

Submission on the NLAP Draft Client Survey Reporting Guidance

28 September 2020

1 Context and overview

Victoria Law Foundation (VLF) welcomes the opportunity to comment on the National Legal Assistance Partnership (NLAP) Draft Client Survey Reporting Guidance (Survey Guidance). We fully support efforts to build the legal assistance evidence base empirically to better inform access to justice and legal assistance services and policy.

Client surveys can provide important information about client experience and service utility. They throw valuable light on the operation, benefit and value of services from the perspective of those they are intended to serve. They also complement other information, such as legal service data; public understanding of law and legal need survey data; and court, tribunal and other dispute resolution data. Quality data provide a strong evidentiary base for monitoring and evaluating legal need, service provision and outcomes.

The stated aim of the Survey Guidance is to support consistent reporting of client surveys as part of state and territory Jurisdictional Performance Reports requirements. Our comments here go further and address implications for the quality, use and utility of client survey data. As the Survey Guidance notes, client survey data quality and utility depend inextricably on consistency of both survey reporting and methods.

Following agreement of NLAP terms by the parties and the new National Strategic Framework for Legal Assistance (NSF), we submit a strategy is required to improve, better align and standardise client experience, outcome and satisfaction measures with NLAP and NSF objectives and outcomes.

We appreciate that the agreed NLAP reporting requirements, together with the widespread impact of COVID-19 mean that there is little or no appetite for a change to the client survey approach before the next round of reporting in 2022. Our comments therefore focus on improving the quality, use and utility of client survey information across the life of the NLAP.

Our comments are based on wide experience of empirical legal research using surveys, and insights from our recent report *Apples, Oranges and Lemons: The use and utility of administrative data in the Victorian legal assistance sector*.

2 Previous client survey comments

Our previous submission on the draft NLAP text (14 February 2020) identified the:

- need for further work to develop a more meaningful set of standard questions for inclusion in biennial client surveys – to ensure the utility of client survey data outweigh the burden of its collection.
- opportunity provided by client surveys to gauge client outcomes – to inform development of an outcomes-based framework for legal assistance services.
- need for standardised survey approaches and implementation – to yield meaningful findings that are useful for service providers and the NLAP parties.

We reiterate those comments and extend them below.

3 Use and utility of current NLAP client survey data

There are several likely implications of conducting and reporting client surveys using the current client survey questions and without a standardised survey method.

First, where client survey methods vary substantially across state and territory jurisdictions and/or legal assistance service providers, findings cannot meaningfully and validly be used for comparative analysis. Any variation in results may simply reflect variation in method, rather than client experience. This represents lost opportunity to identify, learn from and share what might be better and more effective practice. It also means survey utility may be outweighed by burden.

Where states and territories invest in developing their own approach to client surveys, this is also likely to create or extend barriers to more consistent and standardised practice in the future.

Second, where survey methods vary across time, client survey data should not be used compare baseline figures, monitor trends or develop benchmarks. As is clear in the Survey Guidance, comparing figures from a previous survey may be inappropriate when methods have changed. Even minor changes to client survey methodology potentially obscure factors driving change. Again, this means that there is lost opportunity to identify, learn from and potentially share better and more effective forms of service.

Third, the Survey Guidance creates a situation where states and territories may each go their own way on client surveys. This is likely to result in different baseline figures for different jurisdictions and potentially create barriers to standardisation. Even in a context where jurisdictions develop their own client survey approaches, there is likely to be opportunity to identify, learn from and share lessons. To date, while we see a lot of client survey effort, the learning from that effort has been stunted and/or not widely shared beyond individual service providers.

For example, in *Apples, Oranges and Lemons* we reported that some Victorian community legal centres were investing in more frequent client experience, outcome and satisfaction data collection, with a view to ongoing monitoring, evaluation and service improvement. We are also aware that legal aid commissions typically undertake wider and more comprehensive periodic client surveys which provide useful and informative information about services and service provision. Valuable learning from client surveys is undoubtedly occurring, but a vehicle to share it is lacking.

Finally, the pre-existing client survey questions were developed in an earlier period. While they have been useful in introducing client surveys to some service providers, their utility for and alignment with NLAP and NSF objectives and outcomes is poor and can be substantially improved. This would increase overall client survey utility.

4 Draft Survey Guidance

Overall, the Survey Guidance sets out a useful approach to standardising client survey reporting under NLAP. We urge however, that additional guidance be provided on conducting quality surveys. The Survey Guidance notes that many legal aid commissions, community legal centres and Aboriginal and Torres Strait Islander legal services ask the six¹ standard client survey questions as part of their own survey processes. While this is true, we are also aware that client survey work has been new and challenging for many service providers. There is scope for further guidance and support to implement improved survey practice and question coverage.

Rather than set out minimum requirements, we suggest the Survey Guidance should be more aspirational in terms of quality, useful and meaningful data - what that would enable and how it can be achieved.

¹ Noting that Q5 is a two-part question.

Further guidance, even if not mandatory, may assist states and territories and service providers who are interested in improving client survey quality and utility to do so.

The Survey Guidance accepts diversity of survey method and approach. It asks for an overview of survey method, including mode, sampling, type of interviewer, weighting and number of respondents and clients be included in the proposed template reporting (per Appendix 2). While the Survey Guidance asks for this method and sample information, it does not mean that this can be taken into account to permit comparison, nor can it be used to rectify or improve the quality of the survey data collected. The upshot is that inconsistent survey methods will generate results that cannot meaningfully be compared.

Specific comments on the Survey Guidance document are set out below.

Additional context for sector

The draft Survey Guidance (p.2) notes that additional guidance 'should be included' if the guidance is distributed to the sector. We agree.

The Survey Guidance intentionally shies away from specifying a standard or preferred method, recognising that service providers use varied client surveys practices. It may nevertheless be useful to provide additional guidance on sound survey practices which are more likely to provide quality information. For example, further guidance on the data implications of key features such as survey timing, type of interviewer, and different approaches to client sampling and contact would be beneficial. The aim would be to show the direction of data quality improvement, and flag issues to be canvassed with any consultants engaged to conduct or assist with the conduct of surveys.

Client survey reporting template

The Survey Guidance sets out a useful template which means variation in survey practice can be readily identified. Variation however, as already noted, will undermine comparability.

Client satisfaction surveys and service delivery outcomes

Client satisfaction surveys are widely used to understand service provision from the client's, rather than provider, point of view. We agree with the Survey Guidance (p.3) that these surveys can examine "experiences of legal assistance services and [to] address issues relating to accessibility, service quality and relevance to legal need, appropriate referral, and overall utility in improving client outcomes (e.g. timeliness and increased confidence to take action)".

The Survey Guidance (p.3) further states that:

Survey results are intended to provide the legal assistance sector as well as governments and policy makers with some information about the quality of clients' experiences of services and will help identify whether we are meeting the objectives of the NLAP. The results will also help to inform the review of the NLAP, due to be completed approximately 18 months prior to the NLAP's expiry.

In addition, client surveys also provide a means to monitor the Commonwealth and states and territories' progress towards achieving some of the 24 outcomes defined in the Strategic Framework.

The current survey questions developed by Colmar Brunton however, do not appear to have been developed for such purposes. To provide information on progress against NLAP and NSF objectives and outcomes, a new set of standard questions and a standardised survey approach should be developed. While Survey Guidance Appendix 3 draws links between the pre-existing questions and NSF outcomes, the links appear weak and tangential and we caution against any use of client survey results to accurately measure progress against those outcomes.

Impact of sampling and methodology

Surveys are widely and routinely used to drive improved service provision and customer satisfaction. Where service design and provision decisions might be made on client survey results, those surveys must be reliable and meaningful. The Survey Guidance (p.3) clearly identifies the relationship between method and the quality and usefulness of the data obtained. This underscores the need for further guidance to be provided about appropriate survey methodologies. This should include clear guidance on how to minimise and control for bias in survey response, and how to implement methods which will allow generalisation.

Similarly, client surveys are also widely used to measure change over time. The Survey Guidance notes that to monitor trends over time, the mode, sampling method, explanation of purpose to respondents, and question placement should remain consistent. It also recommends use of a stratified random probability sample and commensurate weighting of findings to the client population. We agree that probability sampling is methodologically desirable, especially where the aspiration is to generalise the findings. However, further explanation and guidance is needed on how random sampling is implemented in practice, especially if complex additions such as stratification and weighting are being encouraged.

More specifically, the Survey Guidance (p.4) mentions that stratification involves dividing “clients into groups of interest, such as by primary law type, service type and problem type”. Note, that in stratified sampling every client should be assigned to one and only one stratum. If you include both law type and service type as strata, for example, you will no longer have collectively exhaustive and mutually exclusive strata. Some clear guidance will be required here to enable successful stratification.

The Survey Guidance (p.4) also indicates that stratified sampling could then survey “an equal number from each group”. Stratified samples typically use proportionate (sample from each stratum proportional to representation in the population) or optimum/disproportionate allocation (which also considers distribution of the variable, for example, taking larger samples where there is a higher standard deviation). The language used could easily be misinterpreted as quota sampling (a nonprobability approach). Clarification as well as more concrete guidance may be needed to avoid a nonprobability approach being applied (i.e. that you need to sample randomly from each stratum).

Further guidance would also be useful in making informed decisions about how to disproportionately allocate. In general, it appears the Survey Guidance is suggesting disproportionate stratification where the sampling fraction is not the same across all strata, and some strata will be oversampled relative to others. This is a good approach when attempting to make comparisons among strata, but it is not ideal for making population estimates, and can also reduce precision. The need for weighting to reflect each stratum’s sampling fraction is correctly highlighted.

Implementing simple random sampling alone is not straightforward. Competently implementing stratified probability sampling and appropriately weighting data requires advanced research skills. There is a question of whether successful simple random sampling is achievable without further investment in training and data capability, and whether more complex methods will be successful without significant investment.

Moreover, there may be relatively little utility in going to the trouble and expense of drawing random probability stratified samples without also ensuring other aspects of data quality, reliability and utility.

Relationship between service data and client survey data

Another issue where additional information would be beneficial is the relationship between legal assistance service data and client survey methods. The Survey Guidance (p.4) encourages including additional questions to capture information on:

- national priority client groups and client demographic information (for example the demographic client information detailed in Table 8 of the NLAP)
- primary law type, service type and problem type and any other service information detailed in Table 8 of the NLAP

- type of most recent legal assistance service received (advice, duty, representation etc.)
- time since receiving most recent service
- time since the problem commenced that the client is seeking help for
- mode of service delivery (e.g. face to face, telephone, videoconference, email, online), and
- open-ended questions that allow clients to express their experience in their own words.

We agree that such information would provide valuable context but wonder whether some of this information could not be more easily obtained from existing service data. For example, some service providers currently use a stratified probability sample drawn from service data. In addition to data quality and burden advantages, this approach also permits linking client survey data with existing service data.

The effort to collect the contextual information suggested in the Survey Guidance may well exceed that required for the pre-existing standard questions. If additional questions are asked, we also urge further consideration and guidance on more useful and higher value client experience, outcome and satisfaction measures.

Pre-existing standard questions

We see benefit in the Survey Guidance providing some additional information about how the pre-existing client questions are operationalised. We understand that this has previously been done inconsistently, and that both question wording and response format has been changed by service providers. For instance, using a common 5-point response format, by including a ‘Neither agree nor disagree’ option, will undermine consistency and comparability. Any change in question wording will introduce inconsistency and prevent comparability.

Further guidance on how the pre-existing standard questions are intended to operate along with how the results can be analysed, interpreted and used may also be warranted. For example, explanation and clarity concerning how Q5a and Q5b are to be applied in practice would be useful. If Q5a is intended to be asked of all respondents, but Q5b only put to those answering ‘Yes’ to Q5a, then clearly stating that would be beneficial. Equally, if both Q5a and Q5b are intended to be asked of all respondents, then this should be made clear. We suggest information on the conduct of client surveys for NLAP be consolidated in the Survey Guidance, rather than have jurisdictions and service providers have to refer to any previous material on use of the Colmar Brunton questions.

National legal assistance data strategy

We see substantial benefit in a longer-term data strategy. This would not only set a strategic direction but would also assist jurisdictions make decisions about the utility of investing in potentially more useful and meaningful client survey and outcome data collection.

While there are questions of timing on NLAP implementation, we see significant opportunity and benefit in a National Legal Assistance Data Strategy (NLAP clauses D10–D12) that includes client survey data, outcomes measures and public understanding and legal need survey data, in addition to service data.

5 Improved client experience, outcomes and satisfaction measures

Given the limitations noted above, we urge effort to work towards more meaningful and useful client experience, outcome and satisfaction measures over the life of the NLAP.² Given the direction of the NLAP and NSF reforms, and the focus on client-centric service provision, more routine collection of client experience, outcomes and satisfaction information will be central to evaluating achievement of NLAP and NSF objectives and outcomes.

² In interests of brevity, we have not outlined other concerns and possible improvements to the wording of the pre-existing standard client survey questions.

By 2025 biennial client surveys may be outdated. Moving to richer, more frequent, routine and potentially automated data collection on client experience, outcomes and satisfaction should be considered in developing a National Legal Assistance Data Strategy. Improved information communication technology has transformed capture of client experience and satisfaction in other sectors. Routine, automated, client-follow up is now a feature of many sectors and underpins timely monitoring, evaluation and reporting to inform more effective service design and provision.