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Analysis of Legal Aid NSW Client Social Exclusion Survey Data

Peter Saunders and Melissa Wong

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1 Introduction

This report builds on earlier research that the Social Policy Research Centre (SPRC) has conducted on behalf of Legal Aid NSW. The focus of the research has been on providing an evidence base to support reforms to the existing 'at special disadvantage' test operated by Legal Aid NSW. The aim of the test is to identify those legal aid applicants who are not only economically disadvantaged, but who also experience other forms of disadvantage which makes it difficult for them to deal with the legal system. Those who satisfy the current test may be eligible for an extended range of civil and criminal law matters.

Legal Aid NSW has identified that the current test does not adequately target those who are the most disadvantaged. In recognising the limitations of the 'at special disadvantage test' the Legal Aid NSW Executive undertook to review it, with the aim of producing:

A robust and evidence based approach to the special disadvantage test;

- A new special disadvantage test that can be consistently applied to all legal aid applicants, which is clear and precise and open to minimal interpretation;
- A test that is easy to apply and is transparent (it is anticipated the set of criteria would be in the form of a checklist incorporating a small number of questions); and
- A test that uses criteria to identify disadvantage in a way that is responsive to research on levels of legal need amongst particular community groups.

Of particular interest has been the design of a new test that reflects and incorporates recent academic thinking about the use of a social exclusion/inclusion framework to capture social disadvantage, and thereby to align better with existing Australian policy development in the field. The Legal Aid NSW Executive is also looking at using the new test to assess non-income measures of disadvantage within the Means Test (The basis for the current Means Test is the Henderson poverty line, which is no longer used by Australian poverty researchers, although estimates of its level are still published regularly by the Melbourne Institute (e.g. 2012) and used by groups like ACOSS to advocate for increased social security payments).

A previous report prepared by SPRC for Legal Aid NSW reviewed the some of the concepts used to identify social disadvantage, specifically those that embody a social exclusion approach (Saunders, 2008). Data collected in surveys conducted by Saunders and other SPRC researchers and funded by grants awarded by the

Australian research Council (ARC) under its Linkage projects scheme (Saunders, Naidoo and Griffiths, 2007; Saunders and Wong, 2012, forthcoming) was used to examine the degree of overlap between disadvantaged groups identified using standard socio-demographic categories (e.g. Indigenous; sole parent; Centrelink client) and groups identified as disadvantaged on the basis of their poverty or social exclusion status. Such an approach cannot, in itself, identify which indicators are superior but it can highlight the degree to which different approaches produce consistent results and thus help to establish their robustness if applied in practice. One of the report's main conclusions was that:

'Although each of the indicators have their merits in specific instances, the exclusion indicators perform quite well and the economic exclusion indicator in particular outperforms the conventional poverty indicator based on low-income.'

On the basis of this analysis, it was decided to explore the extent of social exclusion among Legal Aid NSW clients more systematically through a survey designed specifically for the purpose. The survey would draw on the existing SPRC surveys, and would also include questions that help to establish whether or not the respondents are experiencing other forms of social disadvantage. A short questionnaire that fitted these parameters was developed with input from Professor Saunders and was administered to Legal Aid NSW clients and applicants between June 2010 and December 2011. (The questionnaire itself is reproduced in Appendix A).

This report analyses the data generated by the survey, focusing specifically on addressing the following questions:

What is the degree of social disadvantage experienced by different groups of Legal Aid NSW clients (existing and potential applicants), where is it most pronounced and how does it vary across different client groups?

How does the degree of disadvantage experienced by Legal Aid NSW clients compare with NSW residents as a whole and with the Australian population?

How well does a social exclusion approach capture the most disadvantaged clients/applicants and is it possible to develop a simple index that can serve as the basis for a new test?

In answering the first of these questions, data from the Legal Aid client survey will be compared with data from the Poverty and Exclusion in Modern Australia (PEMA) survey that was conducted by Saunders in mid-2010 (see Saunders and Wong, 2012, forthcoming). Responses to questions 2 and 3 will draw solely on the new

client survey. However, before presenting the main findings, the following section describes how the Legal Aid NSW client survey was conducted and presents some basic summary characteristics of sample of respondents.

2 Survey Design and Sample Characteristics

2.1 Sampling methods

Initially, sample recruitment began with a letter from the Director of the Grants Division which was sent to a random selection of people who had recently applied for a grant of legal aid. The letter indicated that the Strategic Planning & Policy Division of Legal Aid NSW is undertaking research to look into new ways that Legal Aid NSW can assist people with their legal problems asked recipients and that a questionnaire was about to be distributed, along with a second letter setting out the purposes of the research and instructions for completing the survey. The second letter advised survey applicants that completing the questionnaire would not impact on their application for legal aid. Those who agreed to participate were told that they would be entered into a draw for a prize.

The following three categories of applicants were initially to be surveyed:

1. Applicants who needed to be at special disadvantage to qualify for legal aid in civil law matters
2. Applicants seeking a discretion under the Means Test, and
3. Applicants who were required to satisfy the exceptional circumstances test in Local Court criminal matters.

The rationale for selecting these three groups was as follows: Given the hope that the final set of social exclusion indicators (a social exclusion test) would be developed following the survey, and that this test will replace the current 'at special disadvantage' test, the first category of applicants tested were those who are required to satisfy the 'at special disadvantage test' in order to be eligible for legal aid. Testing these applicants would thus allow the research to assess whether the number of eligible applicants would increase or decrease using indicators of social exclusion. This group of responses would also allow examination of the relationship between an applicant's social exclusion profile and his or her eligibility for legal aid under the 'at special disadvantage' test.

The second group covers applicants seeking an exercise of discretion under the existing Means Test. This would allow the 'social exclusion profile' of applicants who are currently being refused on the income aspect of the Means Test to be examined, with the findings assisting with the question of whether a 'social exclusion index' should be incorporated into the Means Test. This would in turn allow Legal Aid NSW to consider a person's social exclusion profile when the discretion is exercised.

Incorporating a social exclusion index into the Means Test would shift the exercise of discretion from what is currently a subjective discretion to one which incorporates an objective calculation of the applicant's social exclusion profile, to determine whether the applicant satisfies the 'exceptional circumstances' test under the Means Test.

The third group surveyed covers those applying for legal aid in Local Court criminal matters where an exercise of discretion is necessary under the existing policy for certain types of matters. For example, testing applicants who are seeking legal aid for a traffic-related matter where the determining officer has refused aid because the applicant has not satisfied the 'exceptional circumstances' test. Testing this group would allow examination of whether applicants who are at risk of or are socially excluded are not being granted legal aid, and to consider whether it would be appropriate, and in what circumstances, to incorporate indicators of social exclusion into the current 'exceptional circumstances' test. It was decided that the study would also look at applications where legal aid has been granted in Local Court criminal matters where the applicant must satisfy the 'exceptional circumstances' test. This will allow any differences between the type of clients who have satisfied the 'exceptional circumstances' test and those applicants who have been refused legal aid to be examined.

After the names of applicants that corresponded to these three groups had been extracted, letters began being sent out in late-June 2010. By August 2010 it became evident that the three chosen categories represented a very small percentage (less than one per cent) of all legal aid applicants. In light of this, it was agreed that the scope of the survey would be extended to include a random selection of all legal aid applicants. This not only increased the overall size of the sample, it also had the potential to generate more information about applicants across all areas and thus provided useful data for comparative analysis between the target groups and other applicants. The extension of the survey to the wider group of applicants commenced at the end of September 2010 and the final survey was sent out in early-December 2011, almost 18 months after commencement.

2.2 Response rates

Table 2.1 summarises the response rates generated by the approaches described above. As can be seen, the response rates are quite low – between 15 and 36 per cent for the 3 identified groups and just over 21 per cent for those general applicants who were approached in the second stage of sampling. Although these response rates are low compared with surveys conducted on the general population, it is well

known that people in disadvantaged circumstances are less likely to respond to social surveys than other groups in the population.¹ In light of the difficulty involved in recruiting participants from disadvantaged circumstances, the response rates achieved are not overly disappointing. There is, however, likely to be a real possibility of sample bias arising from the low response rates and this needs to be kept in mind when reviewing the results presented later.

Table 2.1: Numbers of Surveys Distributed and Completed

Client Type	Number of surveys distributed	Number of responses received	Implied response rate	Assistance provided ^(a)
Group 1: Means Test	456	106	23.2	2
Group 2: At Special Disadvantage	166	60	36.1	7
Group 3: Local Court (distributed)	202	31	15.3	0
Local Court (surveyed at court)	-	51	-	8
All applicants (excluding above respondents)	1,246	264	21.2	12
Total	2,170	512^(b)	23.6	29

Notes: (a) Assistance provided included assisting Local Court applicants on site and assisting general applicants over the phone. (b) The actual sample on which the analysis reported later was conducted contained 507 responses after the removal of several blank returns and 2 duplicates.

2.3 Sample characteristics

One of the clear trends to emerge from social surveys of the general population is the tendency for the respondents to be dominated by older age groups. This is the case for the SPRC PEMA survey, for example, where 55.6 per cent of respondents were aged 50 and over, whereas this group accounts for only 40.4 per cent of the Australian population. In contrast, those aged under-30 represented only 12.2 per cent of the sample, well below their population share of 22.7 per cent (Saunders and Wong, 2012, forthcoming: Table 3.3). It is possible (and desirable) to adjust for this distortion by applying weights to the sample observations that are based on the actual population shares in each age category. However, this has not been attempted here because the total population is not the appropriate comparator and it is not easy to come up with an alternative. For this reason, the analysis that follows relates to the sample itself, not to the 'population' that is relevant to legal aid issues.

¹ The response rate in the PEMA survey was 46.1 per cent, slightly below the 46.9 per cent response achieved in a similar survey conducted four years earlier.

Table 2.2 provides an age breakdown of the different legal aid samples and compares them with official (ABS) population data for New South Wales. Looking first at the last two columns, it is clear that in terms of age, in total the legal aid sample is a fairly representation of the NSW population as a whole. There is a tendency to understate older age groups, particularly those aged 50 and over, which represent 23.6 per cent of the sample, but 39.7 per cent of the NSW population.

Table 2.2: Summary Sample Characteristics (percentages)

Age range	Group 1: Means Test (n = 104)	Group 2: Special Disadvantage (n = 60)	Group 3: Local Court (n = 80)	Group 4: General (n = 260)	All groups (1-4 combined) (n = 504)	NSW population
15-24	6.7	8.3	28.8	18.9	16.7	16.7
25-29	6.7	1.7	15.0	10.8	9.5	9.0
30-34	11.5	11.7	13.8	15.4	13.9	8.5
35-39	13.5	8.3	15.0	15.8	14.3	8.9
40-44	17.3	6.7	11.3	15.8	14.3	8.4
45-49	10.6	10.0	6.3	6.9	7.9	8.7
50-54	6.7	15.0	3.8	4.6	6.2	8.2
55-59	5.8	15.0	2.5	4.2	5.6	7.3
60-64	7.7	6.7	2.5	3.5	4.6	6.8
65-74	10.6	8.3	1.3	3.1	5.0	9.3
75+	2.9	8.3	0.0	1.2	2.2	8.2
Total	100.0	100.0	100.0	100.0	100.0	100.0

Source: ABS Australian Demographic Statistics, December 2011: Tables 51 Catalogue No. 3101.0. The sample sizes presented in this and later tables refer to the numbers in each category for which the relevant data are available.

However, it is also clear that this overall pattern conceals large differences between the four groups identified here as separate samples, with the Local Court sample containing a large over-representation of younger people offsetting the opposite tendency in the Means Test and Special Disadvantage sub-samples. In contrast, in overall terms, the age structure of the fourth sample (of all legal aid applicants) is very close to that for the NSW population across all age categories.

Table 2.3 provides information on a range of other background socio-demographic information on the four sub-samples and total sample and, where available, the corresponding figures for NSW as a whole. Before commenting on these results, it is important to note that no attempt has been made to verify the responses provided, so that no account has (or can) be taken of any respondent errors or misunderstandings.

Table 2.3: Demographic Characteristics of the Samples (percentages)

Characteristic	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1-4 combined)	NSW population
Female	43.4	58.3	36.7	38.3	41.5	50.8
ATSI (a)	9.4	20.0	12.5	14.9	14.0	1.6
On-going disability/medical condition	31.4	73.3	35.9	37.0	40.0	21.2
Any form of mental illness	23.8	46.6	26.6	28.8	29.5	Na
Has a criminal record	24.3	36.8	48.7	56.2	46.0	Na
Has a juvenile record	7.8	13.0	39.3	33.1	25.9	Na
Did not complete more than 10 years of schooling	21.4	33.3	38.0	38.3	34.1	24.4
Refugee in last 5 years	1.0	3.4	4.2	2.0	2.3	Na
Restricted ability to communicate in English (a)	5.7	15.0	8.9	9.2	9.1	Na

Notes: (a) Those who did not tick any of the boxes provided are assumed not to be of ATSI descent. (b) indicates that their ability to communicate in English is either 'not good, but I get by' or 'very poor'. Na = not available.

Sources: ABS, Disability, Ageing and carers, Australia: Summary of Results, Catalogue No. 4430.0, Experimental Estimates and Projections, Aboriginal and Torres Strait Islander Australians, 1991 to 2012, Catalogue No. 3238.0.

Beginning again with the results for the combined sample in the penultimate column, it is clear from the limited number of population comparisons that the legal aid sample contains a higher proportion of males and far more people from an Indigenous background or experiencing a disability or long-term medical problem than the state population as a whole. Over one-quarter of the combined sample has a juvenile record, around one-third has some form of mental illness and did not complete more than 10 years of schooling and almost one-half has a criminal record. And even though the proportions who are recent refugees or have restricted ability to communicate in English are both rather low, they are likely to be well above the corresponding state-wide figures.

When the breakdowns for the sub-samples comprising groups 1 – 3 are compared, it is clear that on many indicators, the Special Disadvantage sub-group fares worse on average – particularly in relation to the prevalence of Indigeneity, disability and mental illness and poor communication ability. Group 3 (Local Court) appears worse on the basis of having a juvenile and criminal record and not completing more than

10 years of education. On all the indicators except gender composition, the first sub-group (Means Test) appear least disadvantaged – often by a considerable margin over groups 2 and 3.

Table 2.4 relates to some of the responses reported in Table 2.3, focusing specifically on the subjective health status of sample members. The question asked in this instance was ‘*In general, how would you describe the state of your health?*’ with four response categories provided: excellent; good; fair; and poor. Previous research has shown that the response to such a question – while highly subjective and generally not externally validated – still provides a good indicator of the general health status of those providing the responses.² A similar question has been asked in the SPRC PEMA survey and by the ABS in its *National Health Survey (NHS)* and *General Social Survey (GSS)*, and the data from the latest (2010) GSS and PEMA surveys (also conducted in 2010) can be used to benchmark the information provide by legal aid samples – as is done in Table 2.4.³

Table 2.4: Subjective Health Status (percentages)

Subjective health status	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1-4 combined)	NSW population	
						GSS	PEMA
Excellent	21.0	6.8	15.6	21.5	18.7	53.0	19.4
Good	46.7	23.7	48.1	43.4	42.5	31.0	54.4
Fair	27.6	42.4	33.8	27.7	30.4	} 17.0	21.6
Poor	4.8	27.1	2.6	7.4	8.5		4.5

Note: The GSS response categories are: Excellent, Very good, Good, Fair and Poor. The first entry combines those who responded ‘Excellent’ and ‘Very good’. The PEMA response categories are: Excellent, Good; Fair; and Poor.

Sources: PEMA survey and ABS (2012).

The comparisons in Table 2.4 provide further evidence that the different legal aid samples are more disadvantaged than the NSW population as a whole. Particularly when it comes to the percentages reporting their health to be either fair or poor, the Special Disadvantage and Local Court samples fare considerably worse than the NSW population as a whole.

² For example, an ABS report notes that; ‘Subjective health assessment has become a critically important component of contemporary health research .. which some argue is as reliable as, and perhaps even more reliable than, biomedical measures’ (Cunningham, Sibthorpe and Anderson, 1997, p. 1).

³ It is acknowledged that responses to the subjective health status question vary with age and that for this reason the estimates shown in Table 2.4 are not directly comparable because of differences in the age structure of the legal aid sample and the GSS and PEMA samples. However, adjusting for these differences is unlikely to affect the broad patterns shown in the comparisons.

2.4 Employment and income sources

Table 2.5 summarises and compares information on the main activities and income sources of the samples in the week prior to completing the survey. Again, these figures have not been externally verified and so reflect what respondents themselves reported. It is also worth noting that although both questions referred specifically to the main activity (or income source) in the previous week, many respondents completed more than one of the response categories and these have been removed when deriving the estimates shown in Table 2.5.

Table 2.5: Main Activity and Income Source (percentages)

	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1-4 combined)
Main activity last week:					
Employed (full-time or part-time)	42.1	15.2	16.7	17.2	22.0
Unemployed & looking for work	13.6	26.1	34.7	30.3	27.2
Education or training	4.6	4.4	5.6	9.5	7.3
Full time carer	9.1	2.2	8.3	11.8	9.6
A mixture of the above	11.4	13.0	11.1	5.4	8.4
Just hanging out & doing nothing	13.6	23.9	19.4	22.6	20.4
Other	5.7	15.2	4.2	3.2	5.2
Total	100.0	100.0	100.0	100.0	100.0
Main source of income last week:					
Earnings	38.0	10.9	16.7	13.2	18.8
Centrelink payment	54.0	72.7	72.2	68.2	66.3
A loan/gift from family or friends	1.0	1.8	6.9	2.5	2.8
Living off savings	3.0	1.8	0.0	0.8	1.3
I have no income	4.0	12.7	4.2	15.3	10.9
Total	100.0	100.0	100.0	100.0	100.0

Note: Multiple responses have been excluded

Looking first at activity patterns, more sample members overall were unemployed and looking for work than were employed. This is also true for all of the sub-samples except the first (Means Test) sample, where over 40 per cent were employed and less than 14 per cent unemployed and looking for work. Relative few members of the first three sub-samples were undergoing education or training but around 10 per cent of the general sample was engaged in this activity and a similar proportion of several samples were engaged in full-time caring activity or doing a combination of things. The proportion reporting that they were 'just hanging about and doing

nothing' was high at around 20 per cent overall and was at this level also in sample groups 2 and 3, with the Means Test sub-group again reporting a much lower figure.

In terms of income sources, there ought to be a similar pattern for those mainly reliant on earnings as for those in employment and the results bear this out – a finding which provides a degree of reassurance over the reliability of the reported estimates. Overall, two-thirds of the total sample was mainly reliant on a Centrelink payment, with the degree of welfare dependency varying between 54 per cent (means test group) to 72 per cent (Special Disadvantage and Local Court groups). Very few reported living off their savings (presumably because they did not have any, or enough) but one-in-ten reported having no income, with the size of this group being even greater in the Special disadvantage and general samples.

In general terms, therefore, in terms of what they imply about the degree of relative disadvantage, the results in Tables 2.3, 2.4 and 2.5 tell a similar story to those reported in Table 2.2: the sample as a whole is highly disadvantaged when compared to the corresponding population-wide data that are available, with groups 2 (special Disadvantage) and 3 (Local Court) appearing to be faring worse on most indicators than group 1 (Means Test).

The following section examines more closely the kinds of indicators that have been used to identify social exclusion and other dimensions of social disadvantage. Since many of these indicators were drawn from the responses to survey questions that replicate those asked in the recent SPRC PEMA survey, this latter data can be used to benchmark the legal aid estimates against those that apply more generally among the NSW population, or among specific sub-groups within it.

3 Social Identity, Exclusion and Economic Vulnerability

This section presents estimates of the extent of social exclusion and economic vulnerability of the different legal aid samples and compares them (where possible) with corresponding estimates derived from the 2010 PEMA survey. Many of the indicators themselves are based on those that have been developed in the SPRC research referred to earlier, but it is important to bear in mind that they are indicators that help to signpost the existence of the issue under attention and are not definitive measures of the existence, extent or severity of the underlying condition. Two comparisons are used to further highlight the features of the legal aid samples. They are:

1. Estimates for all NSW respondents to the PEMA survey (n = 872)
2. Estimates for PEMA respondents who indicate that their main source of income in the week prior to the survey was either a Disability Support Pension, Parenting payment, Newstart Allowance or other Centrelink payment (n = 161)

For ease of exposition, these two comparisons will be referred to henceforth as the NSW and welfare samples, respectively.

The analysis that follows begins at a general level, focusing on a range of indicators of identity and social status, then goes on to examine the extent of social engagement of different groups of legal aid clients before considering their inability to access key services when needed, and ending with the degree of financial vulnerability and extent of financial stress. This approach broadly mirrors the three domains of social exclusion identified in the SPRC research (Saunders, Naidoo and Griffiths, 2007: Chapter 6):

- *Disengagement* - lack of participation in social and community activities;
- *Service exclusion* - lack of adequate access to key services when needed; and
- *Economic exclusion* - restricted access to economic resources and low economic capacity.

It is important to emphasise, however, that the indicators used here are not the same as those used in the SPRC research, the differences being explained by both the need to develop a list that captures the specific circumstances of legal aid clients, combined with the restrictions imposed by the length of the questionnaire itself.

3.1 Identity and Social Status

Table 3.1 includes a range of indicators of social status and identity. The first 7 of them relate to ownership of documents that most community members would be expected to have, either because they are essential for normal community participation (e.g. a driver's licence or mobile phone) or because they reflect important state-sponsored entitlements (e.g. a Medicare card) or responsibilities (e.g. a tax file number) in contemporary Australian society.⁴ The final three items capture the experience of violence and extent of conflict with the authorities. They are indicative not only of how past events and (potential) past indiscretions can shape current restrictions on people's ability and willingness to engage socially with others. Many of the items shown in Table 3.1 were developed specifically for this project and information on only one item (the mobile phone) is available for the comparator samples.

Table 3.1: Identity Markers and Social Status (percentages)

	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1-4 combined)	Comparisons	
						NSW sample	Welfare sample
Does not possess the following:							
A valid driver's licence	18.1	40.7	65.0	47.5	43.3	Na	Na
A health care card	46.7	49.1	27.5	32.7	36.7	Na	Na
A tax file number	7.6	20.3	11.2	7.4	9.6	Na	Na
A passport	62.9	62.7	65.0	68.5	66.1	Na	Na
A mobile phone	9.5	37.3	10.0	18.3	17.4	12.1	17.9
A pensioner concession card	52.4	30.5	53.7	45.9	46.7	Na	Na
A Medicare card	3.8	6.8	8.7	5.8	6.0	Na	Na
Has been the victim of violence	37.1	45.6	49.3	43.5	43.4	Na	Na
Is in dispute with a government agency	13.7	21.3	14.3	15.2	15.5	Na	Na
Is regularly stopped by the police	8.2	8.5	34.3	19.4	18.7	Na	Na

Note: Multiple responses are included.

⁴ Survey respondents were asked if they had each item by ticking a box and the estimates in Table 3.1 indicate how many boxes were not ticked. In practice, people are generally asked to provide any two of these documents as proof of identity (e.g. when opening a bank account or applying for some form of credit).

Large proportions (between 18 per cent and 65 per cent) of all four groups do not have a valid driver's licence. This may be because they cannot afford a car, although this cannot be established. The high percentages that do not have a tax file number point to the absence of any regular income for many survey participants, while the lower (but still worryingly high) percentages that do not have a Medicare card suggest that poor health is likely to be a cause of considerable distress as there is no access to even basic (GP) services. These figures also challenge the idea that Australia has a universal health care system that offers protection to all of its citizens. The very large proportions that do not have a passport presumably reflect the fact that overseas travel is not a viable option for most of those surveyed.

Differences in the degree of ownership of those items that are tied to receipt of government assistance like a health care or pensioner concession card presumably reflects group differences in the extent and type of welfare dependence (including age). The group differences tend in some instances to offset each other, so that those groups with the lowest ownership of a health care card tend to have the highest ownership of a pensioner concession card, although these patterns are not always apparent.

For the one item a mobile phone – where comparative data are available – the evidence suggests that ownership is higher among most of the legal aid groups than among NSW residents generally and higher in some instances than among the welfare sample. This may reflect the need for the legal aid groups to be in contact with others, or it may simply be a consequence of the timing of the two surveys: the legal aid survey was conducted more recently than the SPRC survey and mobile phone ownership rates have been rising rapidly. Even with this proviso, it seems that having access to a mobile phone is seen as important by the client groups, particularly those in the special disadvantage category.

It is clear that violence is a factor in the lives of many of the legal aid samples, with between 37 per cent and 49 per cent reporting having been a victim of violence within the last 12 months. These figures are extraordinarily high and point to a marginalised, high-risk existence that falls way out of the experience of ordinary Australians. This picture is reinforced by the percentages reporting being regularly stopped by the police, the figure of over one-third reported by the Local court sample again being very high. Many experience wider arenas of conflict, with between 14 per cent and 21 per cent reporting being in dispute with a government agency. This evidence suggests that many of the problems faced by legal aid clients have been long-standing and is yet another pointer to the kinds of lives that lie behind the reported statistics.

Many studies of disadvantaged groups have highlighted the important that secure, stable and affordable housing can play in providing the foundation on which pathways out of poverty and exclusion can be based. Commonwealth Government research has identified that in 2006, around 5 per cent of the 18-64 year-old population in entrenched disadvantage – identified as having 3 or more out of 6 key indicators of disadvantage – and noted that ‘multiple disadvantage is most likely to be experienced by people renting public housing and people in lone households and single parent households’ (Australian Government, 2009: p. 6). The recently-released second edition report card on how Australia is faring in terms of social inclusion notes that those experiencing multiple disadvantage in 2010 (still at around 5 per cent overall) are concentrated in the most disadvantaged areas (as measured by the ABS’s SEIFA Index of Relative Socioeconomic Disadvantage, IRSD) (Australian Government, 2012: p. 7).

The approach used by the ABS itself to construct the IRSD (based on Principal Components Analysis, PCA) identifies the percentage of households in an area that is renting from a Government or Community Organisation as a key component of the IRSD (see ABS, 2008) while recent ABS analysis assigns even greater weight to this variable when determining the disadvantage status of households as opposed to areas (see Wise and Mathews, 2011: Tables 2.1 & 4.1).

This growing body of evidence provides the backdrop to Table 3.2, which provides evidence on the housing status of the legal aid sample and some comparisons with other groups in NSW. It is clear that the percentage of legal aid clients living in government or social housing is far higher than the state average: over 48 per cent, compared to less than 4 per cent. The highest percentage is found among the general group, where over one-half (54 per cent) live in government or social housing. Despite the security that this might be expected to bring, around half of all client groups report that their housing is either temporary or unstable – a finding that may reflect the possibility that they are not the formal renters of the dwelling they are occupying, or perhaps that they are living with their parents on what they regard as a short-run basis. Around one-fifth also report their housing quality as being poor and/or overcrowded. There seems little evidence here that the housing status of legal aid clients can provide a platform to escaping poverty.

Table 3.2: Housing Status (percentages)

	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1-4 combined)	Comparisons NSW sample	Welfare sample
Government or community housing	27.0	47.2	46.2	53.8	48.1	3.7	14.4
Housing quality is poor and/or overcrowded	27.0	22.2	13.5	22.2	21.2	Na	Na
Housing is temporary and unstable	46.0	52.8	48.1	42.4	45.2	Na	Na

Note: Includes multiple responses.

3.2 Social Engagement

Table 3.3 presents evidence on a range of indicators of the social participation dimension of social exclusion, drawing on some of the indicators used in recent SPRC studies. It is immediately apparent that for those indicators where comparable estimates are available, social disengagement is far more prevalent among legal aid clients than among the NSW population as a whole, or among those in the state who are dependent on a welfare payment. There are again variations between the different groups, although the Special Disadvantage group shows up as most disengaged overall, with the Means test sub-group least disengaged on several indicators (though still far more disengaged than the state populations as a whole).

Table 3.3: Social Disengagement and Autonomy (percentages)

	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1-4 combined)	Comparisons NSW sample	Welfare sample
Social life is non-existent (a)	27.2	56.9	18.8	29.6	30.6	11.9	30.6
No access to the internet at home	45.7	76.3	60.0	61.1	59.5	22.8	44.2
Does not have a membership card to club/society	41.9	67.8	52.5	56.8	54.3	Na	Na
Could not go out with friends and pay one's way	75.7	78.4	81.0	71.8	74.8	18.9	45.8
Often felt too sick to get out of bed in the morning	25.3	58.9	50.7	35.0	38.5	5.2	19.4
Has a great degree of control over one's life (b)	36.9	12.4	30.1	29.0	28.8	42.7	20.1

Note: (a) The other response categories were: I lead a very active social life; I lead a fairly active social life; and My social life could do with improving. (b) Figures refer to the percentage of respondents were recorded a score of 8-10 on a 10-point scale going from 'I have no control' to 'I have a great degree of control'.

While some of the indicators shown in Table 3.3 reflect the impact of a lack of affordability (e.g. those relating to no internet connection at home and not being able to pay one's way when out with friends), lack of funds is not such an obvious cause of feeling sick in the morning or having a non-existent social life. On both of these indicators the Special Disadvantage sub-group has the highest incidence rate, more than twice that for some of the other groups. Overall, although lack of money does contribute to a lack of social disengagement, both directly and indirectly through its impact on self-esteem and confidence, it seems likely that other factors rooted in psychological and social circumstances also play a role in the social withdrawal of many legal aid clients.

The final row of Table 3.3 summarises responses to a question in which respondents were asked to indicate on a score between 0 and 10 the degree to which they felt that they had control 'over your own life and the things that happen to you'. The results presented show the percentages recording a response of 8 or more, corresponding to 'a great deal of control'. The percentages are all below the state-wide average of 42.7 per cent but above the degree of expressed by those in the welfare sample. The perceived lack of control is, of course, directly linked to a feeling of alienation and lack of autonomy that many see as lying at the root of what it means to be excluded. With this in mind, the figure for the Special Disadvantage group of 12.4 per cent is again of concern. It is much lower than for the other groups, all of whom are far closer to the state norm – a finding which points to the resilience of the group given the many disadvantages that they have already been shown to experience.

3.3 Service Exclusion

The Australian system of community services is designed to meet the needs of individuals with a wide range of problems that prevent them from participating fully in the life of the community. Some of these services meet specific needs (associated with different forms of disability, for example) or the needs of specific groups (children at-risk, older people or recent migrants), while yet others meet universal needs that affect all citizens at some point in their lives (general medical and hospital services). The previous SPRC research has highlighted the failings of some elements of the service system to provide appropriate and accessible cover to all those who need them and the term service exclusion reflects this reality. Where services are not available to those who need them, problems that might otherwise be manageable can become debilitating, leading to permanent adversity. Service exclusion can thus be a powerful barrier to economic and social participation and hence to social inclusion.

Table 3.4 summarises the degree of service exclusion among the different legal aid groups and compares the estimates with those for the NSW and welfare samples. It is clear that service exclusion among the legal aid sample is far higher than among the NSW population as a whole and also among that existing among the welfare sample. On almost all indicators, service exclusion is highest amongst the Special Disadvantage sub-sample, and lowest amongst the Means Test sub-sample. The results confirm the SPRC research which showed that lack of access to dental services remains a problem in Australia, despite recent efforts to improve the system (at the Commonwealth level). The fact that over 40 per cent of legal aid clients in one of the wealthiest countries on the planet are unable to see a dentist when they needed to reflects very poorly on a system that should be providing basic but critical support to all of its citizens.

These estimates also reveal that many legal aid clients are also unable to access basic medical and hospital services when they need them. The figures in the first row showing that around 40 per cent are unable to see a doctor when they need to are particularly alarming (but will in part reflect the absence of a Medicare card that was shown earlier to be a problem for many: see Table 3.1). The percentages excluded from more specific services such as those for the treatment of mental health issues are lower than those for some of the more generic health-based services, but they are still high (though no higher than for the state as a whole).

Table 3.4: Inability to Access Services When Needed (percentages)

	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1-4 combined)	Comparisons NSW sample	Welfare sample
Events experienced over the last 12 months- Unable to...:							
See a doctor when I needed to	27.6	45.8	39.2	36.5	36.2	3.9	7.1
See a dentist when I needed to	38.4	42.1	45.3	43.6	42.6	15.2	36.3
Get treated by a hospital when I needed it	6.4	18.5	18.1	16.7	15.0	Na	Na
Access mental health services when I needed to	6.4	27.3	20.8	21.8	19.1	20.8	22.7
Afford medications prescribed by a doctor	27.6	44.6	38.7	40.8	38.2	3.0	13.7

Note: Includes multiple responses.

The estimates in the last row of Table 3.4 show the percentages that cannot afford to buy prescribed medications. These percentages are very high across all groups

of legal aid clients – way above those for both the NSW and welfare samples. These estimates point not only to the grave health risks facing those affected, but also highlight an underlying waste of the health resources utilised to diagnose the problem (and hence prescribe the medication) in the first place. There is little justification for denying patients the medications they need once they have been prescribed by a specialist and the fact that this appears to be so widespread is a major cause for concern – for the health of the patients and of the system as a whole.

3.4 Financial Vulnerability and Stress

The figures in Table 3.5 highlight the extreme financial vulnerability of legal aid clients. Around 40 per cent do not have any money in a bank account to draw on if faced with even the most modest unanticipated (or even anticipated!) event, and more than twice this number do not have any unused credit on a credit card on which they can draw if they needed to. This means that something as mundane as a broken appliance has the potential to create a financial crisis that can have long-term consequences. These problems are exacerbated by the high percentages that already owe large amounts that they cannot repay. Not surprisingly, very few have any form of insurance cover so that surviving an adverse event as most other people do by drawing on insurance protection is not an option for most legal aid clients. Finally, between 30 per cent and 50 per cent are dependent on the support provided by a welfare agency to get by – clearly because of the inadequacy of social security payments and other income sources. With many welfare agencies themselves struggling to cope with increased demand and constrained resources, this form of support is tenuous and cannot be relied upon indefinitely, further adding to the vulnerability of agency clients.

Table 3.5: Financial Vulnerability (percentages)

	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1-4 combined)	Comparisons NSW sample	Welfare sample
Does not have a bank account with some money in it	26.7	40.7	41.2	42.8	38.9	Na	Na
Does not have a credit card with unused credit	74.3	86.4	87.5	87.9	84.8	Na	Na
Owes a large amount of money that is unable to pay	58.9	46.8	40.0	44.2	46.4	Na	Na
Does not have any form of insurance cover	38.4	53.2	68.6	56.2	54.8	Na	Na
Relies on welfare agency for support	30.1	51.1	34.3	50.7	44.2	2.8	15.5

Table 3.6 reports the responses to a question asking how people would go about raising \$2,000 in a week in an emergency if they had to. A version of this question has been included in several Australian surveys of financial stress and hardship, including the *ABS Household Expenditure Survey (HES)* and the Melbourne Institute's *Household, Income and Labour Dynamics in Australia (HILDA)* survey, and it has also formed part of the *SPRC* surveys mentioned earlier. Asking people if they are able to raise a substantial sum of money in a relatively short period is regarded in some quarters as a valuable question that can tap into the existence of latent networks that people can draw on in times of crisis. Those who indicate that they would not be able to raise the money from any of the identified sources are seen as not being connected to the networks that can provide support and advice in times of crisis, making them again vulnerable.

Across all four groups of legal aid clients, the most common source of emergency funds involves borrowing from family or friends, followed by either drawing on savings or having to pawn or sell something. The patterns are very different from those for the population as a whole, where savings are easily the most important source of emergency funds, followed by borrowing from family or friends. Compared to the welfare sample, those in the legal aid groups are (with a few exceptions) less likely to be able to draw on their savings or borrow from a financial institution, but more likely to borrow from a welfare agency, from family or friends, or to pawn or sell something in times of financial crisis.

Table 3.6: Accessibility to Funds in an Emergency (percentages)

	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1- 4 combined)	Comparisons	
						NSW sample	Welfare sample
<i>How would you raise \$2,000 within a week in an emergency?</i>							
Draw on savings	21.2	13.3	12.5	10.1	13.2	66.6	26.9
Borrow from welfare agency	10.6	10.0	18.8	10.1	11.6	1.3	8.1
Borrow from financial institution	8.7	1.7	3.8	8.1	6.8	21.4	11.3
Borrow from family and friends	32.7	15.0	38.8	31.0	30.7	22.4	26.3
Would have to pawn or sell things	17.3	10.0	22.5	22.5	19.9	3.6	8.1
Other means	6.7	13.3	13.8	17.4	14.1	2.3	3.1
Could not raise \$2,000 in a week	58.7	75.0	62.5	66.7	65.3	11.3	40.0

Note: Includes multiple responses.

However, the most striking feature of Table 3.6 is the estimates in the last row, which indicates that between 59 per cent and 75 per cent of legal aid clients say they would be unable to raise the \$2,000 in emergency funds – a finding which points to their lack of connection and weak social ties (which will themselves be reinforced by the social disengagement already described). The corresponding figures for the NSW population is much lower, at 11 per cent, and while that for the welfare sample is considerably higher than this (at 40 per cent), it is still well below the corresponding figure for any of the legal aid groups. Exactly what these ‘other means’ are is deliberately left unspecified in the survey question, although given the means that *are* covered in the remaining responses, there is a high likelihood that ‘other means’ may include illegal and other illegitimate activities.

Having examined the patterns of financial vulnerability and connectedness, Table 3.7 looks at some of the financial stress outcomes that result from having access to inadequate economic resources.⁵ Financial stress is clearly a common experience for many legal aid clients, with over 70 per cent of all groups combined unable to buy new clothes, over 50 per cent unable to keep up with domestic utility bills and around 40 per cent going without food, getting behind with rent or mortgage, having to pawn or sell something and unable to keep an appointment due to transport costs. Most of the corresponding figures are well below 10 per cent among the NSW

⁵ The incidence of these outcomes can also be derived from financial stress data collected in the HES and HILDA surveys: see ABS (2011: Table 30) and Wilkins and Warren (2012: Chapter 9).

sample and are again somewhat higher in the welfare sample, though still well below those for the legal aid groups.

Table 3.7: Incidence of Financial Stress (percentages)

	Group 1:	Group 2:	Group 3:	Group 4:	All groups (1-4 combined)	Comparisons	
	Means Test	Special Disadvantage	Local Court	General		NSW sample	Welfare sample
<i>Events experienced over the last 12 months because of a shortage of money:</i>							
Had to go without food when hungry	29.7	31.4	50.8	46.5	42.1	3.1	12.9
Got behind with rent or the mortgage	52.7	25.5	42.9	36.6	39.2	6.4	18.7
Couldn't attend appointment due to transport costs	23.0	37.3	52.4	37.6	37.2	4.0	11.6
Couldn't keep up with payments for water, gas etc	62.2	47.1	58.7	46.5	51.4	14.0	32.3
Had to pawn or sell something/borrow/money lender	35.1	37.3	49.2	40.9	40.7	6.8	22.6
Couldn't afford to buy new clothes when I needed them	59.5	82.4	81.0	71.8	72.3	9.0	25.2

Note: Includes multiple responses.

Although the incidence of financial stress is very high among all groups of legal aid clients, they are highest among the Local Court sub-sample, followed by the Means Test sample. In overall terms, these figures reinforce the perilous economic circumstances of most legal aid clients that have already been highlighted in some of the earlier tables. On the one hand, they provide an evocative picture of the disadvantage experienced by those who seek legal aid assistance. On the other hand, they suggest that a very stringent means test would need to be applied if a large increase in the proportion of clients deemed eligible to receive legal aid assistance is to be avoided.

This section has presented a range of results that explore different dimensions of social exclusion and other elements of social disadvantage (including economic and financial vulnerability) for those in the different legal aid samples. Where possible, corresponding results have been presented for all NSW residents, and for those reliant on the welfare system for their main source of income, in order that the legal aid results can be placed in a broader context. On virtually every indicator, it is clear that the legal aid samples are more likely to face exclusion and to be vulnerable to

financial and economic stress than the two comparator groups. There are, however, also differences between the different legal aid groups and these should not be lost sight of.

The following section begins the task of combining the indicators examined here into a multi-dimensional measure that captures the different elements of exclusion.

4 Towards a Multidimensional Measure

4.1 Introduction to the Issues

It is now widely accepted in the literature on poverty and social disadvantage that the multi-dimensional nature of the issues being examined calls for a framework – and possibly also for actual measures - that are also multi-dimensional. However, it is important to acknowledge that acceptance of the need for a multi-dimensional perspective or *framework* does not automatically imply that a multi-dimensional *measure* is needed. One great advantage of having an overall summary measure (or indicator) is that it then becomes relatively straightforward to compare the circumstances of different groups or to monitor changes over time. The fact that social exclusion can only be meaningfully measured in degrees (as opposed to using an all-or-nothing metric) also suggests using a summary measure that can capture this feature.

Against this, those who have resisted such an approach have pointed to the problems involved in constructing such an index – an approach which inevitably involves making assumptions (e.g. about the weight to assign to the different components of the aggregate measure) and there is no agreement about how to do this, making the resulting measures the subject of on-going controversy about their relevance and interpretation. Another important feature of social exclusion that is missed when an overall measure is used is the *inter-connection* between the different forms of exclusion. If – as many think – exclusion is a process through which what may start out as being a series of isolated problems accumulate into a complex and entrenched situation, it is important to understand how the different elements interact with each other to produce what ends up as being a virtually inescapable situation. The use of an index will not assist in gaining a better understanding how the different elements interact to produce such outcomes.

In Australia, 3 main indicator frameworks have been developed to identify social exclusion and monitor its elements and change over time. Two of these – produced by the SPRC (Saunders, Naidoo and Griffiths, 2007; Saunders and Wong, 2012) and by a collaboration between the Melbourne Institute and the Brotherhood of St Laurence (MI/BSL) (Scutella, Wilkins and Horn, 2008; Horn, Scutella and Wilkins, 2011; Azpitarte, 2012) have used a single index for summary and comparative purposes. In both cases, the summary index involves aggregating ‘scores’ derived by assigning a value of one when an indicator is satisfied and zero otherwise and then adding these scores for individuals and averaging them across groups. The details differ (specifically in the weighting of the indicators) but the basic approach is the same.

In contrast, the approach being used by the Australian Government (with input and advice from the Australian Social Inclusion Board) does not seek to derive an overall index but adopts a tiered approach in which indicators are separated into ‘headline’ and ‘supplementary’, with the former implicitly assigned greater weight than the latter.⁶ This approach also elevates the importance of one specific issue – multiple disadvantage – by referring to it as a domain rather than in indicator, further reinforcing the use of a tiered approach. An obvious consequence of adopting the latter approach is that it is not possible to provide an overall summary of change (“social exclusion has declined over the last year”) but only to point to (and count up) areas of improvement where things have improved and lack of progress, where they haven’t.⁷

There is no ‘right’ and ‘wrong’ in these different approaches. Both have their merits and the choice between them can only be made in light of the specific circumstances that apply, including the overall objectives of any exercise. In the current context, where one issue is the need to produce a new approach that can replace the current means test, the case for producing an aggregate index is probably more compelling, although even here it would be possible to adopt a variant of the tiered approach currently being used by the federal government.

4.2 Components of a Multidimensional Index

The analysis begins by drawing together some of the indicators discussed and analysed in the previous section in order to get a sense of what a multi-dimensional approach would look like in the Legal Aid NSW context.

Table 4.1 draws together information presented in the previous section on 18 indicators of exclusion arranged into 3 broad domains that correspond approximately to those identified in the SPRC research described earlier.⁸ These 3 domains are: identity/disengagement; economic vulnerability; and excluded from services. The incidence rates shown in Table 4.1 are the same as those presented before, although information is also shown for the average incidence rate in each domain and across all 3 domains, and the mean exclusion scores within and across the 3 domains. Following the approach adopted in the SPRC research, these mean

⁶ This approach mirrors that used by the Australian Bureau of Statistics (ABS) in its development of measures of Australia’s progress (see ABS, 2010)

⁷ The latest issue of *Social Inclusion in Australia. How Australia is Faring* identifies 13 areas where Australia is ‘doing well’ and 8 ‘areas for improvement’ but does not seek to balance these and reach any overall conclusion about the extent (or even direction) of progress (see Australian Government, 2012: 3).

⁸ The main difference is that the SPRC research did not include identity explicitly in its domain of exclusion. This variation seems justified in light of the characteristics of the legal aid samples, as discussed earlier.

Table 4.1: Exclusion Domains and Indicator Incidence (percentages or mean scores)

Exclusion indicator	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1-4 combined)
Identity/disengagement					
Does not have at least 2 proofs of identity (a)	18.1	35.6	53.8	40.9	37.5
Lives in government or social housing	27.0	47.2	46.2	53.8	48.1
Social life is non-existent	27.2	56.9	18.8	29.6	30.6
Could not afford to pay way when with friends	75.7	78.4	81.0	71.8	74.8
No internet access at home	45.7	76.3	60.0	61.1	59.5
Often felt too sick to get out of bed in the morning	25.3	58.9	50.7	35.0	38.5
Mean exclusion rate	36.5	58.9	51.7	48.7	48.2
Mean exclusion score	1.76	3.15	2.75	2.54	2.48
Economic Vulnerability					
No bank account with money and no unused credit on credit card	25.7	35.6	41.3	42.4	37.9
Could not raise \$2,000 in a week in an emergency	58.7	75.0	62.5	66.7	65.3
Would use 'other means' to raise \$2,000 in an emergency	6.7	13.3	13.8	17.4	14.1
Owes a large amount that is unable to repay	58.9	46.8	40.0	44.2	46.4
No insurance cover	38.4	53.2	68.6	56.2	54.8
Is unemployed/looking for work	13.6	26.1	34.7	30.3	27.2
Mean exclusion rate	33.7	41.7	43.5	42.9	41.0
Mean exclusion score	1.70	2.22	2.44	2.35	2.21
Excluded from Services					
Did not complete at least 10 years of schooling	21.4	33.3	38.0	38.3	34.1
Unable to see doctor when needed to (WNT)	27.6	45.8	39.2	36.5	36.2
Unable to see dentist WNT	38.4	42.1	45.3	43.6	42.6
Unable to get hospital treatment WNT	6.4	18.5	18.1	16.7	15.0
Unable to access mental health services WNT	6.4	27.3	20.8	21.8	19.1
Unable to afford prescribed medications	27.6	44.6	38.7	40.8	38.2
Mean exclusion rate	21.3	35.3	33.4	32.9	30.9
Mean exclusion score	1.20	2.00	1.84	1.86	1.74
Overall Exclusion (18 indicators)					
Mean exclusion rate	30.5	45.3	42.8	41.5	40.0
Mean exclusion score	4.66	7.37	7.03	6.74	6.43

Note: (a) Proofs of identity are: a valid driver's licence, a health care card, a tax file number, a passport, a pensioner concession card and a Medicare card.

scores are unweighted and have been derived by assigning a score of 1 each time an indicator is relevant for each individual summing those scores across all individuals and calculating the average score for the relevant sub-group of interest. Thus, for example, for the means test group, the mean score of 1.76 indicates that, on average this group is excluded on 1.76 of the 6 indicators of identity/disengagement.

Aside from bringing together the information on individual indicators, the main contribution of Table 4.1 relates to the information presented on the mean exclusion scores for each domain and for the 3 domains combined. These scores indicate the extent to which the separate indicators are experienced together by individuals in the different legal aid samples. For 2 of the 3 domains and overall, the mean score is highest for the Special Disadvantage group, followed (again in 2 out of 3 cases) by the Local Court sample and then by the General group. However, the differences between these three groups are not large (and probably not statistically significant given the relatively small sample sizes), but all 3 show up as more excluded (within and across the 3 domains) than the Means Test group.

Table 4.2 examines the incidence of multiple exclusion across the different groups more directly by showing the percentages that experience different minimum numbers of indicators – again within and across the 3 domains. The results in the final column indicate, for example, that across all of the groups, around one-quarter (24.8 per cent) experience at least 4 of the 6 indicators of identity/disengagement, almost one-fifth (19.8 per cent) experience at least 4 of the 6 indicators of economic vulnerability, and around one-in-six (16.0 per cent) experience at least 4 of the 6 indicators of exclusion from services. When the 3 domains are combined, over three-quarters (78.0 per cent) experience at least 4 indicators overall, while one-fifth (20.4 per cent) experience at least 10 of the 18 indicators. Put differently, these percentages indicate what proportion of the combined sample would satisfy a new means test that was based on the relevant minimum numbers of exclusion indicators – within each domain and for all 3 domains combined.

Thus, by seeing how the percentages decline as one looks down the columns within any of the groups, one can judge what proportion would be eligible under different means-testing regimes, defined in terms of the severity of multiple exclusion. Thus, for example, for the Means Test group, the proportion eligible would be 86.7 per cent if the means test required only 1 indicator to be satisfied, but would decline to 53.3 per cent, 26.7 per cent, 9.5 per cent and 0.0 per cent as the eligibility threshold is tightened to at least 2, at least 3, at least 4, at least 5 and all 6 indicators. These percentages can then be compared with the proportion of applicants in each group that are eligible under the existing means test in order to get a sense of the impact

of changing the means test would be on the numbers identified as being eligible to receive the service.

Table 4.2: The Incidence of Multiple Exclusion (percentages)

Exclusion indicator	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1-4 combined)
Identity/disengagement					
0 exclusions	13.3	1.7	8.8	5.8	7.3
1 or more	86.7	98.3	91.3	94.2	92.7
2 or more	53.3	91.7	80.0	75.4	73.5
3 or more	26.7	73.3	58.8	51.5	50.1
4 or more	9.5	38.3	33.8	25.0	24.8
5 or more	0.0	11.7	10.0	6.9	6.5
Economic Vulnerability					
0 exclusions	21.0	8.3	8.8	8.5	11.1
1 or more	79.1	91.7	91.3	91.5	88.9
2 or more	47.6	68.3	70.0	73.5	66.9
3 or more	29.5	43.3	50.0	39.2	39.4
4 or more	13.3	15.0	25.0	21.9	19.8
5 or more	0.0	3.3	7.5	7.7	5.5
Excluded from Services					
0 exclusions	40.0	21.7	25.0	23.1	26.7
1 or more	60.0	78.3	75.0	76.9	73.3
2 or more	33.3	58.3	55.0	48.1	47.3
3 or more	18.1	35.0	31.3	31.9	29.3
4 or more	6.7	21.7	16.3	18.5	16.0
5 or more	1.9	6.7	6.3	8.1	6.3
Overall Exclusion (18 indicators)					
0 exclusions	4.8	0.0	2.5	0.8	1.8
1 or more	95.2	100.0	97.5	99.2	98.2
2 or more	84.8	100.0	91.3	98.1	94.4
3 or more	73.3	95.0	88.8	91.9	87.9
4 or more	60.0	90.0	81.3	81.5	78.0
5 or more	55.2	78.4	73.8	71.2	69.1
6 or more	39.1	71.7	65.0	57.7	56.6
7 or more	29.5	60.0	58.8	49.6	48.1
8 or more	16.2	45.0	48.8	38.8	36.4
9 or more	6.7	38.3	36.3	31.2	27.7
10 or more	2.9	30.0	26.3	23.5	20.4

4.3 Reliability Testing and Exploratory Factor Analysis

It is common in the literature to apply factor analysis to establish whether or not the components of any proposed multidimensional index cluster together. If they do, and an underlying latent factor can be shown to capture much of the variability in all of the variables, then that factor can be used to summarise the full list of variables.

Cronbach's alpha is a measure of internal consistency that measures how closely related a set of items are as a group. A "high" value of alpha indicates that the reliability of the set of variables is high, and this is often used (along with substantive arguments and possibly other statistical measures) as evidence that the items measure an underlying (or latent) construct. In most social science applications, a value of at least 0.7 is regarded as a "high" value of Cronbach's alpha.

Table 4.3 shows the Cronbach alpha statistic for the 18 variables shown in Table 4.1 and what happens to the statistic as each of those variables is dropped (separately) in turn. If the removal of a variable causes the Cronbach alpha statistic to rise, this suggests that that variable does not capture the same latent construct as the others, and thus that it can be removed from the list without adversely affecting the overall level of reliability.

Table 4.3: Reliability Test Results (Cronbach alpha statistics)

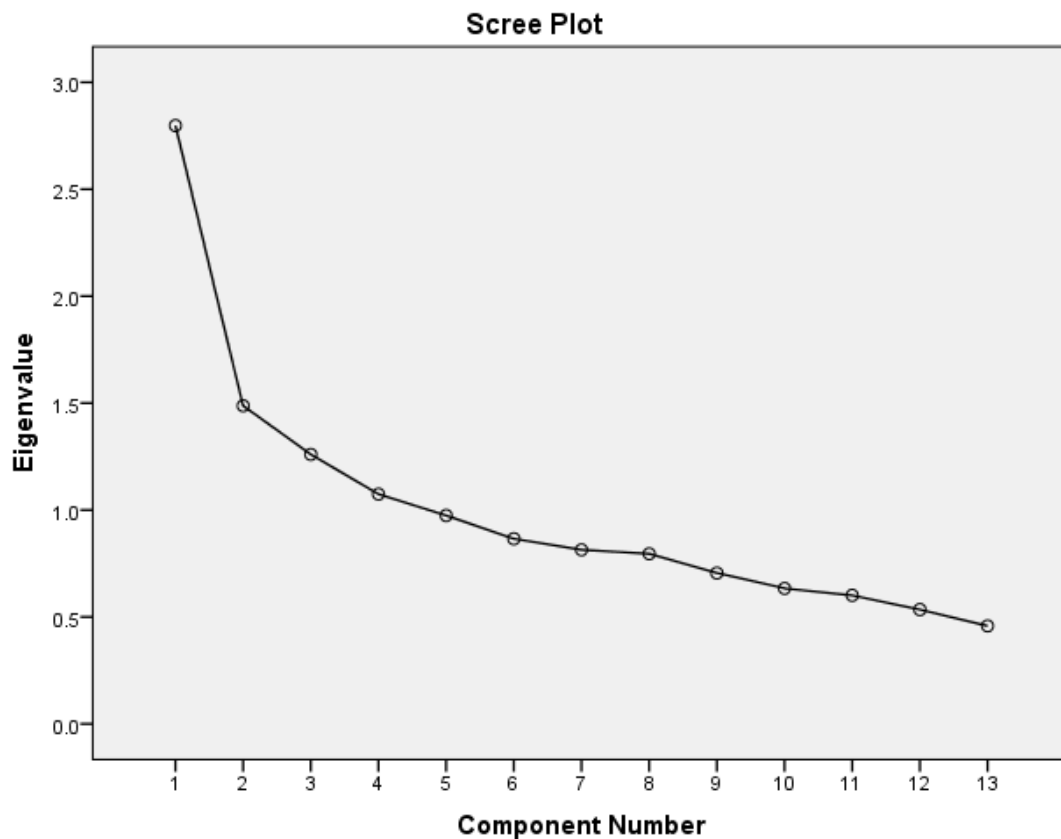
Indicator	Cronbach alpha	Indicator	Cronbach alpha
All 18 indicators	0.570	Would use 'other means' to raise \$2,000 in an emergency	0.570
Removal of:		Owes a large amount that is unable to repay	0.563
Does not have at least 2 proofs of identity	0.558	No insurance cover	0.556
Lives in government or social housing	0.580	Is unemployed/looking for work	0.593
Social life is non-existent	0.571	Did not complete at least 10 years of schooling	0.554
Could not afford to pay way when with friends	0.572	Unable to see doctor when needed to	0.515
No internet access at home	0.552	Unable to see dentist when needed to	0.529
Often felt too sick to get out of bed in the morning	0.548	Unable to get hospital treatment when needed to	0.549
No bank account with money and no unused credit on credit card	0.541	Unable to access mental health services when needed to	0.549
Could not raise \$2,000 in a week in an emergency	0.560	Unable to afford prescribed medications	0.525

The overall Cronbach alpha score of 0.570 is not high – well below the standard threshold of 0.7 that is often used to determine whether or not the items cluster

sufficiently close together. It is also clear that the removal of several of the indicators (those with Cronbach's shown in bold type in Table 4.3) results in either no change or an increase in the Cronbach score. This suggests that these items do not satisfy the reliability test and do not cluster together with the others.

Factor analysis was then applied to the remaining 13 indicators to see if an underlying latent factor (or factors) could be identified.⁹ The Cronbach alpha for the truncated list is equal to 0.664 – approaching the threshold value of 0.7, though not quite there. Figure 4.1 presents the scree plot produced by the factor analysis. Although 7 factors are identified, the scree plot shows a clear kink after the first factor, which suggests that this factor alone can be selected. However, it is important to note that this single factor explains only 21.5 per cent of the overall variance (with the next 6 factors explaining a further 50 per cent in total). The analysis itself suggested that a model with 4 components was appropriate and the component matrix shown in Table 4.4 is based on this.

Figure 4.1: Factor Analysis Scree Plot



⁹ The results reported below are very similar to those produced if the factor analysis was applied to all 18 indicators shown in Table 4.3.

The weights attached to the final 5 indicators listed in the first column of Table 4.4 (shown with shaded cells) have the highest loadings and this suggests that these 5 indicators should thus be given greatest weight in the latent variable. These 5 are:

- Unable to see doctor when needed to;
- Unable to see dentist when needed to;
- Unable to get hospital treatment when needed to;
- Unable to access mental health services when needed to; and
- Unable to afford prescribed medications.

It is worth noting that all 5 indicators form part of the service exclusion domain identified earlier.

Table 4.4: Factor Analysis Component Matrix ^(a)

Component Matrix ^(b)	Component			
	1	2	3	4
Does not have at least 2 proofs of identity	0.212	0.580	-0.129	-0.257
No internet access at home	0.373	0.553	-0.151	-0.015
Often felt too sick to get out of bed in the morning	0.526	-0.265	-0.227	0.035
No bank account with money <u>and</u> no unused credit on credit card	0.395	0.306	0.147	0.449
Could not raise \$2,000 in a week in an emergency	0.295	0.236	0.581	0.138
Owes a large amount that is unable to repay	0.261	0.178	0.677	-0.133
No insurance cover	0.245	0.027	-0.209	0.792
Did not complete at least 10 years of schooling	0.270	0.598	-0.412	-0.144
Unable to see doctor when needed to	0.708	-0.118	-0.151	-0.142
Unable to see dentist when needed to	0.575	-0.078	0.224	-0.019
Unable to get hospital treatment when needed to	0.565	-0.249	-0.149	-0.268
Unable to access mental health services when needed to	0.581	-0.326	-0.135	0.092
Unable to afford prescribed medications	0.636	-0.214	0.156	-0.138

Notes: (a) Extraction Method: Principal Component Analysis; (b) 4 components extracted.

However, it is important to acknowledge the limitations of the factor analysis results reported in this section. First, the Cronbach alpha statistics are relatively low, which suggest that the indicators are not necessarily all capturing the same underlying phenomena. In addition, the factor analysis results suggest that there may be only one factor, although the percentage of the variance explained by this one factor is relatively low. The next 6 factors all add somewhat to the explained variance but not much each (around 10 per cent) and as the scree plot in Figure 4.1 indicates, the flatness of the line after the initial kink suggests that these additional factors are not contributing very much.

Overall, the analysis reported in this section does not provide strong *statistical* grounds for combining the original 18 indicators into a smaller set (of the 5 indicated above). As many have argued, factor analysis is something of a ‘black box’ technique that is not informed by theoretical (or practical) considerations and can be highly sensitive to data errors and inconsistencies. For these reasons, most agree that factor analysis must be combined with *judgements* about how best to proceed given the specifics of the case.

These considerations, when combined with the inconclusive evidenced produced by the preliminary factor analysis suggest that it is probably preferable to rely more explicitly on judgments informed by research and other evidence about which indicators are best able to predict the vulnerabilities that one would like to capture in a multi-dimensional index. One advantage of such an approach is that the judgments are explicit and can be debated and, where appropriate, varied. Another is that one consideration that would influence such judgments is the practicalities involved in basing the indicators on information obtained by asking a series of questions to potential Legal Aid clients.

With these factors in mind, the following section applies a tiered approach that draws on the information and indicators described earlier.

4.4 A Tiered Approach

The basic idea underlying a tiered approach is that some indicators are given greater weighting than others, as reflected in the tier structure itself. The approach is simple, easy to understand and apply and the implied weights assigned to different factors are transparent. The approach proposed here consists of two tiers that together encompass the 18 indicators shown in Table 4.1. Amongst the full set of indicators, a sub-set of tier 1 indicators is selected that capture the key determinants of vulnerability, but are also consistent with what the preceding analysis suggests are key factors that explain the overall variability in the extent of social disadvantage among the client sample.

The starting point for identifying the indicators to be included in tier 1 is the factor analysis results in Tables 4.3 and 4.4. This list has been supplemented by the findings from prior research about what kinds of indicators best explain (or predict) vulnerability, and on practical considerations relating to the kinds of questions that are most likely to produce genuine responses as part of an application form.

These considerations suggest that the following indicators can be considered as initial candidates for inclusion in tier 1:

1. Unable to see doctor when needed to
2. Unable to see dentist when needed to
3. Unable to get hospital treatment when needed to
4. Unable to access mental health services when needed to
5. Unable to afford prescribed medications
6. Does not have at least 2 proofs of identity
7. Often felt too sick to get out of bed in the morning
8. No internet access at home
9. Did not complete at least 10 years of schooling
10. Owes a large amount that is unable to repay
11. Is unemployed/looking for work

The justification for indicators 1-5 is based on the factor analysis results, particularly on the variable weightings shown in Table 4.4. However, these 5 indicators are themselves closely correlated and they can be reduced to just 2 - indicators 1 and 5 – with indicator 7 in the above list acting as an overall ‘catch-all’ that captures poor health. Indicators 6, 8 and 9 have been included as tier 1 indicators because of the factor analysis results (they all weight heavily against component 2 in Table 4.4), while indicators 10 and 11 capture economic vulnerability and exposure to risk.

This would leave the following amended tier 1 list:

1. Unable to see doctor when needed to
2. Unable to afford prescribed medications
3. Often felt too sick to get out of bed in the morning
4. Does not have at least 2 proofs of identity
5. No internet access at home
6. Did not complete at least 10 years of schooling
7. Owes a large amount that is unable to repay
8. Is unemployed/looking for work

The remaining 10 indicators (from the full list shown in Table 4.1) would then be tier 2 indicators. These are:

1. Lives in government or social housing
2. Social life is non-existent
3. Could not afford to pay way when with friends
4. No bank account with money and no unused credit on credit card
5. Could not raise \$2,000 in a week in an emergency
6. Would use ‘other means’ to raise \$2,000 in an emergency
7. No insurance cover
8. Unable to see dentist WNT

- 9. Unable to get hospital treatment WNT
- 10. Unable to access mental health services WNT

In order to illustrate how the two tiers of indicators can be used to help establish eligibility for legal aid services, a number of ‘rules’ have been specified and applied to the client survey data in order to explore the implications of applying each rule for the numbers who would be eligible to receive services. The rules are straightforward and indicate how many of the indicators in each tier would need to be satisfied before a claimant was considered to be eligible to receive services.

By way of background, Table 4.5 shows the percentage breakdowns of the combined (all groups) sample according to the number of indicators satisfied in each tier. The left-hand side of the table shows the distribution of the indicators across the two tiers, while the right-hand side shows the two cumulative distributions. Thus for example, 19.4% of the all groups sample satisfy 3 of the indicators in tier 1, 17.6% of the sample satisfy 3 of the indicators in tier 2, 57.4% satisfy at least 3 of the tier 1 indicators, and 66.1% satisfy at least 3 of the tier 2 indicators.

Table 4.5: Frequency and Cumulative Distribution of Indicators in Tiers 1 and 2

Distribution of indicators	Tier 1		Tier 2		Cumulative distribution of indicators	Tier 1		Tier 2	
	N	%	N	%		N	%	N	%
0	46	9.1	33	6.5	0	46	9.1	33	6.5
1	75	14.9	53	10.5	1 or more	459	90.9	472	93.5
2	94	18.6	85	16.8	2 or more	384	76.0	419	83.0
3	98	19.4	89	17.6	3 or more	290	57.4	334	66.1
4	85	16.8	95	18.8	4 or more	192	38.0	245	48.5
5	62	12.3	66	13.1	5 or more	107	21.2	150	29.7
6	33	6.5	47	9.3	6 or more	45	8.9	84	16.6
7	11	2.2	26	5.2	7 or more	12	2.4	37	7.3
8	1	0.2	7	1.4	8/8 or more	1	0.2	11	2.2
9	Na	Na	4	0.8	9 or more	Na	Na	4	0.8
10	Na	Na	0	0.0	10	Na	Na	0	0.0
Total	505	100	505	100		505	100	505	100

Note: Na = not applicable

In terms of the illustrative eligibility rules, two types of rule have been examined:

1. Rules based on the indicators in tier 1 only
2. Rules based on the indicators in tiers 1 and 2

The specification of the rules and the estimated implications for eligibility are shown in Table 4.6. Just to be clear, the percentages shown in table 4.6 indicate the

proportions of each of the samples that would satisfy the eligibility rules indicated in the table. Thus, under a rule based on satisfying at least one indicator in tier 1, 82.1% of the Means Test group would be deemed eligible, 100% of the Special Disadvantage group, 88.8% of the Local Court group, and so on. If the rule was a combination of at least one indicator from tier 1 and at least 2 indicators from tier 2, then 64.8% from the Means Test group would be eligible, 91.7% as would from the Special disadvantage group, and so on.

Table 4.6: Hypothetical Eligibility Rules and their Impact on Eligibility by Client Group

Row	Criteria	Group 1: Means Test	Group 2: Special Disadvantage	Group 3: Local Court	Group 4: General	All groups (1-4 combined)
<i>Rule 1: Based on Tier 1 indicators Only</i>						
1	Tier 1 ≥ 1	82.1	100.0	88.8	92.3	90.5
2	Tier 1 ≥ 2	61.0	81.7	77.5	80.4	76.0
3	Tier 1 ≥ 3	40.0	65.0	65.0	60.4	57.4
4	Tier 1 ≥ 4	19.1	51.7	50.0	38.9	38.0
5	Tier 1 ≥ 5	5.7	28.3	33.8	21.9	21.2
6	Tier 1 ≥ 6	1.9	10.0	15.0	9.6	8.9
<i>Rule 2: Based on Both Tier 1 and Tier 2 Indicators</i>						
7	Tier 1 ≥ 1 & Tier 2 ≥ 2	64.8	91.7	77.5	80.8	78.2
8	Tier 1 ≥ 1 & Tier 2 ≥ 4	32.4	60.0	55.0	48.9	47.7
9	Tier 1 ≥ 1 & Tier 2 ≥ 6	1.0	21.7	20.0	20.4	16.4
10	Tier 1 ≥ 2 & Tier 2 ≥ 2	50.5	76.7	70.0	70.8	67.1
11	Tier 1 ≥ 2 & Tier 2 ≥ 4	25.7	56.7	52.5	45.0	43.6
12	Tier 1 ≥ 2 & Tier 2 ≥ 6	1.0	20.0	20.0	18.9	15.5
13	Tier 1 ≥ 3 & Tier 2 ≥ 2	38.1	63.3	60.0	55.8	53.7
14	Tier 1 ≥ 3 & Tier 2 ≥ 4	21.0	48.3	48.8	41.2	39.0
15	Tier 1 ≥ 3 & Tier 2 ≥ 6	1.0	18.3	17.5	17.7	14.3
16	Tier 1 ≥ 4 & Tier 2 ≥ 2	18.1	50.0	46.3	36.9	36.0
17	Tier 1 ≥ 4 & Tier 2 ≥ 4	10.5	38.3	38.8	30.0	28.3
18	Tier 1 ≥ 4 & Tier 2 ≥ 6	1.0	18.3	16.3	15.0	12.7
19	Tier 1 ≥ 5 & Tier 2 ≥ 2	5.7	26.7	31.3	21.5	20.4
20	Tier 1 ≥ 5 & Tier 2 ≥ 4	3.8	21.7	27.5	18.9	17.4
21	Tier 1 ≥ 5 & Tier 2 ≥ 6	1.0	6.7	13.8	9.2	7.9
22	Tier 1 ≥ 6 & Tier 2 ≥ 2	1.9	10.0	13.8	9.6	8.7
23	Tier 1 ≥ 6 & Tier 2 ≥ 4	1.9	6.7	11.3	8.9	7.5
24	Tier 1 ≥ 6 & Tier 2 ≥ 6	0.0	1.7	6.3	5.0	3.8

Perhaps the most useful way to explore the practical implications for eligibility of adopting different rules is to begin by selecting a total figure from the final column of Table 4.6 and work backwards from that to explore what it implies for eligibility among the different client groups. If for example, one wanted a rule under which

about 60% of current clients (as represented by the All groups sample) was eligible, then one way to achieve this would be to establish an eligibility rule that required at least 3 of the tier 1 indicators to be satisfied (Table 4.6, row 3). Under this rule, between 60% and 65% of those in the Special Disadvantage, Local Court and General groups would be eligible, but only 40% of those in the Means Test group.

A similar overall level of eligibility could be achieved by imposing a rule based on satisfying at least 2 indicators in tier 1 and at least 2 indicators from tier 2 (Table 4.6, row 10), or a rule based on satisfying at least 3 indicators from tier 1 and at least 2 indicators from tier 2 (Table 4.6, row 13). And one can again read across the rows in table 4.6 to see what each of these rules would imply for eligibility among the different sub-groups of clients.

One can also compare the estimates in Table 4.6 within the columns to get a sense of the impact of the tightening of the eligibility rules within each tier. Thus, for example, if the rule was based solely on satisfying at least 3 of the tier 1 indicators, it would result in 57.4% of all groups being eligible. This would drop by more than 19 percentage points to 38.0% if the minimum number of tier 1 indicators was increased from 3 to 4, and by a further 17 percentage points to 21.2% if it was increased further, from 4 to 5.

Returning to a rule based on a minimum of 3 indicators from tier 1, if this was combined with the requirement of at least 2 indicators from tier 2, eligibility would decline by only 4 percentage points from 57.4% to 53.7%, but if the tier 2 requirement was raised from at least 2 to at least 4 indicators, eligibility would decline by a further 15 percentage points from 53.7% to 39.0%, while a further tightening to at least 6 tier 2 indicators would result in a further decline of 25 percentage points, from 39.0% to 14.3%. These latter outcomes could be (approximately) achieved by ignoring tier 2 altogether and tightening the minimum number of tier 1 indicators from 3 to 4, or from 3 to 5, respectively.

These examples are intended to illustrate how the results in Table 4.6 can be used to provide an insight into the overall and group-specific impacts of different eligibility rules based on a tiered approach. The important point is that the approach offers considerable flexibility in terms of the percentage of clients who satisfy the eligibility rule – both in overall (aggregate) terms, and in the impact of the different client groups include in this analysis.

5 Main Conclusions

This report has examined how a social inclusion indicator approach could be used as the basis for establishing a new Means Test for eligibility for the services provided by Legal Aid-NSW. It has used new data generated by a survey of recent service applicants and clients to examine the extent of social exclusion among clients in total and among specific sub-groups of clients. The indicators derived from the survey data are based on previous research on social disadvantage that has been conducted by the report's authors in studies financed by the Australian Research Council.

The results show how a social exclusion approach is capable of generating important new information about the extent of disadvantage experienced by those who use or seek to use the services provided by Legal Aid-NSW. A limited number of comparisons have also been made with other groups in the community that provide a broader perspective on the extent of the problems facing the Legal Aid sample.

A number of indicators have been proposed that capture the extent of social exclusion among the Legal aid sample in three broad domains: identity/engagement; economic vulnerability; and exclusion from services. These indicators have been applied to compare the profile of exclusion being experienced overall, and by different groups. Factor analysis was used to try to identify if the complete list of indicators could be reduced to a smaller set that is able to explain the overall variability in the sample, but the preliminary results suggest that this was not a fruitful avenue for further exploration.

Instead, a tiered approach was adopted in which the indicators were sorted into two tiers and the impact on eligibility of applying a number of rules based on the number of indicators experienced within each tier was examined. The results illustrate that new eligibility rules based on a tiered application within a broad social exclusion framework has the potential to offer a flexible alternative to the current approach. The rules should ideally be as simple as possible in order to increase transparency but also to reduce the burden on those who would be required to provide the relevant information at the time of application for services. It is also important that if the information collected is to be used for eligibility purposes under a new Means Test, it must be capable of capturing what is intended in an accurate way. There are obvious dangers of basing any new scheme on data that can be manipulated by the data providers/service applicants in ways that will increase the likelihood of them being deemed eligible to receive services. This aspect of the issue has not been

examined here but it is important that it is examined (possibly through a pilot scheme) before any new approach is actually implemented.

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Appendix A The Legal Aid Survey

Strategic Planning and Policy Client survey 2010

1. Are you Male Female
2. How old were you on your last birthday? _____ years old
3. What is your suburb: _____ Postcode: _____
4. How would you rate your ability to communicate in English? Tick one box only.
 Excellent Good Not good, but I get by Very poor
5. Did you come to Australia as a refugee in the last 5 years? Yes No
6. Do you identify as Aboriginal or Torres Strait Islander?
 Aboriginal Torres Strait Islander
 Both (If you identify as Aboriginal **and** Torres Strait Islander)
7. Do you have an on-going disability or on-going medical condition that restricts your daily activities? Yes No
8. Do you have any form of mental illness? Yes No
9. Do you have a: Criminal record Yes No Juvenile record Yes No
10. Have you completed more than 10 years of schooling? Yes No
11. In general, how would you describe the state of your health? Tick **one** box only.
 Excellent Good Fair Poor
12. Do you currently have any of the following? Tick **all** relevant boxes.

<input type="checkbox"/> A valid driver's licence	<input type="checkbox"/> A mobile phone
<input type="checkbox"/> A credit card with some unused credit	<input type="checkbox"/> Pensioner Concession Card
<input type="checkbox"/> Health Care Card	<input type="checkbox"/> A bank account with some money in it
<input type="checkbox"/> A tax file number	<input type="checkbox"/> A Medicare card
<input type="checkbox"/> A passport	<input type="checkbox"/> Access to the internet at home
<input type="checkbox"/> A membership card to any club or society	
13. Have you experienced **ANY** of the following over the last 12 months? Please tick **all** relevant boxes:

Unable to see a doctor when I needed to	<input type="checkbox"/> Yes <input type="checkbox"/> No
Unable to see a dentist when I needed to	<input type="checkbox"/> Yes <input type="checkbox"/> No
Unable to get treated by a hospital when I needed to	<input type="checkbox"/> Yes <input type="checkbox"/> No
Often felt too sick to get out of bed in the morning	<input type="checkbox"/> Yes <input type="checkbox"/> No
Unable to access mental health services when I needed to	<input type="checkbox"/> Yes <input type="checkbox"/> No
Unable to afford medications prescribed by a doctor	<input type="checkbox"/> Yes <input type="checkbox"/> No
Been the victim of violence	<input type="checkbox"/> Yes <input type="checkbox"/> No

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