



getting off the referral roundabout

effective legal referral

2006 workbook

produced by kingsford legal centre, faculty of law, university of new south wales

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www.lawfoundation.net.au

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Introduction

The DVD and workbook are intended as an induction and teaching tool for new staff, volunteers and students, on how to make an effective referral for clients who need legal advice and information. As the information provided is of a generic nature, it could be used for making a referral to almost any service or agency.

The DVD and workbook are divided into chapters based on the legal referral competencies developed by the NSW Legal Referral Forum, a group of the Law and Justice Foundation of NSW. These competencies are located in Appendix II. In developing the DVD and workbook, we acknowledge the extensive work undertaken by the forum in developing these competencies. Further information on the referral competences can be found at:
<http://www.lawfoundation.net.au/information/referral/competencies.html>.

The DVD and workbook can be used as a self training package or as part of a group training session. The competencies can also be used by managers to assess whether their staff has developed the necessary skills and knowledge to make referrals for clients with legal problems. It is suggested that each person watching the DVD is provided with a copy of the work book.

The exercises in the workbook include activities such as:

- identifying the services that your agency provides
- identifying the details of the legal assistance services in your area
- finding plain language legal information on the internet
- using case studies
- preparing your client for attending an interview with a lawyer

The workbook includes all the information that is on the DVD and exercises to assist each participant in meeting the competencies.

While the information in this workbook is of a general nature and is not specific to New South Wales, some of the material makes reference to services located in NSW

Message for Supervisors

This kit is designed to improve the competency of staff in making referrals. It can be used for the induction of staff, students and volunteers into your agency's policy and procedures and may be useful in highlight many gaps in these procedures. Supervisors are encouraged to discuss the completed exercises with their staff to ensure the accuracy of their responses and to highlight any gaps in their knowledge. It is also hoped that the seeking of information in the final exercise will generate dialogue between agencies and reinforce the need for obtaining accurate information.

1. Value and respect the client

Valuing and respecting your clients is fundamental to effective referral because this is the foundation for establishing a good relationship with your client. It is through this good relationship that you will be able to make an effective assessment of the client's needs which will be the basis of an effective referral.

This competency is demonstrated by the ability to:

- Demonstrate an understanding of the principles of effective legal referral
- Show sensitivity towards cultural, family and individual differences and any specific needs of your client
- Demonstrate a non-judgmental attitude and take an objective approach to solving the problem
- Demonstrate patience and empathy
- Maintain client confidentiality
- Utilise techniques to provide a positive experience for the client

Exercises

What can you do to maintain client confidentiality?

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Find a copy of your organisation's policy and procedure on ensuring client confidentiality

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What are the main procedures your organisation uses to protect client confidentiality?

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What can you do to demonstrate sensitivity towards cultural, family and other specific needs of your client?

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What techniques can you use to provide a positive experience for the client?

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2. Communicate effectively and appropriately with all clients

Effective communication is achieved when you are flexible and able to tailor the way you communicate to each individual's needs. To work out a client's individual communication needs, it is important to be aware of things such as cultural, lingual or language differences, education and literacy levels, disabilities and mental illness to name just a few. In addition you may need to be aware that the level of literacy required to deal with some legal problems is quite high. This is particularly relevant for the completion of application forms, writing of statements etc.

Effective communication also ensures that the client understands the reason for a referral, and they are realistic about the assistance they will receive when they contact a service.

This competency is demonstrated by the ability to:

- Use techniques such as active listening to clarify and check your understanding of the issues and needs with the client
- Demonstrate a knowledge and understanding of culturally appropriate behaviour
- Use appropriate and relevant questioning techniques to ascertain the client's legal and non-legal needs
- Utilise techniques to establish rapport with the client, such as greeting the client when they arrive
- Use plain language appropriate to the client's level of education without being condescending
- Assist the client with relevant legal language and knowledge
- Communicate the purpose and limits of the services provided by your own agency

Exercises

What can you do to establish rapport with a client?

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What techniques can you use to provide a positive experience for the client?

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What can you do to demonstrate to a client that you are actively listening to them?

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What are the limits of the services provided by your own agency?

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3. Identify the information and referral needs of the client

You will need to systematically identify and analyse the needs of your client. To do this, you need to identify the legal and non-legal issues and the urgency or otherwise of each one – all the while having consideration of, and being responsive to, the individual communication needs of your client.

The use of good questioning techniques will help identify the client's legal and non-legal needs. This often requires clarification and checking. It will also assist in determining the urgency of the issues. It is important to use plain and simple language, and avoid jargon, to ensure that the client understands the information you are giving them.

This competency is demonstrated by the ability to:

- systematically identify and analyse the needs of the client
- identify legal and non legal issues
- identify the level of urgency and complexity of the issues
- identify the client's communication needs e.g. limited English, cognitive disability, low level of literacy skills

There is a collection of case studies based on common experiences from community legal centres in Chapter 9. Choose one of these case studies that is common to the clients of your organisation or use the case study that is on the DVD. List the legal and non-legal issues in the case study you have chosen.

Legal Issues

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Non-legal Issues

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4. Participate in and know about own agency

It is really important to know about your own agency so that you can provide accurate and appropriate information to clients.

You need to take responsibility for knowing exactly what your agency does and how the services are provided. If you are a manager, this would include having a comprehensive up to date induction policy and processes for keeping your information and staff and volunteers up to date. All volunteers and workers should know where the information needed is kept, read the manuals and any updates and keep up to date by approaching colleagues and supervisors if they have any questions – especially if they don't often work at the agency!

This competency is demonstrated by the ability to:

- Demonstrate knowledge of services provided by your agency, including any limitations on service provision
- Apply agency procedures and protocols in making a referral including record keeping and reporting
- Demonstrate an understanding of specific limitations of work role, responsibilities and professional abilities
- Actively engage in the dissemination and updating of referral information.

Who does your agency provide a service to?

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Are there any target groups that your agency does not provide a service to?

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What services does your agency provide?

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List the common types of legal needs presented by your clients and indicate at least one referral option for each of those areas of legal need.

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What are your agency's procedures for making a referral?

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5. Knowledge of the law and legal system

The law and legal system is complex, but there is some basic knowledge that help you to better assist your clients.

This includes knowing that:

- the law differs depending upon which state you live in
- there are different areas of law, commonly referred to as civil, criminal and family law
- there are a range of different courts and tribunals

Having a basic understanding about legal processes and finding out where the client is up to in that process can help you to make the most appropriate referral.

This competency is demonstrated by the ability to:

- Demonstrate appropriate knowledge of the legal system including courts, tribunals, legislation and jurisdictions
- Demonstrate knowledge of different types of law e.g. civil, family, criminal law
- Demonstrate an understanding of basic legal processes, in order to identify where a client is within a particular process e.g. letter of demand, summons, application
- Demonstrate knowledge of options for clients with a legal problem e.g. alternative dispute resolution
- Demonstrate knowledge of limitation dates
- Demonstrate understanding of the difference between giving legal information and legal advice
- Use of appropriate tools and resources e.g. guides to the law, web sites

Limitation dates

People ignore legal problems for many reasons. These could include being scared of the legal process, or because they believe they have not done anything wrong. You need to be aware that most legal actions have a limitation date. This means that someone has a time limit in which to start or respond to a legal action. While you do not need to know all of these relevant time limits, it is important that you are aware that there may be time limits, and to tell your client this, so that they don't delay seeking help.

Giving 'Friendly Advice'

You need to be very careful about giving what is known as friendly advice. Do not give any legal advice when you are not a qualified lawyer. You may not think that you are giving legal advice when in fact you are. You can however, give clients legal information such as brochures and fact sheets, as well as helping a client to receive assistance from a legal service.

Remember

- Don't give advice unless you are qualified to
- Different laws can apply depending on which state you live in
- There are different areas of law, commonly referred to as civil, criminal and family law
- There is a range of different courts and tribunals plus alternative dispute resolution
- Always try to find out if there is a limitation date, which means that there is a deadline for your client to commence action

Finding plain language legal information online

The following organisations provide a wide range of excellent plain language legal information on the internet.

Legal Aid Commission of NSW

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

- The Legal Aid Commission of NSW provide legal aid and other legal services to disadvantaged people in NSW

LawAccess NSW

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

- LawAccess NSW is a free service providing a single point of access to legal and related assistance services in New South Wales. The main aim of LawAccess is to help people to find the information and services that are best able to assist with legal problems and questions.
- LawAccess NSW has published a booklet called *A Guide to Law on the Internet*. This booklet will assist people to find information about key legal topics. To access this booklet go to the LawAccess home page and then to 'about us'.

Legal Information Access Centres (LIAC)

<http://liac.sl.nsw.gov.au>

- Did you know that your local public library has a range of plain language guides to the law and staff who can assist you find the relevant information? They are backed up by staff at the State Library of NSW Legal Information Access Centre which has a comprehensive range of legal information resources and specialist staff.

Plain Language Law Newsletter

<http://www.lawfoundation.net.au/information/pll/newsletter.html>

- This is a free email newsletter produced by the Law and Justice Foundation of NSW to assist you keep up to date with recent plain language legal information and education resources.

Combined Group of Community Legal Centres of NSW

<http://www.nswclc.org.au>

- Many community legal centres have plain language information on their websites. The combined group of community legal centres of NSW maintains a list of most community legal centres in NSW

National Association of Community Legal Centres

<http://www.nacclc.org.au>

- The National Association of Community Legal Centres maintains a list of all community legal centres in Australia.

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Criminal:.....

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This image shows a full page of white paper with horizontal dotted lines. The lines are evenly spaced and run across the width of the page, providing a guide for handwriting practice. There are no margins, text, or other markings on the page.

6. Knowledge of service providers

So that you can provide appropriate referrals it is important that you keep yourself up to date with information about other services, and what they can and cannot do. It is also very important when referring a client to a service that you also manage the client's expectations about the assistance they can receive. You will need to provide accurate information about the service in a clear way and check that the client understands what to expect. For example, it would be inappropriate for a client to be referred to another service with the expectation they will be able to speak to a lawyer over the telephone, if that service does not provide telephone legal advice.

In general, the things you need to know about service providers include:

- the services provided - for example do they provide telephone advice, can you drop in, do you need an appointment
- the geographical area they cover
- the exact contact details - the phone numbers and address
- whether there are any eligibility criteria
- the areas of law they cover
- whether they have an Indigenous person on staff
- whether there are any fees
- whether there is any access to interpreter services – are they free or does the client need to pay a fee
- opening hours
- whether there is a waiting list
- whether they make home visits
- disability access

Conflict of interest

Sometimes when you refer a client to a legal service they may not be able to help them because there is a 'conflict of interest'. This usually means that the service has already given advice to the other person in the dispute. This is particularly common in family law disputes. Where possible they will suggest another service for the client to contact.

This competency is demonstrated by ability to:

- demonstrate knowledge of the roles of services within the legal system e.g. chamber registrars
- apply knowledge of the roles, criteria and limitations of other services
- apply knowledge of pro bono services and guidelines
- demonstrate knowledge of the geographical area within which referrals are made
- demonstrate an understanding of relationships between service providers
- participate in formal and informal networks and be able to represent the agency
- use appropriate tools and resources e.g. referral databases and guides.

See Appendix II for an exercise on knowing about legal service providers

7. Make referrals appropriate to the needs of the client

Clients have a wide range of needs and capabilities. You should take these into account when making a referral. For example, you may contact a service on behalf of a distressed client to explain the situation and make an appointment. Some clients, on the other hand, may need minimal assistance, and simply providing them with the relevant details of a service is appropriate. What you do will also vary depending upon the referral policies of the service you are making the referral to.

You should also take cultural factors into account. For example, you should provide Indigenous clients with the choice of both Indigenous and non-Indigenous organisations whenever possible.

This competency is demonstrated by the ability to:

- Proceed systematically through the problem
- Communicate the purpose of the referral
- Provide accurate and up to date information about the service in question, including possible limitations or lack of availability of services
- Provide the client with a realistic expectation of what assistance they will receive from the service to which they are being referred, e.g. waiting lists, advice only, free
- Provide written referrals when appropriate, including location details and the name of a contact person
- Demonstrate a knowledge and understanding of applying different strategies to address various aspects of the client's needs e.g. accesses special services such as interpreting services when necessary
- Consider cultural factors in the referral
- Identify and offer alternative referral options to the client if appropriate
- Advocate for the client if necessary when appropriate to the role of organisation
- Provide consistent service
- Encourage the client to provide feedback, particularly if the referral is unsuccessful.

What is the policy of your agency for making referrals?

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8. Preparing your client for an interview with a lawyer

There are a number of important ways that you can help your clients prepare for an interview with a lawyer. These will assist them to make the best use of their time with the lawyer and also help to manage their expectations of what a lawyer can do for them.

- Arrange for an interpreter if necessary
- Do not make unrealistic promises about what a lawyer will be able to do for your client
- Give your client an idea of how long they will have with the lawyer
- Encourage your client to write down what happened to them
- Make sure your client has all the relevant documentation

Questions to Ask Your Lawyer

This list is from a brochure published by the Legal Aid Commission of NSW.

- Is the first appointment free?
- Is Legal Aid available?
- What are my options?
- Is the lawyer experienced in this type of work?
- What are my chances of success?
- What work will the lawyer be doing?
- How long will it take?
- How much will it cost and when do I have to pay?

Exercise

What other questions do you think would be useful to ask the lawyer?

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Appendix I

Case Studies

For each of the following case studies, research and then list the organisations to which you can make a referral. The source of this information could be:

- your organisation's referral list
- database on local council website
- the internet websites as listed in previous sections

Domestic Violence

One of your clients comes to you and tells you that she was assaulted by her partner on the weekend. She asks you about apprehended violence orders and where she can go for some legal assistance and advocacy. Where can you refer her?

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Family Law

One of your clients tells you that she was served with court papers regarding a property settlement and children's issues. She tells you she has no money and so cannot afford a private solicitor. Where can she go for some legal advice and perhaps advocacy?

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Bank complaint

Your client shows you a letter from one of the large banks. The letter states that the client owes \$6,500.00 for credit card charges and must pay that sum of money within 14 days or the Bank will commence legal proceedings to recover the debt. The client says that he did not ever have a credit card with that Bank and this is the first time he has ever received any correspondence from them. Where may he be able to receive some assistance and advocacy?

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Complaint about a Solicitor

A client tells you that their solicitor refuses to return any of his telephone calls or letters. The client has not in fact heard from their solicitor in over 2 months. However the client knows that there is a court date coming up. Who might be able to provide your client with some advice about this solicitor's behavior?

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Employment

Your client comes into your office crying. She tells you that she has been dismissed from her workplace without warning. She says that her employer did not tell her why she was dismissed, just told her to go and escorted her from the premises. She also tells you that she is owed wages because they failed to pay her leave loading when she last had holidays and have not paid her some overtime from two months ago. Where can she go for some assistance with this problem?

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Discrimination

A client comes to you and says that the Department of Housing and the residents in her block of flats are discriminating against her because she is transgender. Where would you advise her to go for some assistance with this matter?

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Neighbour

One of your clients tells you that the fence between his and his neighbour's property is falling down. His neighbour refuses to contribute to the cost of repairing the fence and is now becoming increasingly aggressive and threatening. Your client is desperate for a new fence to keep his dogs in the yard but it getting more and more concerned for his safety. Where can he go for advice and assistance?

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Crime

Your client comes in to your office and says that she has been charged with an assault. Where would you refer her for legal assistance?

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Debt

Your client has been served with a Statement of Claim for \$10,500. She says that she owes \$6,000 but not the remaining \$4,500. Where can she go for assistance?

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Motor Vehicle Accident

Your client was involved in a car accident. She says it was not her fault. Her car was damaged in the collision and she has been quoted \$8400 for the repairs. Where can she go for some assistance?

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Electricity

Your client lives in Department of Housing accommodation and tells you that her electricity was turned off 7 months ago because she was unable to pay her bills. She has 3 young children and it is winter. What place can she go for some legal assistance?

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Sexual Assault

Your client tells you that she was assaulted as a child for some years. She was told by a friend that she may be eligible for compensation. Where would you refer her?

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Consumer Complaint

Your client tells you that she hired a video from the local video store. When she took it out of the box, she noticed it was held together down one side by some sticky tape. She decided however to watch the tape. When she tried to eject the video, the video was stuck. She tells you that she took her VCR to the video store and told them what had happened. They tried to remove the video but were also unable to get it out.

The video store told her that there was a video repairer downstairs who would remove the video for her. Your client left the VCR with the store and organised to come back later that day. When she returned to the store, they handed her a bill for \$200 for the repair of the VCR. Your client refused to pay the bill and so the store refused to give back her VCR. Your client tells you that she should not have to pay the bill because she did not authorise the repair of the VCR and in any event, the VCR was not broken, the video itself was faulty and it was this that caused it to get stuck in the VCR.

Where can your client go for some assistance with this matter?

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Appendix II

Information on Local Legal Service Providers

As discussed previously, an important part of making a good legal referral is having up to date information on relevant legal service providers. Before you undertake this exercise, check to see if your organisation has a referral manual. You may be able to update the manual while you are undertaking this exercise.

Complete the details for each of the following types of legal service providers.

Legal Aid Commission of NSW

Address:.....

Phone:.....

Opening hours:.....

Do they provide telephone advice? yes ☐ no ☐

Do you need an appointment? yes ☐ no ☐

The geographical area they cover
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Do they have an Indigenous person on staff? yes ☐ no ☐

Can they provide a free interpreter? yes ☐ no ☐

Additional Information, including services provided, areas of law, whether the service does home visits, specialist staff etc

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Community Legal Centre

Address:.....

Phone:.....

Opening hours:.....

Do they provide telephone advice?

yes ☐ no ☐

Do you need an appointment?

yes ☐ no ☐

The geographical area they cover

.....

Do they have an Indigenous person on staff?

yes ☐ no ☐

Can they provide a free interpreter?

yes ☐ no ☐

Additional Information, including services provided, areas of law, whether the service does home visits, specialist staff etc

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Tenancy Advice Service

Address:.....

Phone:.....

Opening hours:.....

Do they provide telephone advice?

yes ☐ no ☐

Do you need an appointment?

yes ☐ no ☐

The geographical area they cover

.....

Do they have an Indigenous person on staff?

yes ☐ no ☐

Can they provide a free interpreter?

yes ☐ no ☐

Additional Information, including services provided, areas of law, whether the service does home visits, specialist staff etc

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Women's Domestic Violence Court Assistance Scheme

Address:.....

Phone:.....

Opening hours:.....

Do they provide telephone advice?

yes ☐ no ☐

Do you need an appointment?

yes ☐ no ☐

The geographical area they cover

.....

Do they have an Indigenous person on staff?

yes ☐ no ☐

Can they provide a free interpreter?

yes ☐ no ☐

Additional Information, including services provided, areas of law, whether the service does home visits, specialist staff etc

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Community Justice Centre

Address:.....

Phone:.....

Opening hours:.....

Do they provide telephone advice?

yes ☐ no ☐

Do you need an appointment?

yes ☐ no ☐

The geographical area they cover

.....

Do they have an Indigenous person on staff?

yes ☐ no ☐

Can they provide a free interpreter?

yes ☐ no ☐

Additional Information, including services provided, areas of law, whether the service does home visits, specialist staff etc

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The Local Court

Address:.....

Phone:.....

Opening hours:.....

Do they provide telephone advice?

yes ☐ no ☐

Do you need an appointment?

yes ☐ no ☐

The geographical area they cover

Do they have an Indigenous person on staff?

yes ☐ no ☐

Can they provide a free interpreter?

yes ☐ no ☐

Additional Information, including services provided, areas of law, whether the service does home visits, specialist staff etc

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Family Court

Address:.....

Phone:.....

Opening hours:.....

Do they provide telephone advice?

yes ☐ no ☐

Do you need an appointment?

yes ☐ no ☐

The geographical area they cover

Do they have an Indigenous person on staff?

yes ☐ no ☐

Can they provide a free interpreter?

yes ☐ no ☐

Additional Information, including services provided, areas of law, whether the service does home visits, specialist staff etc

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Appendix III

Legal Referral Competencies

These competencies were prepared by members of the NSW Legal Referral Forum with assistance from Judy Williamson.

- Value and respect the customer
- Identify information and referral needs of the customer
- Communicate effectively and appropriately with all customers
- Make referrals appropriate to the needs of the customer
- Knowledge of the law and legal system
- Knowledge of service providers
- Participate in and know about own agency

Legal referral competencies refer to the knowledge, skills and attitudes of the people who work in agencies within the legal referral system so as to provide an effective referral service to customers.

These competencies have been developed to be used by a range of agencies and for varying purposes. They may be used by agencies for staff selection criteria, training programs or performance reviews. These competencies can be adapted by agencies to address particular needs or developed further to include detail in relation to specific roles within the agency.

Staff providing the referral may or may not be legally trained, and may be working in either a paid or voluntary capacity. They will work in a variety of roles within agencies and make referrals either face to face, on the phone, or email. The referrals may occur within the office, at a community legal education session or at an information stall.

Value and respect the customer

- demonstrates understanding of the principles of effective legal referral
- shows sensitivity towards cultural, family and individual differences and any specific needs
- demonstrates a non-judgmental attitude and objectivity in solving the problem
- demonstrates patience and empathy
- maintains client confidentiality
- utilises techniques to provide a positive experience for the customer

Identify information and referral needs of the customer

- systematically identifies and analyses the needs of the customer
- identifies legal and non legal issues
- identifies the level of urgency, and complexity of the issues
- identifies the customer's communication needs e.g. limited English, cognitive disability

Continued on next page

Communicate effectively and appropriately with all customers

- clarifies and checks with the customer, using techniques such as active listening, to ensure understanding of their issues and needs
- demonstrates a knowledge and understanding of culturally appropriate behaviour
- uses appropriate and relevant questioning techniques to ascertain the customer's legal and non legal needs
- utilises techniques to establish rapport with the customer
- uses plain language appropriate to the customer's level of education without being condescending
- assists the customer with relevant legal language and knowledge
- communicates purpose and limits of the services provided by own agency

Make referrals appropriate to the needs of the customer

- proceeds systematically through the problem
- explains own legal limitations to the customer
- communicates purpose of the referral
- provides accurate and up to date information, including possible limitations or lack of availability of services
- provides the customer with realistic expectation of assistance from the service to which they are being referred, e.g. waiting lists, advice only, free
- provides written referrals when appropriate, including details of locations of new organisation and name of contact person
- demonstrates knowledge and understanding of applying different strategies to address various aspects of the customer's needs e.g. accesses special services such as interpreting services when necessary
- considers cultural factors in the referral
- identifies and offers alternative referral options to the customer if appropriate
- mixes passive, active and supported referrals as appropriate
- advocates for the customer if necessary and when appropriate to the role of organisation
- provides consistent service
- encourages customer to provide feedback, particularly if the referral is unsuccessful

Knowledge of the law and legal system

- demonstrates appropriate knowledge of the legal system including courts, tribunals, legislation and jurisdictions
- demonstrates knowledge of different types of law e.g. civil, family, criminal, administrative law
- demonstrates an understanding of basic legal process, in order to identify where a customer is within a particular process e.g. letter of demand, summons
- demonstrates knowledge of options for customers with a legal problem e.g. alternative dispute resolution
- demonstrates knowledge of limitation dates
- demonstrates understanding of the difference between giving legal information and legal advice
- uses appropriate tools and resources e.g. guides to the law

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Knowledge of service providers

- demonstrates knowledge of the roles of services within the legal system e.g. chamber magistrates
- applies knowledge of the roles, criteria and limitations of other services
- applies knowledge of pro bono services and guidelines
- demonstrates knowledge of the geographical area within which referrals are made
- demonstrates an understanding of relationships between service providers
- participates in formal and informal networks and has the ability to represent the agency
- uses appropriate tools and resources e.g. referral databases and guides

Participate in and know about own agency

- demonstrates knowledge of services provided by own agency, including any limitations on service provision
- applies agency procedures and protocols in making a referral including record keeping and reporting
- demonstrates an understanding of specific limitations of work role, responsibilities and professional abilities
- actively engages in the dissemination and updating of referral information

Notes

[illegible]