or resources.

Discussion

The following options were identified for screening and referral of clients.

- a) Use the existing client service officers and improve training, resources and links with the Civil Law Division.

This option is the least disruptive. Client service officers are keen to work with the Civil Law Division to improve screening of clients. However, this is only a small component of their work and they are not linked to the Civil Law Division in any other way so it may be difficult for them to develop the necessary skills and links the division.

- b) Use LSOs in the Civil Law Division to take bookings.

LSOs are used in regional offices and by the government and veterans advice services. They have good knowledge of the services and work closely with the solicitors.

- c) Employ a specialised paralegal intake officer who could also provide preliminary information and assist clients with aid applications.

This would provide the most scope for specialised assistance. However, this option carries a risk of running a parallel service to LawAccess NSW and has the greatest resource implications. There wouldn't be a lot of variety in the work.

- d) All calls are automatically re-directed to LawAccess NSW who would then make bookings for the Advice Service.

This option would provide the most seamless service for clients. However, a range of issues would need to be resolved including whether LawAccess are supportive of this proposal. It would require considerable resources and planning to implement.

Recommendations

6. Screen clients on a discretionary basis rather than through changes to policy.
7. Continue to use CSOs to screen and refer clients and take bookings.
8. Work with CSOs to explore ways to improve screening, triage and referral. For example:
 - a. Improve communication between CSOs and Civil Law, eg regular meetings, key contact person in civil, include CSOs in emails about changes to civil law issues, information sessions for CSOs on civil law issues.
 - b. Develop tip sheets for CSOs for common legal matters that include referral pathways and limitation dates. See the Parramatta (*Annex 4*) and Government Law information sheets as examples of how this might be done.
 - c. Update the CSO referral sheet.
 - d. Develop a coordinated training program for CSOs, eg training about key legal agencies, Law for non-lawyer training, services visits, plain language resources training. Ensure that CSOs link into relevant LSO training.
 - e. Investigate the possibility of Legal Aid NSW using ServiceLink and/or having access to the LawAccess NSW referral database.
 - f. Coordinate referral activities across Legal Aid NSW.
 - g. Explore the possibility of reducing CSO workload in other areas.
 - h. Consult regularly with LawAccess.NSW about referrals to and from the Advice Service, including how to manage client expectations.

- i. Develop checklists for CSOs when dealing with clients, eg check where the client has already been for advice, explain services provided by LawAccess NSW, tell clients that they can ring back to make an appointment with the civil law advice service if necessary, check if the client already has a grant.
 - j. Develop protocols for making warm referrals.
 - k. Ensure that clients are made aware of the availability of a phone in the waiting room to call LawAccess NSW or other service provider.
 - l. Provide legal information to clients.
9. Monitor and review the effectiveness of using client service officers to provide screening and referral.
10. Implement the following additional strategies to improve triage and referral of clients.
- a. Develop a list of matters where it would be more appropriate to refer clients to LawAccess NSW or a similar preliminary assistance service. (See *Annex 1 for further discussion*). Consult with other sections of Legal Aid NSW, CLSD, LawAccess NSW and other organisations as appropriate. (See *Annex 4* for a copy of the Parramatta office screening guide for LSOs).
 - b. Develop a list of recommended referral destinations.
 - c. Develop referral protocols with key legal service organisations, eg work with LawAccess NSW, courts and inner-city CLCs to clarify roles, referral protocols and gaps in services.
 - d. Investigate the possibility of LawAccess NSW making warm referrals to the Advice Service if the client has already contacted the Advice Service about a matter.
 - e. Review the possibility of screening based on postcode, noting that this needs to be done on a whole of Legal Aid NSW basis.
 - f. Ensure that up-to-date information is provided to key referrers about Legal Aid NSW civil law services.
 - g. Develop guidelines and procedures for dealing with repeat clients, eg customer service officers checking how many times a client has been to the advice service and referring to a solicitor in civil law to deal with if appropriate.
 - h. Investigate alternative approaches to meeting legal need in some areas, eg classes for personal injury, worker's compensation, neighbourhood disputes; provision of information packs.

8.4. Referrals from the Advice Service

Table 19: Referral destination, Sydney Central Ground Floor Civil Law Advice Service, Nov 30 – Dec 11, 2009

Where did you refer the client to?	Number	Percent
No referral necessary	33	41.2%
Court	11	13.8%
Private solicitor	9	11.2%
Government department	5	6.2%
Community legal centre	3	3.8%
Needed to refer but nowhere to refer	3	3.7%
Another Legal Aid NSW office	2	2.5%
Ombudsman/Dispute resolution	2	2.5%
Community Justice Centre	2	2.5%
Police	2	2.5%
CTTT	2	2.5%
Pro bono	1	1.2%
Other	5	6.3%

N = 80

Source: Sydney Central Ground Floor Civil Law Advice Service two week survey

Table 20: Referral destination, Legal Aid NSW Civil Client Survey 2008

Referred To	Percent
Private solicitor	43.1%
Government department	15.4%
Financial/credit advisor	10.6%
Local or other court	4.9%
Industry/Ombudsman/Tribunal	4.1%
Community legal centre	3.3%
LawAccess NSW	2.4%
Tenancy tribunal	2.4%
Hospital/medical service	2.4%
Welfare services	1.6%
Insurance company	1.6%
Work cover	1.6%

N = 123

Source: Legal Aid NSW Civil Law Client Survey 2008 (Covers civil law information, advice, minor assistance, case grants and CLE across Legal Aid NSW.)

Knowing where clients are referred is a useful tool for understanding client pathways and gaps in services. The proportion of clients who are not referred can also be used as an indicator of the effectiveness of a service. Data on referral destination are not

routinely collected, but a two-week survey of referral destination was carried out for the Advice Service. The 2008 Civil Law Client Survey also reported on referral destinations for civil law across Legal Aid NSW.

Findings

- *Table 19* shows that, during the two-week survey period, 41% of matters were dealt with by the Advice Service without the need for a referral. This compares to 65% of clients who weren't referred to another organisation in the 2008 Civil Law Client Survey.
- Courts, private solicitors and government departments were the three highest categories for referral in the survey. These are similar to the referral destinations found in the Civil Law Client Survey, with the addition of financial credit advisors as the third most popular referral destination.
- Staff generally felt that their knowledge of other services was adequate, although this varied depending on their level of experience and frequency of shifts. The Law Handbook, the internet and the CLC directory were mentioned as useful sources of information about other organisations. Some staff said that a referral sheet would be useful.
- Particular services that staff identified a need for more knowledge about included:
 - Legal Aid NSW crime and family advice clinics and policies on grants of aid in these areas.
 - Chamber registrar services. Staff were unclear about the best way to make an appointment with a chamber registrar. *'I referred the client to the local court for further assistance with a defence which I partly drafted for him, However I'm not sure the local court assists people with drafting/checking documents.'*
- Several staff raised the need to provide referrals to recommended solicitors rather than to the Law Society Solicitor Referral Scheme, particularly for issues such as victim's compensation, workers compensation and motor accidents. They felt that this was important as the services provided by solicitors vary greatly. This is done in some regional offices and by community legal centres but raises issues of perceived bias from Legal Aid NSW. There is a list of solicitors who have accepted civil law assignments by location and legal matter on the civil law intranet. The Civil Law Panel lists solicitors available to do civil law legal aid work.
- Most lawyers used the CARS referral service if necessary but some weren't aware that it was available.

Recommendations

11. Clarify what assistance local courts provide with civil law matters and give to solicitors.
12. Provide a copy of the CSO referral sheet in the advice room and copies of the CLC handbook to all staff.

13. Investigate how to build staff knowledge and provide appropriate referral to private solicitors who do civil law legal aid work. Develop a list of useful resources on dealing with solicitors e.g. Making a complaint, Questions you should ask your lawyer.
14. Promote the availability of the CARS referral service to staff, particularly for clients with a mental illness.

8.5. Pathways to litigation

One of the roles of the advice service is to source clients for the Civil Law Litigation practice. Substantive data on the extent to which this occurs isn't available but data was gathered through a two-week survey and through analysis of CASES data.

Table 21: Referrals for grants of aid, Sydney Central Ground Floor Civil Law Advice Service, Nov 30 – Dec 11, 2009

Did you suggest that the client apply for legal aid?	Number	Percent
No	70	89%
Yes	9	11%

Source: Two-week survey, Nov/Dec 2009

Table 22: Matter types for cases (1 case only) of clients who have received civil law advice services at Sydney Central, March–Nov 2009

Matter Category	Total
Immigration	20
Housing (loss of dwelling)	11
Veterans	10
Social security	8
Discrimination & harassment	5
Consumer	5
Fraud/Dishonesty	4
Employment	4
Assault/intentional injury	4
Miscellaneous State matters	2
Housing (not dwelling loss)	2
Civil other – State	2
Civil other – Commonwealth	2
Real property	1
Property/Environment damage	1
Property & maintenance	1
Other offences against person	1
Mental health	1
Matters following death	1

Matter Category	Total
Human rights/Civil liberty	1
Drug offences	1
Debts (non consumer)	1
Children	1
Care & protection	1
AVOs/Harassments	1

Source: CASES

Findings

- Applying for a grant of aid was suggested for 11% of clients during the two week survey period.
- Coincidentally, analysis of CASES data between April and November 2009 also shows that 11% of clients of the advice service also applied for a legal aid grant (254 out of 2404 advices). Of these 52% received grants and 48% were declined.
- Staff reported that the Advice Service was a good source of case work for some areas but not for others, eg it is the main way that the government law group gets work (perhaps reflecting their tighter targeting) but human rights don't get so much litigation work via the Advice Service. This is reflected in the matter types of grants for clients who have used the advice service (see *Table 23*).
- The ability of clients to fill out their application forms came up as an issue during consultations. While it was agreed that it wasn't a good use of lawyer's time to assist people with filling out their legal aid application forms during an advice interview, concerns were raised that it can be difficult for some clients to fill in the legal aid application form. This is particularly the case if clients have low literacy or cognitive impairment. Client service officers will assist people with legal aid forms including filling it in if they have literacy problems but they have limited time to do this and additional assistance may be needed. One staff member suggested having a staff member with a community worker background to help people fill in the form.
- LawAccess NSW will refer people directly to grants and will provide some assistance to people on the phone with making a legal aid application. 225 civil matters were referred to the grants section of legal aid by LawAccess NSW in 2008/09. LawAccess NSW staff found Policies in Brief useful for understanding what areas grants are available for.

Recommendations

15. Provide a registry function at Sydney Central to assist clients with filling out legal aid applications and accessing information about their legal problem. This help desk area would include a phone for clients to call LawAccess NSW, easy to understand information about the law, and a computer with access to resources such as LawAccess Online and LIAC's Find Legal Answers.

8.6. Information about the law

Findings

- A large proportion of staff used the internet to find information for clients, including fact sheets, forms and cases. They would then go through this information with the client. None of the staff interviewed gave out non-print resources such as DVDs.
- CSOs provide some printed information to clients and also refer clients to internet sites but would value more training on this.
- Staff used a variety of methods to find relevant sites including using their own bookmarks, going straight to a site or finding sites through Google. No-one used LawAccess online, either because they didn't know about it or found it difficult to navigate, as there was too much material. There were varying opinions about the usefulness of having a standard set of bookmarks.
- A number of staff noted that the advice room on the ground floor is not well organised and is not stocked with brochures on a regular basis. I inspected the advice room and found a number of out-of-date resources including a pamphlet guide from 1997 and a CARS referral list from 2003. Staff also felt that having a well-maintained room sends a positive message to clients and staff. While staff generally thought that it would be useful to have printed resources in the room, they also felt that the extent of these should be limited to key resources and those not available on the internet given the dominant use of the internet and that hard copy dates quickly.
- The Law Handbook is a useful resource. It would be useful to have this online for ease of access and to save time photocopying for clients.
- There are a number of initiatives currently underway to improve provision of plain language resources to clients. These include: Strategic Planning and Policy are updating the *Solve your legal problem* section of the Legal Aid NSW web site; the Parramatta Legal Aid NSW office has a personal injury kit to send out to clients that includes information on contingency fees, personal injury specialists etc; and LawAccess NSW are identifying core resources in a range of areas.

Recommendations

16. Improve the provision of legal information resources through:
 - a. Identifying key resources for common legal matters (including non Legal Aid NSW brochures and DVDs and investigate the best ways to inform staff about these, eg use of the Intranet, Internet and bookmarks. This could be done in conjunction with other services such as LawAccess NSW, LIAC and the Legal Information and Referral Forum.
 - b. Ensuring that key information is provided in the advice room and that it is kept up-to-date.
 - c. Discussing ways to work with LIAC including the possibility of providing training for CSOs (and other interested staff) on key resources.

- d. Circulating the Law and Justice Foundation's Plain Language Law Newsletter.
- e. Investigating the possibility of getting the Law Handbook online.
- f. Providing a computer and printer in the waiting room for clients to check legal resources on the Internet.

9. Operation of the service

9.1. Staffing

Findings

- Staff are currently rostered for a maximum of one shift per week plus one back-up session. Staff also provide up to three hours per week on minor assistance (this figure is based on the recommended maximum in the Civil Law Procedure Manual but this varies in practice). Not all staff are rostered for one shift per week: group leaders do three shifts per month, and part time staff do less. Four staff from Strategic Planning and Policy are currently rostered for one shift per month.
- There has been an increase in services that need to be staffed by the Civil Law Division, including the Aboriginal outreach service at the ALS, the Supreme Court Duty Solicitor Service and the ADT. If staff are rostered to these services they are not rostered to the Advice Service.
- There was a general consensus that time spent on the Advice Service should not be increased as it would start to impinge too heavily on other activities such as case work, law reform and CLE.
- There appears to be chronic understaffing of the Advice Service. For example, it isn't currently available on Friday afternoons because of lack of staff.

Recommendations

17. Investigate whether additional staff are available for the Advice roster, either from the Civil Law Division or other Divisions.
18. Use paralegals to help with minor assistance.

9.2. Appointments vs drop-ins

Findings

- Some regional offices have a combination of appointments and drop-ins. The Family Law Advice Service is a drop-in service.
- Appointments can be a barrier for people and anecdotally drop-ins reach more of the targeted audience. However, appointments allow screening and reduce bottlenecks, eg around lunchtimes. There was a strong staff preference for appointments for the Sydney Central Advice Service.

Recommendations

19. Keep the appointment system.

9.3. Waiting times

Findings

- Waiting times are currently 4–5 weeks, which results in no-shows, clients missing limitations dates and raised client expectations regarding the level of service that they will receive. This has been the case for the last 6–8 months. Previous to this, waiting times were 2–3 weeks.
- The customer service officers feel that the increase in waiting times is due to an increase in demand, particularly in employment and possessions. A reduction in the service on Friday afternoons due to lack of staff to fill the roster would also contribute to increased waiting times.
- The Government Law Service waiting times are two weeks. Waiting times at regional offices vary between one and four weeks but are generally less than three weeks. Some offices close the books after three weeks.
- LawAccess NSW takes waiting times into account when referring clients to Legal Aid NSW advice services.
- 76.7% of civil law clients in the 2008 civil law survey had contact with a solicitor within two weeks (p46).
- The current system for dealing with urgent advices seems to work well.
- CSOs take limitation dates into account when booking clients but they would like more information about these.

Recommendations

It is important that waiting times be reduced as long waiting times have negative effects for both the clients and the staff.

20. Close the books once the waiting time exceeds three weeks and suggest that clients call back the following week. Keep statistics on unmet demand.
21. Develop a consistent approach to waiting times across Legal Aid NSW offices.
22. Keep statistics on waiting times and regularly review.
23. Review key limitation dates and work with client service staff to ensure that clients with urgent limitation dates are seen and/or appropriate referrals are made.

See also *section 8.3* on triage and referral for recommendations on reducing demand.

9.4. No shows

Findings

- There is a high proportion of no-shows: 2–3 per day.
- These are partly caused by long waiting times, and are also seasonal.

- Client service officers are happy to contact clients to confirm appointments and currently do this to some extent.
- The Parramatta office requires clients to confirm two working days before an appointment.

Recommendations

24. Ring or text clients the day before the appointment (considering privacy issues) and investigate the possibility of sending text messages via computer.

See also *section 9.3* on waiting times.

9.5. Length of appointments

Findings

- The current appointment times are approximately 20 minutes with flexibility within each hour to allow for some clients taking longer than others.²
- The Government Law Advice Service allows 45 minutes per appointment, partly due to needing a higher proportion of interpreters. Parramatta office books double appointments if an interpreter is required.
- A number of staff said that they often provide longer than the 20 minutes. They manage this by either going over time or relying on no-shows
- Staff said that a minimum of 30 minutes is needed to provide an effective Advice Service. Disadvantaged clients, such as those with an intellectual disability or who need an interpreter service need longer appointment times (The Legal Aid NSW Disability Action Plan recommends extending standard interview times for clients who have a disability. Longer appointment times also allow for some minor assistance to be done during the session, reducing the need to do follow up.
- Some staff felt that nine advices per session was too much for staff to deal with.

Recommendations

25. Increase advice sessions to 30 minutes. This would reduce appointments from 18 to 14 per day and may add to the problem of longer waiting times, but is also an acknowledgement of what is already happening in practice. Improved screening may also result in a higher proportion of disadvantaged clients with more complex needs who will need longer appointment times.
26. Allow 45 minutes if an interpreter is required or if the client has a disability.

² Sessions are actually 24 minutes for the morning (10 appointments in four hours) and 22.5 minutes in the afternoon (8 appointments in three hours).

10. Minor assistance

Minor assistance wasn't a major focus of the review as a review of minor assistance was carried out in 2008. However, the following issues arose during interviews.

Findings

- There are guidelines for minor assistance in the Civil Law Procedures Manual. However, some staff lack knowledge of these procedures.
- Some staff felt that the decision to provide minor assistance was too ad hoc and too much at the discretion of the solicitor.
- Some staff don't record minor assistance if it is provided during an interview. However, according to SPP this should be recorded.

Recommendations

27. Review minor assistance guidelines and promote to staff including as part of staff induction.
28. Ensure that supervisors monitor minor assistance as part of file reviews to ensure that staff don't over commit and that minor assistance doesn't turn into case work.
29. Record minor assistance provided during an advice session in CASES.

11. Quality/Solicitor training

Findings

- Although there is a review system in place for Civil Law Division cases, there don't appear to be any quality control measures for advices. Community legal centres and LawAccess NSW have systems for checking the quality of advices.
- The quality of advice varies depending on the level of expertise of the solicitor. There is a risk of not giving good advice if it isn't an area of speciality. It is therefore important to ensure that staff are trained in areas that aren't their speciality areas.
- Solicitors interviewed felt that the civil law section works well as a team in terms of sharing information, and asking for assistance if necessary. However, it wasn't so clear to what extent volunteers to the roster from other sections of Legal Aid NSW were in this loop.
- A number of solicitors raised the need for more consistent training, particularly for new staff. Suggestions included: sitting in with an experienced person, checking advice sheets, mentoring, sessions from head of practice areas. It was suggested that *Grade 5* solicitors do less advices and more back up and training.
- It is hard for staff to keep up-to-date with changes to the law.
- There is a need for training in mortgage matters and employment law.
- There are some training resources available on the Legal Aid NSW intranet. LawAccess NSW has developed "*LawPrompt*", an on-line resource for its staff on common legal topics.

Recommendations

30. Investigate whether a quality review process should be introduced for advices.
31. Review training provided to solicitors rostered to the Advice Service including checking advices.
32. Investigate possibilities for cross-sectoral training through avenues such as the NLAFF Training Reference Group.
33. Investigate ways for staff to keep up to date with changes to the law including using the intranet.
34. Investigate the possibility of Legal Aid NSW having access to LawPrompt.

12. Data collection

Findings

- Matter type, which is recorded by the advice solicitor, is coded as Civil – other in 42% of advices. This figure is 27% for CASES, which is still unacceptably high.
- There are high levels of missing data for Employment status (40%). Benefit status data is of questionable quality.
- Data is not collected for source of inquiry or referral destination. Source of inquiry data is important for tracking how clients find out about services, which services to promote services to, and for evaluating promotional campaigns. Referral destination data is important for ascertaining which clients did not need a referral, and where clients are referred to.
- Disability data isn't collected for the advice service.
- Statistics aren't collected for advice provided to organisations, eg tenancy services

Recommendations

35. Improve data collection for matter type, employment status, benefits and country of birth through reviewing data collection mechanisms and changes to forms/CASES as appropriate.
36. Collect source of inquiry for information services and referral destination for advices.
37. Review the possibility of collecting disability status for advice service clients.
38. Review options for collecting data on assistance provided to other services.
39. Review what statistics it would be useful for the Civil Law Section to receive on a regular basis for monitoring and evaluation purposes.

See also *Recommendation 29*. on minor assistance data.

13. Working with others

Working with other legal and non-legal organisations is particularly important for civil law issues given the number of service providers and the complexity of issues. Tracking what is happening in this area was outside the scope of this review but a number of examples were provided during the course of the interviews of how the civil law service works with other services.

Findings

- The government law group works closely with organisations such as Welfare Rights, IARC and RACS to identify need and define roles, eg Legal Aid NSW does matters at the AAT stage but not at other stages. Legal Aid NSW staff also volunteer at services and are sometimes on their boards.
- Legal Aid NSW is on the tenancy legal working party, which looks at law reform and legal issues. Tenancy services do CTTT work, the Tenants' Union mainly does strategic litigation; Legal Aid NSW does retirement village litigation and Supreme Court matters.
- The consumer group (ASIC, Ombudsmen, CCLC, RLC plus interstate) has case work meetings every three months and an e-mail list.

Recommendations

40. Work with NLAF to map cooperative arrangements across the civil law sector and identify areas where cooperation could be improved.

14. Gaps in services

I didn't carry out a systematic review of gaps in services. However, I did identify the following gaps in services during the course of the review.

14.1. Employment law

- Employment law was identified as an area of high unmet need by staff, LawAccess NSW and community legal centres. Employment law was the second most frequent category of legal matter (17%) for the Advice Service in 2008/09. The number of advices in this area rose by 100% between 2006/07 and 2008/09.
- Face-to-face assistance is often needed for employment law matters.
- Legal aid for employment matters is only available for clients who meet the 'special disadvantage' criteria. This impacts on the level of expertise that solicitors have in employment law. The Civil Law Policy Review recommended that legal aid be available for the most disadvantaged for employment related matters, particularly unfair dismissals.
- Other services that provide assistance with employment law include Fair Work Australia (information only), Office of Industrial Relations (information only), LawAccess NSW (some advice but may need someone to look at the documents), community legal centres (some provide representation but the extent of this varies); unions; pro bono (conflict is an issue). There is no specialist employment law community legal centre although Kingsford and Inner City Legal Centres do quite a lot of employment law.
- The Commonwealth Government is currently assessing employment law needs and the best way to meet these.
- There is a need for ongoing training in employment law across the sector, particularly practical training and updates to the law.

14.2. Assistance with court documents

- According to the CSO training notes, the Advice Service doesn't assist with court documents. However, solicitors who were interviewed reported providing varying levels of assistance with court documents. One solicitor said that assisting clients with court documents is problematic because many of them lack experience in the local court.
- Staff reported that changes to the chamber registrar service have resulted in an increase for requests for assistance with court documents, eg affidavits, evidence for small claims, notices of motion, defences. LawAccess NSW also identified this area as a gap in service, and one that requires face-to-face assistance. Staff identified inappropriate referrals to the Advice Service as a result of court staff referring clients to the service for assistance with court documents.

14.3. Small business

- There are very few free legal services for small business. LawAccess NSW refers people to the Youth and Enterprise Legal Centre which provides assistance to small business in a range of areas. www.yelc.enya.org.au/.

14.4. Wills and estates

- See the review of the Older Person's Legal and Education Program for discussion of this issue.

Recommendations

41. Work with the commonwealth government and the NSW legal assistance sector to examine options for meeting employment law needs.
42. Assess the most appropriate role for Legal Aid NSW in meeting the need for assistance with court processes and documents.

15. Future directions

This review focussed on ways to improve the operation of the Advice Service. A detailed discussion of broader issues, such as whether a one-off advice session provided at a legal aid office is the most appropriate model for meeting the needs of disadvantaged clients, or what proportion of Civil Law Division resources should be allocated to advice services, is beyond the scope of the review.

I have, however, identified the following questions that could be explored in more depth through a divisional planning process.

- What is the right balance for the Civil Law Division between litigation, advice, law reform and community legal education? What are the most appropriate services to be providing compared to community legal centres and LawAccess NSW? How can planning be done on a more cross-sectoral basis?
- What are the implications of possible changes to the Commonwealth Agreement? Eg latitude to do more advice work using Commonwealth funds.
- What are the implications of the Commonwealth Government's Access to Justice Framework with its emphasis on information, advice and referral? How will this affect legal aid funding? How should the 'no wrong door' approach be implemented in practice? What are the cost implications? Should Legal Aid NSW/ NLAF take a proactive role in fleshing this out/research/piloting?
- What are the implications of the increasing trend for unbundled services?³ What are the best ways to deliver unbundled services? Eg should there be more client follow up and minor assistance rather than a one off advice model? How useful is a short advice session for Legal Aid NSW's target group, given the complexity of their problems and the existence of services such as LawAccess NSW?
- How can services reach disadvantaged clients more effectively? How can Legal Aid NSW and other legal services work more effectively with organisations working with disadvantaged clients to improve pathways for these clients and to meet their legal and non-legal needs?
- What potential role can paralegals play in providing triage and referral to legal assistance services? Eg financial counsellors and tenancy advisors. What role should Legal Aid NSW play in this context?
- What are the gaps in legal services and how should these be met?
- What evidence currently exists to inform planning? What additional evidence is needed?

Recommendations

43. Implement a planning process to assess the role of the Advice Service in the context of the broader directions of the Civil Law Program.

³ 'Unbundling' refers to breaking up legal service provision for a client into discrete legal tasks. Rather than providing the client with legal assistance for the entire package of tasks, the client is encouraged to choose the tasks for which they require legal assistance and to use self-help type strategies (eg do-it-yourself kits, self-help groups) for others of these tasks.
Law and Justice Foundation of NSW, *Justice made to measure*, 2006,
<http://www.lawfoundation.net.au/report/survey2006/C911F96376795C68CA25713E007C66C0.html>.

Annex 1: Screening on Legal matter

There are currently some guidelines on which matters should be dealt with by the Advice Service. However, these vary and there doesn't appear to be a definitive list. The list below is based on several civil law advice service documents.⁴

Won't assist with

- Drafting wills
- Witnessing powers of attorney
- Completing court documents
- Second opinion on a matter where a private solicitor is acting for a client
- Economic, retirement and student visas, withdrawal of sponsorship, withdrawal of assurance of support, migration from Australia (government law group)

Can only provide limited assistance

- Business and commercial problems
- Car accidents
- Personal injury
- Workers compensation
- Wills and estates
- Insolvency

The following table lists legal matters that solicitors interviewed suggested could be referred in the first instance. Reasons include: the most appropriate course of action is to see a lawyer; limited advice can be provided and it will be similar to that provided by LawAccess NSW or similar help line; there is limited expertise; or the matters reflect clients with a higher socio-economic status.

Legal matter	Reason
Workers compensation and Personal Injury	Can't provide a lot extra than LawAccess NSW. Should refer straight to a solicitor.
Victim's compensation	Law soc and CLCs do
Motor accidents	Traditionally done by chamber registrars. Would these be better referred on – however there are systemic issues such as firms being paid in bulk to commence court proceedings; \$3000 or less should be dealt with by FOS plus uninsured people who drive motor vehicles are part of the legal aid client base.
Business - partnership agreements, international law, tax law, Executive contracts	Higher socio-economic status, Limited expertise
Mortgage brokers and financial advisers	Higher socio-economic status, High potential for conflict
Property – Conveyancing, strata, battleaxe block inquiries, fencing disputes, development disputes, Landlords (with the exception of head tenants in	Higher socio-economic status, Should be referred to a solicitor

⁴ Training sheet for ground floor service, 'Civil law advice at Legal Aid' information sheet, Parramatta Office sheet for LSOs, Government law information sheet for LSOs.

Legal matter	Reason
share housing), trees, building disputes	
Intellectual property	Higher socio-economic status, Limited expertise
Wills and estates	Limited expertise, more appropriately done by OPLS except for high end matters which can go from OPLS to OPLEU
Articles of association	Limited expertise, can be referred to PILCH
Land and Environment Court	Limited expertise, Higher socio-economic status

Statistics on the number of advices provided about these matters give some indication of the likely impact of reducing advices in these areas (noting that 42% of advices are not coded). (see *Table 10*)

- Personal injury and accidents - there were 530 advices (16%) between FY 2006 and 2009 which was the second highest category of legal matter for the service
- Higher socio-economic status - There were only 25 business advices and 152 real property advices out of a total of 11,783 advices (1%).

Annex 2: LawAccess NSW services

<http://www.lawaccess.nsw.gov.au>

LawAccess NSW is a statewide government telephone service. LawAccess NSW provides legal assistance over the telephone as follows:

- Information and referral is provided to all callers.
- Legal advice is provided to '**priority customers**', where telephone legal advice is appropriate. Urgent calls are done immediately, otherwise two days. LawAccess NSW 'priority customers' include callers who:
 1. are at risk of harm;
 2. have urgent matters, which include callers who:
 - are threatened by domestic or family violence
 - have to appear in court within two working days and are unable to obtain advice from another service, and need advice prior to speaking with the Duty Solicitor at Court;
 - intend to commit an offence or breach a court order;
 - are in police custody;
 - are calling from a public telephone/homeless;
 - have a warrant out for their arrest;
 - have been asked to attend a police interview;
 3. are an inmate in a correctional facility;
 4. live in regional, rural and remote areas;
 5. are Aboriginal or Torres Strait Islander;
 6. have a disability;
 7. are from culturally and linguistically diverse (CALD) backgrounds;
 8. have low levels of literacy;
 9. are distressed;
 10. have experienced difficulty in obtaining legal assistance (which includes where they are unable to get legal advice from Legal Aid NSW or a Community Legal Centre due to a conflict of interest).
- Customer Service Officers and Legal Officers will 'warm transfer' some callers, eg prisoners legal service, some mortgage matters. This involves putting the caller on hold, ringing the service and explaining the situation and connecting the caller. Can do with people who are distressed or have an intellectual disability. Can do for all calls but there are additional costs per call and it also ties the lines up.
- Customer Service Officers can provide general information and assistance over the telephone to callers seeking to complete an application for legal aid. They can also provide an indication to callers about whether they might be eligible for a grant of aid based on the Means Test Indicator. They will not complete the legal aid application for the customer.

Annex 3: Civil Law advice brochure

Civil Law Advice at Legal Aid

The Legal Aid Commission provides assistance in civil law matters. We specialise in the following areas of law:

- Housing law
- Consumer law
- Discrimination and other human rights law
- Social security
- Migration (available only at Head Office)
- Mental health and Guardianship

We provide **free confidential legal advice in civil law matters**. The advice session is generally 20 minutes. If you need more time, a further appointment can be arranged. We will provide an interpreter if required.

Sometimes we may be able to offer you Minor Assistance. This may include writing a letter for you or making a telephone call to try and resolve your matter. This will only be offered if the solicitor seeing you has time available, and will not involve ongoing assistance.

We will advise you if you are eligible for further representation by way of a grant of legal aid. We will also refer you to other services or a private solicitor if required.

The advice is of a general nature. We cannot prepare court documents or advise on complex matters which require legal research or review of further documents. We cannot provide ongoing advice at every stage of litigation if you are representing yourself. We do not provide a second opinion on a matter where a private solicitor is acting for you.

If we have seen the other party to your dispute, we will not be able to advise you. This is because we may then be in possession of confidential information about the other party. In this case, we will try to refer you to another agency for assistance.

You can also obtain free legal advice by telephone from Law Access. If there is a long wait for an advice appointment, we will suggest that you telephone Law Access who may be able to answer your query. If you still need legal advice, you can then make an appointment with Legal Aid.

Where can I go for civil law advice?

The Commission's civil law advice service is available at the offices below. We also provide outreach services at a range of other locations including Aboriginal Legal Services. Call your nearest legal aid office to find out about any outreach services near you.

Head Office

Ground Floor, 323 Castlereagh Street
Sydney NSW 2000
Tel: 9219 5000 Fax: 9219 5935
TTY: 9219 5037

Immigration and Social Security Advice

3rd Floor, 323 Castlereagh Street
Sydney NSW 2000
Tel 92195790 Fax 92195070

Blacktown

Level 3, 85 Flushcombe Road
Blacktown 2148
Tel: 9621 4800 Fax: 9831 5597

Burwood

Level 4, 74-76 Burwood Road
Burwood 2134
Tel: 9747 6155 Fax: 9744 6936
TTY: 9745 4277

Campbelltown

Suite 1, Level 4, 171-179 Queen
Street, Campbelltown 2560
Tel: 4628 2922 Fax: 4628 1192

Coffs Harbour

4 Park Avenue, Coffs Harbour 2450
Tel: 6651 7899 Fax: 6651 7897

Dubbo

64 Talbragar Street, Dubbo 2830
Tel: 6885 4233 Fax: 6885 4240

Fairfield

Level 2, Fairfield Chase,
25 Smart Street, Fairfield 2165
Tel: 9727 3777 Fax: 9724 7605

Gosford

Level 2, 37 William Street,
Gosford 2250
Tel: 4324 5611 TTY Fax: 4324 3503

Lismore

Suite 6, Level 4, 29 Molesworth Street
Lismore 2480
Tel: 6621 2082 TTY Fax: 6621 9874

Liverpool

Ground Floor, Interdell Centre
47 Scott Street, Liverpool 2170
Tel: 9601 1200 Fax: 9601 2249

Newcastle

300 King Street, Newcastle 2300
Tel: 4921 8801 Fax: 49218866

Parramatta

Level 5, 91 Phillip Street,
Parramatta 2150
Tel: 9891 1600 Fax: 9689 1082
TTY: 9891 5692

Wollongong

Ground Floor, 73 Church Street
Wollongong 2500
Tel: 4228 8299 TTY Fax: 4229 4027

Telephone advice can be obtained from LawAccess 1300 888 52

Annex 4: Parramatta Legal Aid Office – guidelines for LSOs

Civil Law Appointments

These Civil matters are **NOT** taken here please refer to:

Migration Law	Veterans	Mental Health*	Inquests
9219 5790	9219 5148	9745 4277	9219 5161

Criminal Offences (including Traffic Offences) through to PJP – 8688 3800

Unfair/unlawful dismissal – refer to Fair Work Australia 1300 799 675. Advise of 14-day limit for unfair dismissal claims (which can be extended but may not be). Make appointment.

Complete Advice Form and **put through to a solicitor immediately for assessment** if:

- Supreme Court Statement of Claim seeking possession of home
- Bankruptcy Notice / Creditors Petition
- Statement of Liquidated Claim (not seeking possession) served more than 14 days ago only if LawAccess NSW won't provide phone advice – see attachment
- Order for Termination and Possession from Consumer Trader & Tenancy Tribunal
- Writ of Execution served by Sheriff

Refer to specialist service if:

- Social security pre AAT stage (unless client wants face-to-face advice) Welfare Rights **9211 5300**
- Tenancy eviction – TAAS (postal code)

Make an Appointment if:

- Consumer credit (unless voluntary bankruptcy in which case C&D Hotline)
- Insurance
- Social security at AAT stage or if client wants face-to-face advice
- Discrimination
- Unfair/unlawful dismissal
- Civil liberties &/or human rights
- Children under 18
- MVPD claim by insurer against caller where caller at fault and can't pay
- Law Access referral, but

Even though Law Access has referred, if aid will not be granted in any circumstances, eg motor vehicle property damage, workers comp, wills, advise the client of where they may be able to obtain phone advice or advice outside working hours and only make an appointment if they prefer to see us.

Otherwise always advise the client that initially they should call

Law Access on 1300 888 529

This service is free and provides information and referrals.

HOW TO MAKE AN APPOINTMENT

- Do a conflict check (use attached Conflict Script if have conflict)
 - If no conflict, get the client's name, DOB, telephone number and type of problem
 - Clients ALWAYS need to confirm 2 working days before
 - Tell the client the day and date to confirm
 - Advise them that if they do not confirm there is a possibility that their appointment may be given away
 - Advise the client that there is an answering machine service
 - When an Interpreter needed please book double appointments
 - When the client confirms place a tick next to the appointment
 - Write in the date of confirmation
 - Check that date of birth has been given
 - If the client is impatient and feels that their appointment is urgent explain the waiting list to them (i.e. call up the day before appointment to get cancelled appointment). If you think it's urgent take client's number and give them cancelled appointment.
- * Where caller is concerned about some form of compulsory treatment, financial mgmt, g'ship etc over him/her

