

**National Conference of Community Legal Centres Friday 15
August 2014, 11.00am-12.30pm**

***CLCs Having an Impact on Lives: Strategic Approaches to
Problem Solving***

See publications at <http://www.law.anu.edu.au/legalworkshop-gdip/publications>

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Bio for Dr. Liz Curran



Liz Curran is a Senior Lecturer, Legal Workshop, Australian National University's College of Law. Liz teaches legal ethics, Consumer Protection Law and Practice Management. This sees her preparing graduate lawyers for entry into legal practice. She teaches Practice Management, Ethics and Consumer Protection Law. Previously, Liz has worked in private practice, for legal aid and in community legal services, including as Director of the West Heidelberg Community Legal Service and was Executive Director of a human rights organisation.

She holds a Doctorate from La Trobe University examining the rights of young people. Liz has published on access to justice, human rights, quality legal service and professionalism, ethics and clinical legal education. Liz has been involved in many successful law reform initiatives and continues to engage in direct service delivery on behalf of ANU at the Consumer Action Law Centre. Her practice informs her research and education and vice versa. Liz has recently published research reports (2011, 2012 & 2013) on outcomes, quality and effectiveness for a number of organisations.

Some publications around quality and effective legal practice: (also conference papers for the Legal Services Research Centre, June 2012 (London), International Legal Aid Group, June 2013 (The Hague))

“We Can Now See There’s Light At The End of The Tunnel ” (client) Legal Aid ACT: Demonstrating and Ensuring Quality Service To Clients, Legal Aid ACT, Australia, 2012

‘Literature Review for The Attorney General’s Department’, 2012 (*diversity of services and dangers of measurements*)

‘Encouraging Good Practice in Measuring Effectiveness in the Legal Service Sector’, May 2013 Consumer Action Law Centre & Footscray Community Legal Service

‘Solving Legal Problems: A strategic approach’, March, 2013 (web site already provided) CALC & FCLS

See also : L Curran, ‘Legal Review: Not all in the Statistics’ Law Institute Journal, July 2013, 36 – 39

What the Research (for CALC and Footscray) found:

- Blending a number of approaches, thinking strategically about who are the key players, bringing them all together in a room to deal with matters on the spot can have significantly better results than one-to-one individual case work which can be resource intensive and costly to the range of agencies involved and more stressful for the clients. (e.g. 'Bring your Bills')
- Different actions are required at different times for different reasons to deal with changing circumstances (for example, maximising 'tipping points'). These can benefit the client and often the broader community.

What the Research Found (cont.)

- Approaches which integrate a range of actions to affect the whole outcome (integrating CLE, Policy, advocacy, test cases, trial cases, media, public awareness campaigning, collaborations- legal and non legal, result in multiple outcomes and impacts which can be positive. (e.g. Do Not Knock and Linked Credit)
- A service that has its head above the parapet, identifies trends via deliberate discussions between case workers, CLE and Policy workers, identifies opportunities for reform, plans, acts and continuously reflect brings about wider reform than case work alone (African Legal Clinic).

What the research found (cont.)

- Diversifying sources of funding rather than all Commonwealth and State assists in independence
- Clearly articulating why the issue is important, that it comes directly from the real life experience of a number of clients and why it is the work of a CLC is critical in terms of clarity, transparency and combatting political resistance/criticism.
- A multi- pronged strategic approach to resolving problems led to efficiencies, earlier intervention in stopping root cases and had flow on benefits in terms of court time and improved industry practice (Bulk Debt)

How the research was conducted

A desk top study of a series of case studies were examined to ascertain how the issue emerged, what happened, who was involved, what processes were implemented, the level of case work, CLE, policy and media and public awareness and collaborations, specific strategies adopted and the outcomes.

Case studies included:

1. Linked Credit – outcomes - benefited 7,000 consumers (\$6.5m)
2. Motor Finance Wizard – outcomes - legislative change to Uniform Credit Code, VCAT precedent decision
3. Bulk Debt Negotiation – outcomes - assisted 2,500 debtors \$15m debts waived/closed, regulator awareness, industry changes to practice
4. Do Not Knock – outcomes - stickers being enforced by the courts, energy retailers refraining from the practice, punters able to say ‘No’

How the research was conducted (cont.)

5. Taxi Driver Legal Clinic – outcomes – recommendations adopted in Final Report of Inquiry, prompted regulator to be more active

6. Bring Your Bills – CLC vulnerable client strategy of engagement, Regulators attended and resolved issues, EWOV amended intake policies.

7. Debt Collection – ASIC responsiveness, guidelines improved.

Do Not Knock Sticker- all it takes – a simple idea – outside the box thinking

- *a finding against Neighbourhood Energy and its marketing company, with the effect that ignoring a Do Not Knock sticker was considered a breach of the requirement in the Australian Consumer Law that marketers leave premises when requested.*
- *Ignoring a sticker can now risk a fine of \$50,000.*

What is meant by Strategic?

- From Greek στρατηγία *stratēgia*, "art of troop leader; office of general, command, generalship"
- The identification of long-term or overall aims and interests and the means of achieving them (Oxford D)
- Designed or planned to serve a particular purpose(Oxford D)
- A high level plan to achieve one or more goals under conditions of uncertainty. Strategy is important because the resources available to achieve these goals are usually limited.

What is 'strategic'?

- Strategy generally involves thinking, discussion, exploring options, testing, planning, setting goals, determining actions to achieve the goals, and mobilising resources to execute the actions. A strategy describes how the ends (goals) will be achieved by the means (resources).
- A good strategy also involves thorough research, good facts/evidence, reflection on what we think, what others think or might think, possibilities, barriers, opportunities, a blend of approaches, analysis and reflection on what works, what doesn't work, why and appropriateness.

What is strategic? (cont)

- A good and effective strategy requires spaces for thinking and conversations at different points in the strategy and re-visiting a strategy for it to be 'strategic'
- What opportunities are there?
- What risks and how might we combat them?
- Who is involved? Why and for whom are we doing it?
- Is it ethical?
- Encouragement and fostering an environment where strategic thought and planning about service mix approaches are used to make the service more outcome-focused

Participants - what else is strategic in your experience?

Obstacles to Strategic Problem Solving

- Tension for community legal centres -as long as demand exceeds resources, CLCs must make decisions about the level of service.
- Funding – pressures from government to do as they fund.
- Pressures of one on one case work
- No Time
- Knowing where to start and how to implement it in my centre

Participants, is there anything else?

Benefits of solving problems strategically

- It is acknowledged there is a need for individual case work e.g. care and protection, defence work and family violence but a mindful process about where strategic problem solving might maximise gains is also important. Examine/explore cases through this prism from case intake (e.g. CALC process).
- Going beyond an individual approach to casework to benefit individuals, groups and the broader community.
- Effective, efficient and targeted, with a broader and long lasting impact or as government says - a “successful outcome”.

Participants- any others you have experienced?

Distinctive features of Effective Problem Solving

- Setting a clear division between management and committee responsibilities can free up committee time to focus on broader strategic issues.
- Having time or special meetings for committees to think about burning issues affecting clients and what approach to address them
- Identifying what the centre can do that other organisations/bodies aren't doing, or can't do having done this think about funding or volunteers/pro bono.
- It may be necessary to focus on developing particular strengths

Distinctive features of Effective Problem Solving (cont.)

- Staff are critical in informing management and their Board of what they are seeing on the ground. They are also critical to include in strategic goals, as they need to be bought along and embrace the approach as it is the staff who will be expected to deliver.
- Provide staff with an information about why they are doing the work they are doing and how it fits into the bigger picture can enable them to see their work as valuable and worthwhile to making change. This can inspire and make even the most mundane tasks seem relevant.

Distinctive features of Effective Problem Solving (cont.)

- Staff -the development and maintenance of relationships with other relevant organisations (including other CLCs) is vital if a centre is to work with others to achieve change.
- Hold “strategy” meetings which involve the lawyer/s working on a case, CLE and policy staff that remind us of priorities.
- Hold regular case intake meetings, or casework discussion meetings, where lawyers, community workers and policy staff have input to decisions about the provision of ongoing legal representation, based on client needs as well as potential policy outcomes.

Distinctive features of Effective Problem Solving (cont.)

- Consider the physical layout of the centre to ensure that if there are dedicated policy staff, they are physically situated amongst casework staff – preventing silos and isolation.
- Determine a minimum number of cases taken on by the centre which must involve issues which impact on a broader number of individuals.
- Target media releases to the audience that you think the release will have the biggest impact on – for example are you want to influence industry, policy makers or the public? Release positive news as well as negative.

Distinctive features of Effective Problem Solving (cont.)

- Consider how client matters are recorded to ensure that accurate data collection is available. Include in the recording of client matters the broader systemic or public interest issue raised by the case.
- Consider how your policy issues, work and strategies are best recorded to ensure it has value beyond reporting to funding bodies.
- Encourage informal and ad hoc discussion between staff about the issues they are seeing in their cases.
- Celebrate and shares successes.

Distinctive features of Effective Problem Solving (cont.)

- Include in the key selection criteria the need for the person to be able to demonstrate an understanding of public interest lawyering and strategic litigation.
- Consider making it a key skill in the position description for solicitors, that they can and do engage in strategic, public interest lawyering and working for social change.
- Adopt case intake guidelines which allow you to allocate resources in a way that reflects your broad strategic goals.
- Every one on same page - include goals in induction of all staff/volunteers/PLT

Thinking

- A public interest lense/approach to work
- ***What went wrong?***
- What are the commercial drivers, or Government policy drivers of the problem? Who are the players involved? Who benefits? Does the problem arise in a setting which is otherwise fair?
- Who is likely to suffer as a consequence of the issue and why?
- What does this type of problem mean for the client and individuals more broadly? What is the level of detriment suffered?

Thinking?

- ***How many other people are affected?***
- Does this cause detriment to others? - i.e. is it a systemic problem?
- What would be required to help others in the same position and to stop this happening again? What would be required to help others in the same position and to stop this happening again?
- Do clients have a cheap, fair and accessible forum for resolving the dispute?
- How can you help others in the same position to get justice?
- How can you stop this happening to others?

A thought process?

Reflecting on what is happening and what you might need/want to do to act ethically/respond:

- Who is affected? Who might you enlist? How will you get them on board/work together?
- What are the main arguments you are trying to counter? What are the *reasons and rationalizations* you need to address?
- What's at *stake for the key parties, including those who disagree with you? What's at stake for your client/community?*
- What *levers can you use to influence those who disagree with you?*
- What is your most *powerful and persuasive response to the reasons and rationalizations you need to counteract*
- To whom should the argument be made? When and in what context?

Your turn – In Groups of Four

- **Take a moment individually to identify a client/s issue/trend you see at your Centre that concerns you**
- **Discuss the situation with your group and identify and decide on one example from a Centre to work on/ reflect on. Nominate a group person to report back.**
- **Work out how you/ how will you deal with it using a strategic approach to problem solving?**
- **Brainstorm the steps that you might take/did take to respond from the point of your Centre's internal processes, the approaches you used/might use e.g. integration of what types CLE/Policy/Public awareness/action etc., collaborations, risks, opportunities, challenges.**
- **Debrief in plenary.**



Questions from Participants?