



office of crime statistics and research

# EVALUATION OF THE JUSTICENET SELF- REPRESENTATION SERVICE PILOT

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Thanks are extended to all those who took part in the evaluation by giving their time and their views. Thanks to Tim Graham from JusticeNet for facilitating the evaluation at every stage.

# Executive Summary

## Background

JusticeNet is an independent not-for-profit organisation that brokers pro bono legal assistance for low-income and disadvantaged South Australians and community organisations, predominantly for civil law matters. In September 2013, JusticeNet commenced a pilot Self-Representation Service, providing legal advice and discrete task assistance to eligible 'litigants-in-person' in the civil jurisdiction of the Supreme Court of South Australia.

The overall aim of the Service is to improve access to justice for disadvantaged litigants-in-person in the civil jurisdiction of the Supreme Court, while discouraging the commencement or continuation of unnecessary proceedings and encouraging the resolution of disputes through alternative means.

The stated key objectives of the program are to:

- increase access to legal advice and assistance, including alternative dispute resolution, for disadvantaged litigants-in-person;
- promote orderly and timely resolution of court proceedings;
- divert unmeritorious matters from court;
- decrease demands on the court system and registry staff; and
- increase access to representation for clients with meritorious cases.

The Service provides specific types of assistance to self-represented parties, including:

- impartial advice, including the risks and costs associated with litigation and advice in relation to appealing a Court decision;
- assistance in drafting documents, including Court forms and pleadings;
- advice about other options for the resolution of a dispute;
- advice about Court processes; and
- referrals, if appropriate, for further advice, support or representation.

The Service does not provide legal representation and clients offered more than one appointment will not necessarily see the same solicitor again.

## Evaluation

The Office of Crime Statistics and Research at the South Australian Attorney-General's Department was contracted by JusticeNet to conduct an evaluation of the 12-month pilot project.

A mixed-methods approach was used to conduct a process and outcome evaluation. The evaluation uses data from the following sources:

- Service data recorded by JusticeNet;
- Limited data about matters for which the Service has assisted, provided by the South Australian Supreme Court registry;
- Feedback from clients recorded on client feedback forms after appointments at the Service;
- Online surveys of court registry staff, volunteer students and volunteer solicitors; and
- Semi-structured interviews with a JusticeNet representative, a courts registry staff member and a volunteer solicitor.

## **Key findings**

### **Summary**

Overall, the JusticeNet Self-Representation Service appears to be a well-run service that is valued by all involved with it, particularly the clients it is designed to assist. Despite some mostly minor process issues, the continuation of the Service is almost unanimously supported by all involved in the evaluation.

Although based on data which is limited in terms of numbers and time, this evaluation indicates that the Service is successful in achieving its stated objectives. While difficult to quantify, the Service is likely to be making overall savings for the Supreme Court, particularly in terms of reducing workload of and demand on the registry staff, and in preventing the commencement or continuation of proceedings in relation to unmeritorious matters.

The provision of basic legal advice and assistance to those who could not otherwise afford it has important benefits for self-represented litigants in terms of understanding their own rights under the law and enabling informed decision-making in relation to their matters, as well as improving the likelihood of just and fair outcomes in court for meritorious matters.

The Service continues to face some challenges, particularly in relation to ongoing funding, IT issues and problems associated with the limited availability of the Service. If the Service continues, it will remain a valuable addition to the very limited range of legal services available to assist disadvantaged litigants with civil matters, and litigants-in-person in the Supreme Court civil jurisdiction.

### **Outcomes**

#### ***Objective 1: Increase access to legal advice and assistance, including alternative dispute resolution, for disadvantaged litigants-in-person***

- The number of appointments provided to applicants and the number of referrals to both other community legal centres and the JusticeNet pro bono representation service indicate that the Service has increased access to legal advice and assistance to clients. Several respondents in surveys and interviews commented that there is no other help available for these clients so they could not usually have turned anywhere else to receive assistance.
- The finding that eight of the 18 (44.4%) clients who were advised to settle their matter out of court were able to do so indicates that alternative dispute resolution is promoted by the Service, and the client profile indicates that the Service does indeed target disadvantaged litigants-in-person.

#### ***Objective 2: Promote orderly and timely resolution of court proceedings***

- Solicitors and courts staff generally felt that the Service had promoted orderly and timely resolution of court proceedings.
- In particular, solicitors felt that better-prepared documents and the provision of procedural advice were likely to result in more efficient proceedings, and courts staff reported that they thought the Service has brought about improved compliance by self-represented litigants in relation to filing documents.

#### ***Objective 3: Diverting unmeritorious matters from court***

- Some survey and interview respondents were of the view that the Service was successful in diverting unmeritorious matters from court. Although some persistent clients were thought to be unlikely to be dissuaded from their preferred course of action, there is evidence that some clients did cease or decide not to commence proceedings as a result of using the Service.
- Half of clients reported that they had changed their intentions regarding the matter as a result of using the Service.
- Half of clients for whom data was available were advised by the Service solicitors to put a stop to, or not commence proceedings. Ten of twelve clients (83.3%) who were advised

directly to stop or not commence proceedings followed this advice. Of clients advised to settle the matter, 44.4% were able to settle the matter. At least four clients are known to have reported the intention to pursue the matter in court before using the Service, and then ceased or did not commence proceedings after using the Service. These findings indicate that the Service is saving court resources by preventing at least some unnecessary proceedings.

**Objective 4: Decreased demands on court staff**

- Survey and interview respondents from the registry, and the response from the Judges, listed several important ways in which the Service reduced demands on them and reduced their workload. Almost all registry respondents listed at least one of the following benefits:
  - that it was beneficial to have somewhere to refer self-represented litigants rather than having to spend time trying to help them work through documents themselves;
  - that the Service saved the registry staff time and effort when solicitors electronically lodged documents on behalf of clients; and
  - that even when not lodged electronically, documents were clearer when self-represented litigants received assistance from the Service, and needed less revisions.

**Objective 5: Increase access to representation for clients with meritorious cases.**

- A total of five referrals were made to the JusticeNet pro bono representation service.

**Process findings**

- Although the Service provided less appointments than initially estimated, it received a greater number of applications for assistance than anticipated. The number of applications per month remained fairly stable over time, suggesting an ongoing demand for such a service. Stakeholders agreed that it was important to have a service such as the Self-Representation Service.
- The client profile suggests that the Service has successfully reached the appropriate target group of disadvantaged litigants-in-person.
- Some survey and interview respondents felt that awareness of the Service could be greater, particularly amongst the legal profession. A JusticeNet respondent agreed and stated that it was intended for the Service to be better promoted should it continue beyond the pilot period.
- Applicants who were referred by the Supreme Court registry and those who were perceived to have a 'good' or 'arguable' case were most likely to be offered an appointment. The likelihood of applicants to be provided an appointment did not vary according to income level, disability status, area of law, or most other factors..
- Although respondents generally agreed that it was important for the Service to be co-located with the Supreme Court registry, the issue of Information Technology and the courts guest user network in particular would need to be addressed for the Service to continue to operate there. A registry respondent emphasised the need for signage to clarify to litigants that the Service was a separate entity to the Court and the registry.
- Many respondents commented that the Service would be more beneficial for clients if it operated more days per week, or at least if it was able to alternate days of the week to assist clients likely to come through courts on particular days of the week. Feedback from the registry respondents suggested that a pool of clients exist who were not currently able to use the Service because of its limited availability. A JusticeNet respondent reported that operating a service one day per week was not ideal in terms of efficiency. Options for the future included to expand the Service (either as standalone or combined District & Supreme Court service) to more days per week if funding were available, or perhaps merge the Service with the separate JusticeNet Federal Court Self-Representation



Service. This would have the negative effect of moving the Service to a different location, away from the Supreme Court registry.

- Volunteer students and solicitors were generally very happy with their volunteering experience at the Service and listed benefits for themselves including professional development and the satisfaction of being able to help those in need. Almost all solicitors reported that they would continue to volunteer, and both groups reported that they would recommend the experience to colleagues.
- Some solicitors raised concerns in relation to the workload of volunteering. In particular, some mentioned that it could be more time-consuming than they expected, especially when documents needed to be drafted or research conducted outside of the allocated appointment time. Some felt that they had been asked to work on matters well outside their area of expertise and that this could be time-consuming for them as they needed to do more work to prepare (although it could also be a good professional development opportunity).
- Respondents in surveys and interviews felt that the Service was generally very helpful for clients and many mentioned the social justice benefits of the Service. Some felt that not only does the Service facilitate access to legal advice for people who cannot afford a private lawyer, but many also felt that it enables disadvantaged applicants to make informed choices about their legal matters and also provided them an opportunity to have their matter fairly heard in court.
- Survey and interview respondents were generally satisfied with the operation of the Service, and almost all supported it continuing in future.
- Clients were also very satisfied with the Service, and reported that it was generally easy to use and met their needs and expectations.
- Most clients reported an increase in their understanding of the law and legal processes in relation to their situation after attending the Service.

# Introduction

## Background

JusticeNet is an independent not-for-profit organisation that brokers pro bono legal assistance for low-income and disadvantaged South Australians and community organisations, predominantly for civil law matters. In September 2013, JusticeNet commenced a pilot Self-Representation Service, providing advice and assistance to eligible 'litigants-in-person' in the civil jurisdiction of the Supreme Court of South Australia. The Self-Representation Service (the Service or SRS) was established as a 12-month pilot program, funded by a one-off grant from the Law Foundation of South Australia and a donation from IMF (Australia) Ltd. The pilot is also supported by Flinders University which has facilitated its Law School students volunteering at the service.

JusticeNet observed that there was a group of clients who were not suitable for assistance through their existing pro bono representation service, but who still needed assistance. Also, the existing service was often not able to help clients with mortgage repossession matters as they move through the courts too quickly. Following the introduction of a similar Self-Representation Service in Queensland, this was seen as a more efficient way of using available pro bono capacity to help a broader range of clients.

The Service aims to provide discrete task assistance (and not representation) throughout the progress of a client's proceeding, by assisting people to:

- understand the law, and the rights and perspective of the other party;
- observe court and tribunal rules and procedures;
- be aware of potential orders and the effect of not complying with orders; and
- present their case in the best possible manner.

The Service also seeks to discourage the commencement or continuation of unnecessary proceedings, encourage the resolution of disputes through alternative means, and where appropriate, refer people to other community agencies or services for assistance. Meritorious cases can be referred to the JusticeNet's referral service for pro bono representation.

The Service represents a shift for JusticeNet because previously they had operated as a broker for pro bono legal services, but the establishment of the Self-Representation Service moves them into the area of direct service delivery.

The Service is modelled on the Self-Representation Service operated by the Queensland Public Interest Law Clearinghouse (QPILCH) since 2007. The Queensland Self-Representation Service was evaluated in 2012, and findings were very positive. The evaluation found that there was strong demand for the service, that it addressed an unmet need in the legal system, that clients gave very positive appraisals of the service, and that the service had resulted in savings in terms of matters diverted away from court<sup>1</sup>. A second evaluation found that members of the judiciary and other court personnel were satisfied with the operation of the SRS and the benefits it generated for self-represented litigants. It also found that the service provided a valuable source of both instrumental and emotional support for the clients it assisted<sup>2</sup>.

Since the commencement of the South Australian pilot, JusticeNet has also established a similar service in the Adelaide Registry of the Federal Court of Australia. The Federal Court service is funded by the Commonwealth Government and is available three days a week.

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<sup>1</sup> Banks, C. *Evaluation of effectiveness of Queensland Public Interest Law Clearinghouse Self Representation Service in Federal Court and Federal Magistrates Court, Brisbane*. Cate Banks Consulting, 2012.

<sup>2</sup> Giddings, J, McKimmie, B, Banks, C and Butler, T. *Evaluation of Queensland Public Interest Law Clearing House Self Representation Service*. Griffith University and The University of Queensland, 2014.

## **Description of the initiative**

### ***Aim and objectives***

The overall aim of the Service is to improve access to justice for disadvantaged litigants-in-person in the civil jurisdiction of the Supreme Court, while discouraging the commencement or continuation of unnecessary proceedings and encouraging the resolution of disputes through alternative means.

The stated key objectives of the program are to:

- increase access to legal advice and assistance, including alternative dispute resolution, for disadvantaged litigants-in-person;
- promote orderly and timely resolution of court proceedings;
- divert unmeritorious matters from court;
- decrease demands on the court system and registry staff; and
- increase access to representation for clients with meritorious cases.

### ***Service Model***

The Service is located in the Sir Samuel Way Building, which houses the combined District and Supreme Courts registry and a number of courtrooms (although many Supreme Court civil matters are held in the nearby Supreme Court building). Advice and assistance with discrete legal tasks are provided to eligible applicants during one-hour appointments. The appointments are mostly provided by volunteer solicitors who are placed on a roster, and some are provided by the Service solicitor. There is some flexibility and scope to recruit volunteer solicitors for particular matters based on their experience and areas of expertise.

The Service provides specific types of assistance to self-represented parties, including:

- impartial advice, including the risks and costs associated with litigation and advice in relation to appealing a Court decision;
- assistance in drafting documents, including Court forms and pleadings;
- advice about other options for the resolution of a dispute;
- advice about Court processes; and
- referrals, if appropriate, for further advice, support or representation.

The Service does not provide legal representation and clients offered more than one appointment will not necessarily see the same solicitor again.

Referrals to the service can be made by judicial members, registry staff, other Community Legal Centres, non-legal support services, and other sources, including JusticeNet's referral service. Applicants to the Service must satisfy eligibility criteria, and the Service is only available to those who cannot afford private legal representation. The Service can refuse to provide assistance to people whose cases are without merit, but generally offers one appointment to people with unmeritorious cases to assist them to understand the law as it applies to their case and discourage them from instituting or continuing proceedings.

The Service operates on Wednesdays each week and is staffed by at least one JusticeNet Staff member, volunteer law students and volunteer solicitors from JusticeNet member law firms. The Service aims to provide three appointments each Wednesday. Applications for assistance are assessed by the Service staff and volunteer students, and then either an appointment is offered or the applicant is referred to a more appropriate organisation or agency. Once an appointment is made, a 'Case Summary' is prepared with the help of law student volunteers, which outlines the client's legal problem and the assistance sought with reference to relevant legislation and case law. This is forwarded to the volunteer solicitor prior to the appointment. Clients may receive any number of appointments throughout the course of their proceedings. It is intended that volunteer solicitors only provide advice and assistance to clients during their rostered-on advice sessions, with any follow-up or ongoing assistance to be provided by JusticeNet staff and/or another volunteer solicitor at the client's next appointment.

The pilot is overseen by a Steering Committee, comprising representatives of JusticeNet SA, Flinders Law School, the Supreme Court and the Service Managing Solicitor.

Prior to the commencement of the Service, JusticeNet estimated that during the pilot period they would receive approximately 50-60 requests for assistance which would result in the provision of 150-200 appointments.

### **The evaluation**

The South Australian Attorney-General's Department was approached by JusticeNet and asked to assist with the evaluation of the pilot. The evaluation has been conducted by the Office of Crime Statistics and Research within the Attorney-General's Department, with the methodology and Evaluation Framework developed jointly with JusticeNet. JusticeNet has assisted and facilitated the evaluation throughout the project.

## Method

The evaluation uses a mixed-methods approach and includes both a process and outcome evaluation of the pilot, during its first 12 months of operation. The evaluation uses data from the following sources:

- Service data recorded by JusticeNet;
- Limited data about matters for which the Service has assisted, provided by the South Australian Supreme Court registry;
- Feedback from clients recorded on client feedback forms after appointments at the Service;
- Online surveys of court registry staff, volunteer students and volunteer solicitors; and
- Semi-structured interviews with a JusticeNet representative, a courts registry staff member and a volunteer solicitor.

### ***JusticeNet Service Data and court data***

A data file including all applications for assistance to the Service was provided by JusticeNet in a de-identified format. This included variables relating to applicant characteristics (i.e. income level and source, disability status, etc.), matter characteristics (i.e. area of law, applicant role in proceedings, likelihood of success, etc.) and whether the applicant was provided an appointment, advice or assistance outside an appointment, and/or a referral to any other service. Data was also provided regarding the number of appointments provided.

JusticeNet also obtained data from the Supreme Court, about whether matters were commenced or discontinued for Service clients. This enabled an assessment of the proportion of clients who were advised to discontinue, settle or not commence proceedings who subsequently followed this advice.

### ***Client feedback***

Clients were asked to complete a client feedback form after an appointment with the Service. For most clients this was their first appointment, but for some (estimated to be 25-30%) the form was completed after a second or subsequent appointment. Of 46 applicants who were provided an appointment, 23 completed a form, giving a response rate of 52.2%.

### ***Online Surveys***

Three separate surveys were created using SurveyMonkey and links were distributed by email inviting potential respondents to take part. Email addresses were provided by JusticeNet in respondent groups (i.e. registry staff, students and solicitors) and although some email addresses contained names or parts of names, actual names or other personal details were not provided. Surveys were anonymous and responses were not linked to email addresses.

For registry staff, six were invited to participate and five responded. For volunteer students, seven were invited to participate and only two responded. For solicitors, emails were sent to co-ordinators at six firms, who were asked to also pass the invitation on to participating solicitors in the firm. In total seven surveys were completed. At that time approximately 15 different solicitors had worked in appointments, giving an overall response rate for solicitors of roughly 47%.

Feedback about the Service was also sought from the Supreme Court judiciary by way of a letter. A response was received from the Supreme Court Registrar on behalf of Supreme Court Judges.

### ***Semi-structured interviews***

Interviews were conducted with a JusticeNet representative, a courts registry staff member and a volunteer solicitor. Interviews were conducted at their workplaces and recorded with their permission for later transcription. The courts registry participant and the solicitor also completed surveys. Questions in the interviews were different from or expanded on questions included in the surveys.

# Results

## Service and client profile

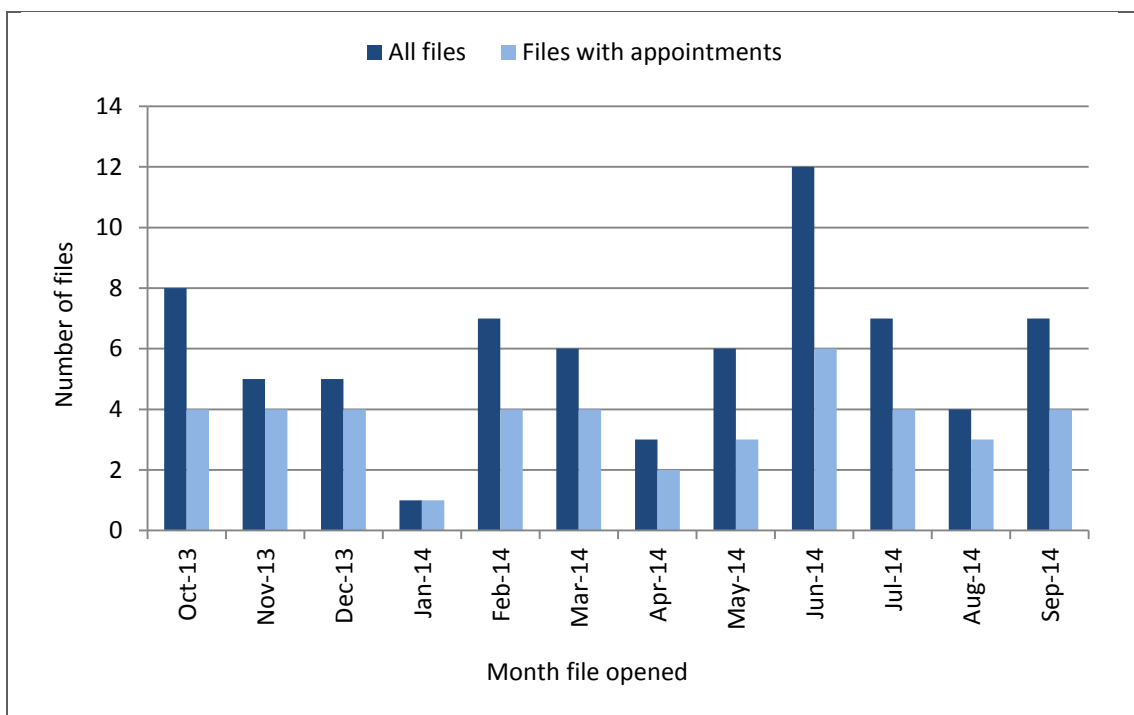
This section features a summary of data regarding appointments and services provided by the Self-Representation Service. The data file includes all files opened by the Service during a period of just over one year, from 25 September 2013 to 15 October 2014.

Over the one-year period, there were 76 files opened for clients, with an average of approximately 6 per month. There was very little information recorded for one applicant and that case was excluded from most analyses. There was one file opened for a District Court matter. Although outside the proposed scope of the Service, advice was given to the client and therefore the matter was retained in the data file. At the time of writing, a total of 90 appointments had been offered.

### Files opened per month

Figure 1 shows the number of client files opened each month, and the number of files opened that resulted in an appointment. The figure excludes September 2013 and October 2014 because data was only available for part of those months. The number of files opened has fluctuated over time, with a spike in June 2014, but remained around six files per month for much of 2014. The number of files opened resulting in an appointment has remained fairly steady around four files per month over the same period.

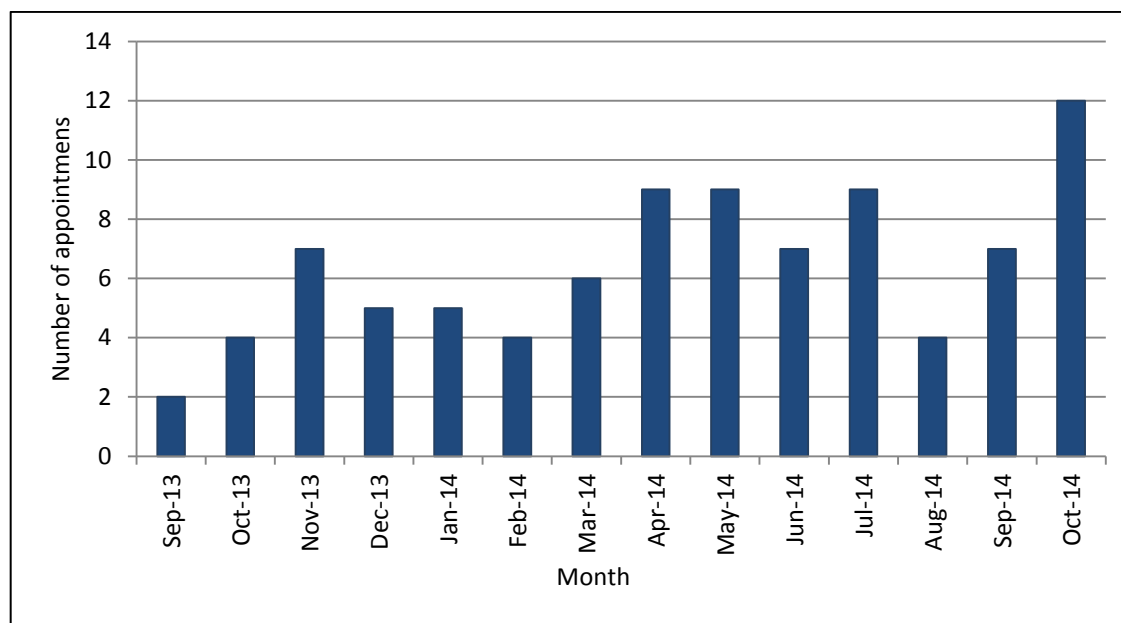
Figure 1: Number of SRS files opened per month, October 2013 - September 2014



## Appointments provided per month

Figure 2 shows the number of appointments provided each month, from September 2013 to October 2014. An average of 6.4 appointments were provided per month. The greatest number of appointments were provided in October 2014. Note that more than one appointment have been provided for some files over the pilot period.

Figure 2: Number of SRS appointments provided per month, September 2013 - October 2014



## Client profile

Table 1 shows the income source for individuals applying for assistance from the Service. The table indicates that most applicants were supported by Centrelink, while smaller proportions were self-employed or employed full-time.

Table 1: Income source for Self-Representation Service applicants

Income source	Number	Per cent
Centrelink	44	58.7
Self-employed	12	16.0
Full-time employment	9	12.0
Self-funded	3	4.0
Part-time employment	2	2.7
Casual employment	2	2.7
Organisation	2	2.7
Unknown	1	1.3
Total	75	100.0



Table 2 shows the reported income categories for applicants. Most applicants reported a gross annual income of \$52,000 or less.

Table 2: Reported gross annual income (category) for applicants

Gross annual income	Number	Per cent
\$0 - \$26,000	46	61.3
\$26,000 - \$52,000	14	18.7
\$52,000 - \$80,000	8	10.7
\$80,000 - \$150,000	2	2.7
\$150,000+	1	1.3
Unknown	4	5.3
Total	75	100.0

Twenty-eight applicants (36.8%) reported that they had a disability. Five applicants were recorded as coming from a non-English speaking background and requiring language assistance in the appointment.

## Referrals

Table 3 shows that the most common referral source was court and registry staff, followed by JusticeNet staff and Community Legal Centres.

Table 3: Applicant referral source

Referral source	Number	Per cent
Court/registry staff	26	34.7
JusticeNet Staff	12	16.0
Community Legal Centre	9	12.0
Judge or Master	5	6.7
Law firm/private lawyer	5	6.7
Legal Aid	5	6.7
Government agency	2	2.7
Law Society	2	2.7
Friend or relative	1	1.3
JusticeNet website	1	1.3
Member of Parliament	1	1.3
Unknown/Other	6	8.0
Total	75	100.0

### Matter profile

Of 75 applicants where data was available, 44 (58.7%) had matters which had already commenced. Over half of applicants (38; 50.7%) reported that they had received previous legal advice.

Table 4 shows the applicant's role in the matter (or potential role, for matters which had not commenced). Applicants for assistance from the service were most likely to be defendants, followed by appellants.

Table 4: Applicant role in matter

Applicant's role	Number	Per cent
Defendant	35	46.7
Appellant	29	38.7
Plaintiff	10	13.3
Respondent	1	1.3
Applicant	0	-
Total	75	100.0

Table 5 shows the areas of law for applicant's matters. The greatest number applications related to appeals and mortgage repossessions.

Table 5: Area of law for applications

Area of law	Number	Per cent
Appeals	26	34.7
Mortgage repossessions	23	30.7
Wills and estates	6	8.0
Property disputes	5	6.7
Consumer/debt	3	4.0
Defamation	3	4.0
Corporations, business and commercial disputes	2	2.7
Disputes with lawyers	2	2.7
Judicial Review and Administration	1	1.3
Personal injuries	1	1.3
Other	3	4.0
<b>Total</b>	<b>75</b>	<b>100.0</b>

Of the 53 applicants for whom an opinion was recorded, five were recorded as having a 'good' chance of success, 15 were recorded as 'arguable', 24 were recorded as 'poor' and 9 were recorded as 'unsure or too complex'.

## **Services offered**

### ***Appointments and legal advice/assistance***

At the time of writing, 46 applicants (60.5%) had been offered an appointment. Of them, 38 (82.6%) had also been provided legal advice outside of the appointment and nine (19.6%) had been provided with legal task assistance outside of the appointment. Six applications were yet to be assessed.

Of the 24 applicants who were not offered an appointment, nine (37.5%) were offered legal advice outside an appointment, and two (8.3%) were provided legal task assistance outside an appointment. One applicant was still being assessed but had been provided with some legal advice outside an appointment.

In total, 48 applicants were provided with legal advice outside of an appointment and 11 were provided with task assistance outside of an appointment.

At the time of writing 90 appointments had been provided, giving an average of 2.0 appointments per client who received at least one appointment. However, this figure includes files not yet closed by the Service and therefore could increase with time.

The attendance rate for appointments was not officially recorded, but reportedly the attendance rate was very high. Over the pilot period there were reportedly approximately two or three occasions where a client has not arrived for a scheduled appointment, and approximately three or four occasions where a solicitor was not able to attend a scheduled appointment and it had to be rescheduled to another day.

### ***Type of assistance provided***

Table 6 summarises the type of assistance provided by solicitors in appointments. Note that these totals do not include any follow-up work conducted by JusticeNet staff outside of solicitor appointments. The total indicates the number of occasions on which the type of assistance was provided. More than one task, or type of assistance, may have been completed within one appointment.

The table shows that the most common assistance provided was the provision of general advice, in particular the provision of preliminary advice. Drafting letters was also a common service, as was completing affidavits and giving advice about appealing a judgement.

Table 6: Type of assistance provided by solicitors in appointments

Type of assistance provided	Number
<b>General advice</b>	
Preliminary advice	24
Explanation of court orders	0
Prospects and Discontinuance	5
Drafting letters	13
Total - General advice	42
<b>Drafting pleadings and affidavits</b>	
Initiating documents/pleadings	1
Drafting other court documents i.e. caveats etc	4
Response documents/pleadings	2
Reply documents	0
Affidavits	8
Total - Drafting pleadings and affidavits	15
<b>Dealing with defects</b>	
Responding to a request for further and better particulars	0
Requesting default/summary judgment	0
Setting aside judgment/notice	0
Amending pleadings	3
Responding to application for summary judgment	0
Responding to allegation of defective pleading	0
Total - Dealing with defects	3
<b>Steps in the Litigation Process</b>	
Service of documents	0
Responding to/drafting correspondence	2

Table 6: Type of assistance provided by solicitors in appointments (cont.)

Type of assistance provided	Number
<b>Steps in the Litigation Process (cont.)</b>	
Directions/consent orders	1
Disclosure	0
Interlocutory applications	5
Evidence	0
Commencing/continuing after a delay	0
<b>Total - Steps in the Litigation Process</b>	<b>8</b>
<b>Alternative dispute resolution</b>	
Making an offer of settlement	1
Preparing for mediation/conciliation	0
<b>Total - Alternative dispute resolution</b>	<b>1</b>
<b>Preparing for trial/hearing</b>	
Drafting submissions/outline of argument	3
Requesting a trial date/responding to a request	0
Requesting an adjournment	1
Advice about attending hearing	6
<b>Total - Preparing for trial/hearing</b>	<b>10</b>
<b>After trial/final order</b>	
Enforcing judgment	0
General advice re appealing judgment	8
Drafting appeal documents	6
<b>Total - After trial/final order</b>	<b>14</b>

An examination of the types of assistance provided by month over the pilot period showed no clear trend and only very small numbers in each month. The only notable observation was that the provision of general advice was highest in September and October 2014, with six and seven instances respectively. This compares with an average of 2.6 per month for the 11 months prior.

### **Referrals**

Overall five applicants were referred to JusticeNet's pro bono Representation Service. One was not provided with an SRS appointment but was instead referred to the pro bono service for an opinion, and the remaining four were referred for representation after receiving an appointment with the Self-Representation Service. All these referrals, apart from one of the referrals for representation, were accepted.

Table 7 also summarises other referrals which were made, as well as whether or not they were also provided with a Self-Representation Service appointment. Overall 14 applicants were referred to other Community Legal Centres.

Table 7: Referral type for referred applicants

Referral type	SRS appointment	No SRS appointment	Total
JusticeNet representation service	4	1	5
Other Community Legal Centre	6	8	14
Private lawyer	2	3	5
Medical counselling	1	1	2

### ***Likelihood of receiving an appointment***

There was little difference between applicants who did and did not receive an appointment in terms of their income level or source, their disability status, whether they had received previous legal advice, whether the matter had already commenced, the applicants' role in the matter or the area of law.

As shown in Table 8, there was some difference in the likelihood of receiving an appointment according to the referral source, with those referred by JusticeNet staff being the most likely to be offered an appointment, and those referred by a Community Legal Centre the least likely (of the three main referral sources) to be offered an appointment. This difference was not statistically significant but this may be because of the small numbers in some referral groups. This indicates, as could be expected, that JusticeNet staff, and to a lesser extent courts registry staff, showed the best understanding of the types of matters and applicants that were likely to receive assistance from the Service.

Table 8: Number and proportion of applicants receiving appointments, for main referral sources

Referral source	Number of applicants	Number receiving appointment	% receiving appointment
Court/registry staff	26	15	57.7
JusticeNet Staff	12	9	75.0
Community Legal Centre	9	3	33.0
All applicants	76	46	60.5

Table 9 shows that there was also a difference in the likelihood of receiving an appointment based on the perceived likelihood of the matter to succeed. Although numbers were too small for significance testing, applicants with matters perceived to have a good chance of success were most likely to receive an appointment, and clients with matters with a perceived poor chance of success, or matters which were too complex to assess, were the least likely to receive an appointment.

Table 9: Likelihood of being offered an appointment by perceived likelihood of matter to succeed.

Likelihood of success	Number or applicants	Number receiving appointment	% receiving appointment
Good	15	13	86.7
Arguable	5	4	80.0
Poor	24	13	54.2
Unsure/too complex	9	2	22.2

### ***Type of advice given***

Of the 60 applicants for whom data was available, 30 (50.0%) were advised to stop or not progress proceedings. Specifically, 18 were advised to settle the matter out of court, 11 were advised not to commence proceedings, and one was advised to discontinue proceedings. Most of these applicants were given the advice following at least one appointment, but three who were advised not to commence and three who were advised to settle were advised without the provision of an appointment.

### ***Progression of matters advised to stop proceedings***

Data about the progression of matters where the client was advised by the Service to put a stop to proceedings were provided to JusticeNet by the courts registry for the purposes of the evaluation. This includes clients who were given legal advice outside of an appointment.

It must be noted that although advice may be recorded here as advice to ‘discontinue’ the matter, or to ‘settle’ the matter, it was not always easy to discern between the two. Dependant on the relative perceived merit of the case, an applicant may have been advised to discontinue the matter, and at the same time to negotiate a minor settlement in relation to, for example, legal costs. Further, all settlements reached also involve a discontinuance of the matter if it had already commenced. Advice was recorded here as either ‘settle’ or ‘discontinue’ based on the *main* advice given at the time.

For the one client who was advised to discontinue the matter, the matter was subsequently discontinued.

Of the 11 clients who were advised not to commence proceedings, nine followed this advice and had not commenced proceedings on the Supreme Court at least six months after receiving the advice from the Service. One commenced proceedings but then abandoned them and one commenced proceedings which at the time of writing were ongoing.

Of the 18 clients who were advised to seek a settlement of the matter out of court, eight subsequently reached a settlement. Four clients with mortgage repossession matters were unable to settle and later had warrants of possession issued against them. One had not commenced proceedings at least six months after receiving the advice, four matters were ongoing, and one was unknown due to being a District Court matter.

Overall, of all clients advised not to commence proceedings, to settle or to discontinue matters, 18 (60.0%) followed the advice given. One more later discontinued the proceedings in accordance with advice. Of the subset of them who were advised directly to not commence or to discontinue proceedings, 10 (83.3%) followed the advice.

It is noteworthy that there were four clients who recorded on their client feedback forms (outlined in a later section) that prior to using the Service they had intended to pursue the matter through the courts, and who subsequently either did not lodge an appeal or discontinued the matter after receiving such advice from the Service.

## Summary

The Service data indicates that over the one-year period 76 client files were opened and 46 applicants were provided an appointment. An additional 11 clients were provided advice or assistance outside of an appointment. The number of files opened each month was relatively stable around the average of six per month, with a spike in June 2014. Overall, 90 appointments had been provided, being just over six per month.

Prior to commencing the pilot, JusticeNet estimated that the pilot would receive approximately 50-60 requests for assistance, and provide 150-200 appointments. Although the number of applications is slightly higher than expected, the number of appointments provided is considerably lower.

The client data indicates that the Service has been largely successful at reaching its target client group, evidenced by the large proportions of low income earners and those receiving Centrelink benefits. The greatest proportions of matters were for appeals and mortgage repossession matters, making up two thirds of all files.

Almost one third of all referrals to the Service were from the Supreme Court registry, and applicants referred in this way were among the most likely to subsequently receive an appointment by the Service. This may be because some level of filtering occurs at the registry office, with staff more likely to refer applicants that they think have a relatively strong case. Applicants with a perceived 'good' chance of succeeding in their matter (as assessed by the Service staff) were also the most likely to be offered an appointment, indicating that filtering of cases within the Service also occurs. This reduces the likelihood that solicitors will be asked to give their time to assist with unmeritorious matters.

Referrals were made to a number of other services, in particular to other Community Legal Centres and the JusticeNet pro bono representation service. This suggests that even where the Service was not able to assist in a matter, the Service was still able to increase access to appropriate legal services for relevant clients.

Half of clients were advised to stop, settle or not commence legal proceedings in relation to their matter, and analysis of court records for these clients indicate that in 60.0% of matters they followed this advice. Of those advised directly to discontinue or not commence proceedings this figure was even higher at 83.3%. At least four of those clients (22%) had previously indicated that they intended to pursue the matter through the court, suggesting that seeing the Service had resulted in them changing their mind. These findings suggests that the Service is successful in diverting unmeritorious matters away from court.



## Surveys and interviews

This section combines responses to the surveys and the interviews under themes. As mentioned, the survey responses were anonymous, and where an interview respondent could potentially be identified, their comments are included with their permission.

### **Awareness of the Service**

All six registry staff surveyed reported that they were aware of the Self-Representation Service, and four provided accurate descriptions of the type of service provided to clients. Two of these comments referred to the provision of advice regarding the merits of the case.

When asked about whether there was enough awareness about the Service more broadly, responses differed according to client groups. One student responded with 'yes, somewhat', and one with 'no, not really'. Amongst registry staff, four of five respondents agreed that there was enough awareness (somewhat or very much) but one respondent answered 'no, not at all'. All seven solicitors were unsure.

Comments suggested that more advertising of the Service could be beneficial, and (from a solicitor) that some other solicitors were not aware of it.

The JusticeNet interview respondent agreed that the Service could be better promoted, and that if the Service were to continue it would be more widely and more actively promoted, particularly amongst the legal profession.

### **Information about the Service**

Interviewees indicated that they had been made aware of the new Service either directly from the JusticeNet Executive Director, or that the Executive Director had contacted their organisation who had distributed the information internally. Both respondents had attended an information session about the Service, held at the Supreme Court building. They reported that they had received sufficient information about the Service and that they had found the information session useful.

### **Implementation of the Service**

Students and solicitors were asked about the implementation of the Service. The two student survey respondents and five of seven solicitors indicated that they thought the Service was either 'very well' or 'fairly well' implemented. The two remaining solicitors were unsure.

### ***Main challenges***

The JusticeNet respondent was asked about the main challenges and enablers to the implementation of the Service. The three main challenges were: Information Technology (IT), finding funding to commence the Service, and challenges associated with running a service only one day per week.

#### *Information Technology*

The JusticeNet respondent reported that IT problems had posed the greatest challenge to the operation of the Service, particularly over the first 6 months of operation. The respondent reported that they had had many problems with using the Courts wireless guest network and while they were grateful for being able to use the network, it had initially proved to be unreliable. This problem would need to be addressed in future for the Service to continue beyond the pilot period. The registry respondent also mentioned that they were aware that IT had posed a problem for the Service. However, they did not feel that this had posed major problems for their ability to refer to the Service.

A solicitor also mentioned IT, commenting that it was important to have the internet working during appointments, so that issues could be researched on the spot. The Service uses an additional computer monitor in appointments, so that clients can view documents as solicitors

work on them on a laptop computer. The solicitor mentioned that this was useful, but did not always work.

#### *Funding*

The JusticeNet respondent mentioned obtaining funding as a major challenge to implementing the program, and that it had taken time and a repeat application to obtain the funding for the pilot.

#### *Service one day per week*

The JusticeNet respondent reported that difficulties had arisen from running a service only one day a week. They had not anticipated the amount of time that would need to be spent each week 'catching up' from the previous week. The JusticeNet respondent indicated that operating only one day each week was a compromise so as to implement the pilot. It is JusticeNet aim to expand the Service which would bring greater efficiencies.

#### **Main enablers**

The JusticeNet respondent mentioned the Courts, the legal profession and Flinders University as key enablers for the Service. They reported that these bodies had all provided a great level of support to the Service, and had indicated that they would continue to do so in future. Their effort and support was greatly appreciated and made the running of the pilot Service possible.

### **General operation of the Service**

#### ***Operating as intended***

The JusticeNet interviewee was asked if the Service was running as intended, and reported that generally it was. Some minor deviations were noted. The first of these was that, as mentioned, it was more difficult than anticipated to conduct a Service only one day per week.

It was also noted that the number of appointments involved was somewhat lower than expected. Although it was initially intended to expand the Service to the District Court if there was available capacity in terms of appointments, a decision was made not to do this because of the range and complexity of matters in the District Court and the significantly greater number of matters.

#### ***Satisfaction***

The JusticeNet interviewee reported being generally satisfied with the running of the Service, after one year of operation, and felt that it was generally achieving what it had set out to achieve.

Student and solicitor survey respondents were asked if they were generally satisfied with the running of the Service. Both students responded with 'yes, very much', but responses from solicitors were more mixed, as shown in Table 10.

Table 10: Solicitor satisfaction with running of the Self-Representation Service

Are you generally satisfied with how the SRS is now running? (Solicitors only)	Number	Per cent
Yes, very much	2	28.6
Yes, somewhat	3	42.9
Unsure	0	-
No, not really	2	28.6
No, not at all	0	-
Total	7	100.0

One of the two solicitors responding with 'no, not really' offered the following comment:

*[F]rom an attending solicitor's point of view the time given to clients needs to be strictly adhered to.*

Another solicitor mentioned timing and workload issues, which are discussed in more detail later:

*... I think the work of the JusticeNet staff and volunteers is very good. Further attention will need to be given to managing clients' expectations for the appointments, and trying to reasonably confine and define the work to be done - some has required lengthy, specialist input in the past (made difficult by the often "last minute" briefing of / application to the SRS, and hence to volunteer lawyers)*

### **Other issues**

Although generally very satisfied with the running of the Service, the registry respondent reported two unintended consequences of having the Service operating in the Court building. They mentioned that because the Self-Representation Service was co-located that there was a tendency for some individuals to perceive the Service and the registry as parts of the same organisation. This had, at times, affected the expectations of the clients and also affected the way clients had then responded to registry staff if, for example, the Service was not able to provide the type of help the person was seeking. More clarity or signage explaining that JusticeNet does not sit within the Courts may help with this issue.

The same respondent also mentioned that the experience of being referred to the Service could bring false hope for some clients, who are then even more frustrated if the Service is not able to provide them with assistance, or to achieve the desired outcome in court. It was also felt that some clients did not understand the function of the Service and the respondent got a sense that some clients thought that seeing a solicitor at the Service would improve their chances of succeeding, even when they did not have a case. They suggested that for some clients, JusticeNet may need to make a point of being very clear at the outset what the Service could and could not offer.

### **Communication with the Service**

Interview respondents felt that there was sufficient communication with JusticeNet during the pilot period. The solicitor reported that most communication was by email and worked well, while the Registry staff member reported that being in the same building made it easy for them to communicate with JusticeNet. They felt that there was a good working relationship between the managerial levels of JusticeNet and the registry.

## Referrals to the Service

Registry staff survey respondents were asked a series of questions about referrals to the Service. All five respondents reported having referred clients to the Service, and the reported average number referred per month ranged from one to 30.

Four of the five respondents reported that they had a good understanding of the types of matters they should refer to the Service (two 'very much' and two 'somewhat'), while one respondent was unsure. None of the respondents reported having had any problems with referring individuals to the Service.

## Type of work and matter

### Type of work

Students were asked in the survey if volunteering with the Self-Representation Service was the type of experience that they had expected it would be. One responded with 'yes, somewhat' and one responded with 'yes, very much'. One comment was offered which indicated that the student expected (and received) very practical experience. When asked if JusticeNet could improve the experience for volunteer students, one respondent suggested that students be given experience drafting legal documents.

Generally solicitors reported that the type of work they were asked to undertake was as they had expected, in terms of drafting documents and providing basic advice. However, one solicitor mentioned that the type of work differed slightly from what he was expecting in terms of the difference between drafting documents and providing advice:

*[A] difference between the training and the reality was that JusticeNet [were going to] be doing the advising and we would be doing the drafting, maybe with a little bit of 'how you should draft' [advice] ... But there have been times when I've given advice about merits of an appeal ... so it's still linked with the drafting, but that's a slight difference...*

### Type of matter

The JusticeNet respondent noted that the types of matters involving the Service was somewhat different to that expected. The respondent reported that although a broader spread of matters had been anticipated, in reality the large majority of matters involved either a mortgagee repossession matter, or an appeal.

Solicitors were asked in the survey and interview if they had been asked to work on the type of matters for the Service that they expected they would. Table 11 shows that mostly solicitors were asked to work on the type of matters expected.

Table 11: Solicitors' expectations and type of matter

Were you asked to help with the type of matter that you expected? (Solicitors only)	Number	Per cent
Yes, very much	2	28.6
Yes, somewhat	4	57.1
No, not really	1	14.3
No, not at all	0	-
Total	7	100.0

Comments made in both surveys and the interview indicated that solicitors largely felt that the types of clients and matters were a suitable match to their area of expertise. However, one comment indicated that the solicitor had been asked to work on some matters where their

knowledge in the area was limited and therefore their ability to assist was also limited. One respondent mentioned that they worked on matters at the Service which were very different to the type of matter handled by their firm. While they viewed this as a valuable professional development opportunity, it meant that they sometimes needed to invest more time in understanding the relevant rules or issues than someone who was expert in that area of law would. This time was spent outside of the allocated one-hour time slot.

The JusticeNet interview respondent reported that a benefit of the Service was that, due to the pool of available solicitors, a solicitor could be provided who had experience relevant to the matter at hand. However, based on some comments provided by solicitors, it would seem that this does not always occur. Better matching of solicitors to matters may be beneficial, where rostering allows.

One solicitor felt that some clients would be better off receiving a higher level of assistance:

*... [T]here are some instances where a client would be better served by ongoing, or at least more detailed advice, about a matter than can be provided in a single hour (or a series of hours where the volunteer solicitors change).*

One respondent felt that some matters coming through the Service were not meritorious and therefore did not deserve the assistance they had received:

*[I think there should be] screening of those seeking assistance to get rid of time-wasters who have no case.*

One perceived benefit of the Service is that because it provides only discrete assistance, it can be more flexible than a full representation service in terms of the type of client it can assist:

*...[A]nother benefit of this service is that we can push the boundaries a bit in terms of who [we] can assist. You don't want to refer a client to a lawyer to represent them unless they really cannot afford a lawyer... [But] because this is just discrete assistance and the objectives are a bit broader in terms of helping people help themselves, we're able to help people with a bit more behind them in the way of assets, [and] be a bit more flexible with that; give them a couple of appointments perhaps.*

## **Workload and timeframes**

Some students and solicitors provided comments in relation to the workload required by the Service. One student commented that the workload requirements were different in the Service than in other services they had been involved with, but they didn't specify whether the workload with the Service was greater or lesser than other services.

Workload issues were raised by three solicitors. Their comments indicated that although they had initially been informed that they would not be required to do work outside of the one-hour appointment, they had at times been asked to work on matters and tasks which required considerable additional work. One reported spending five to six hours in addition to the appointment time on one matter, and another reported spending two to three additional hours.

*In my experience, one issue has been the breadth and depth of issues which require volunteer lawyers' time - it has often extended well beyond the nominal one-hour appointment time (with substantial preparation required, and often work expected in the appointment that cannot be completed in one hour). This is, of course, in no small part a product of the clients who "come through the door" - but underscores the need for expectations to be managed (on all sides) about what will or will not be able to be done within the confines of the SRS scheme.*

Another solicitor mentioned that one hour for the appointment was not always enough and that they often found themselves working beyond the hour to finish a document for the client on the day. Although they reported that there was no pressure from JusticeNet to stay beyond the hour, it was felt that the outcome for the client would not be good if the extra time was not spent.

When asked about the main limitations of the Service, several solicitors (and one student) mentioned issues related to time available for clients:

*[The] scope of what can be achieved, and what should be sought to be achieved, in a one hour appointment format [is a limitation of the Service].*

*The limited time which is spent with each client may not be sufficient.*

## **Case summaries**

Case summaries are prepared by JusticeNet students and staff before being provided to the volunteer solicitors. Several solicitors mentioned the case summaries provided by JusticeNet as important strengths of the Service. For example:

*The Client Summary sheet system gives a clear overview of the matter and the advice sought. The preparation work done by the SRS before a file comes to me as a solicitor makes my job much easier [and] I have specific instructions so as to make the most of the time with the client, rather than needing to spend time working out what advice they need.*

*JusticeNet's staffs' and volunteers' preparation work is very good.*

However, one solicitor mentioned that the summaries did not always include enough information to begin work on before the appointment without speaking to the clients first.

In their comments, two other solicitors mentioned timing of the provision of case summaries:

*The materials are received very close to appointments and the issues are often complex and quite time consuming to consider in advance. More lead time would be useful.*

*[I would like to be given] more lead time to prepare...*

## **Availability and location of the Service**

Many respondents suggested that the Service could be improved by being available more than just one day each week. In particular, a registry respondent suggested that even if the number of days of the week could not expand, that the Service could alternate each week between, for example, a Wednesday and a Friday or Monday. This would assist with seeing the type of client who was most likely to come through the court with an urgent issue on other days of the week. For example, repossession of property matters are heard on a Wednesday in the Supreme Court, meaning that urgent work is often required on a Monday or Tuesday when the Service is not open. They also reported that properties tend to be repossessed on a Thursday or Friday, prompting urgent requests on those days for hearings to have the matter stayed before the property is taken.

Two interview respondents felt that it was important for the Service to be located in the Supreme Court building, or at least within the courts precinct. The registry respondent felt that moving it too far away would limit its usefulness for the clients. Although they had also commented that being co-located generated some problems for the registry in terms of client perceptions, they felt that these problems were by far outweighed by the benefits to clients of being co-located.

## **Importance and need**

The JusticeNet respondent reported that the Service was developed in response to a clear unmet need. It had been observed that there was a certain type of client approaching JusticeNet for assistance that they were not able to provide because the clients did not meet the criteria for their pro bono representation service. Having seen a similar Service run successfully in Queensland, the respondent felt that this type of service was a natural and valuable extension of services provided by JusticeNet.

To assess views of other stakeholders, all other respondents were asked if they thought it was important to have a service such as the Self-Representation Service, or if they thought

there was a need for such a service. All but one solicitor answered with either ‘yes, very much’ or ‘yes, somewhat’. Several respondents volunteered comments. The main two themes were that it was important because the court could be very complex and inaccessible for self-represented individuals and that it was important from a social justice point of view to assist those who could not afford to pay for legal advice and assistance.

*[The Service] gives a realistic view of the legal system to those who don't really understand.*

*Supreme Court procedures in particular can be very confusing to laypeople...*

*[It] improves access to legal advice services for disadvantaged [people] who may otherwise not be able to access such assistance or protect their legal rights.*

*It is important to provide assistance to those with a genuine need, in the interests of the proper administration of justice...*

When asked if they thought the Service was able to meet the existing need, responses varied according to respondent group (as shown in Table 12), although most felt that it was able to meet the need. Solicitors were most likely to feel unsure about whether the Service was able to meet the current need.

Table 12: Belief that Service is able to meet need, by respondent group

Do you think the Service is able to meet the current need for such a service?	Students N (%)	Solicitors N (%)	Registry staff N (%)
Yes, very much	1 (50.0)	2 (28.6)	2 (40.0)
Yes, somewhat	1 (50.0)	2 (28.6)	2 (40.0)
Unsure	-	3 (42.9)	1 (20.0)
No, not really	-	-	-
No, not at all	-	-	-
Total	2 (100.0)	7 (100.0)	5 (100.0)

The JusticeNet respondent felt that the Service was going at least some way towards meeting the existing need. At the time of the interview there were not more eligible clients approaching the Service than appointments available, but as indicated by the registry interview respondent, if the Service were available more days each week, this would open the Service up to a greater number of clients.

### **Client response**

Solicitors were asked about the type of response they had received from clients they had assisted through the Service. Most indicated that they had received a positive response, with several mentioning that clients were appreciative and grateful. One solicitor reported that one client had been very difficult to keep focussed on the issue at hand and had tried to seek advice about other, unrelated matters.

Solicitors were asked about whether they thought clients generally understood the advice given, and as shown in Table 13, most indicated that they did.

Table 13: Solicitors' perception of client comprehension of advice

To what extent do you think SRS clients have understood the advice you have provided? (Solicitors only)	Number	Per cent
Almost all have clearly understood	3	42.9
Most have clearly understood	3	42.9
Unsure	1	14.3
Most have not understood	-	-
Hardly any have understood	-	-
Total	7	100.0

When asked if they thought the clients had heeded their advice, solicitors were less certain, as shown in Table 14.

Table 14: Solicitors' perception of whether clients heed advice

To what extent do you think SRS clients have heeded the advice you have provided? (Solicitors only)	Number	Per cent
Almost all have heeded the advice	1	14.3
Most have heeded the advice	3	42.9
Unsure	3	42.9
Most have not heeded the advice	-	-
Hardly any have heeded the advice	-	-
Total	7	100.0

A comment from one solicitor indicated that they felt some clients could not be swayed from their preferred approach.

*Most have heeded practical advice. Those that I think may not have taken my advice were where that advice concerned prospects of success or the best way to frame an argument, particularly where they insist on putting material before the court that is irrelevant but they feel is important.*

## Helpful for clients

All respondents were asked if they thought the Service was helpful for clients. All but one answered either 'yes, very much' (eight respondents) or 'yes, somewhat' (five respondents). Comments given focussed mainly on helping clients understand the court processes. Some mentioned different types of client for whom the Service was most helpful, or those for whom it was not (i.e. those who were not considered to have a meritorious case).

*Any client who is a first time or infrequent court user can benefit from the SRS - simply having someone to explain the court process, for example why the registry won't accept something or how to write an application or what to expect at your argument hearing, is of great benefit to anyone unfamiliar with legal process.*



*It helps all clients by assisting them and advising them about process, but is especially helpful to first time or inexperienced self-represented litigants.*

*[The] SRS assists client to understand their rights and the merit of their matter. This is particularly so for people with English as a second language and people having their first encounter with court.*

*[The Service helps] clients who are relatively well prepared, understand the scope of what can and cannot be done for them, and are seeking some broad advice and assistance to allow them to proceed.*

*[The Service is helpful] where the legal advice is genuinely needed and clients have an actual need to pursue a legal case. Particular cases are appellate proceedings from lower courts and possession matters where clients are likely to lose their house.*

*[The Service is] helpful for clients that actually have an arguable case but not the persistent vexatious clients.*

## **Social justice**

Many comments made by different respondents reflected the social justice benefits of the Service. Comments indicated that respondents strongly felt there was a need for such a service to ensure that disadvantaged parties were able to obtain just and fair outcomes in court. Some comments also mentioned that the Supreme Court in particular could be challenging and that any help for self-represented parties was beneficial.

*[The Service] empowers people to make informed choice[s] about their matter and to understand the larger picture of their scenario. It is a balancing of the power often between large well-resourced corporations and the law-illiterate, poorly-resourced individuals.*

*The Supreme court is an intimidating experience to say the least. Many SRS clients are fighting to keep their homes from repossession[,] some merely because they have not understood their rights and the process. This is the front line of access to justice for people who would otherwise be unable to access the justice system effectively.*

*Justice comes in many forms, and it might be winning a case, but it might be being informed what your rights are so that you make good decisions, and I think that is something that the service is doing as well.*

*... I really think that there's a clientele out there who genuinely do need legal assistance in the civil jurisdiction, especially those on low income ... who probably have a better chance of getting a result that would be fairer for them if they had someone give them advice about the content of their application.*

*I think it's good and I think something like that needs to be there, for people who can't afford a lawyer, but should at least be able to get a commencement, to go before the judge. Because you don't want to have someone who has an actual claim or a defence prevented from having their time.*

## **Benefits to volunteers**

Several solicitors made comments indicating that there were benefits to them of participating in the Service. The main benefit mentioned was that it was a rewarding experience which provided a sense of satisfaction at being able to help those who could otherwise not afford it.

As mentioned, one solicitor explained that because the types of matters involved were different to those usually dealt with by their firm, working in the Service provided a valuable professional development opportunity. That solicitor also mentioned gaining face-to-face time with clients as another benefit.

Students also indicated that volunteering in the Service was both rewarding and provided useful professional experience.

### **Continue volunteering**

Solicitors were asked if they intended to continue volunteering with the Service in future. Six of the seven answered 'yes', and one was unsure. The respondent who was unsure mentioned competing demands on their time as a reason for possibly not continuing to volunteer.

Students and solicitors were asked if they would recommend volunteering with the Service to colleagues. Both students and four solicitors answered 'yes, very much', two solicitors answered 'yes, somewhat' and one was unsure.

Several respondents offered positive comments about their experience with the Service, with one also commenting that junior solicitors would not be suitable to volunteer with the Service.

*Volunteering in the SRS provides fantastic exposure to legal practice, and it is rewarding to assist self-represented clients.*

*The results are practical for the clients, the SRS support is very good [and] the time commitment is not onerous.*

*Yes - a valuable service. [I] would have caution, however, recommending that junior staff, or non-litigators, attend alone given [the] complexity and difficulty (and often urgency) of matters that arise.*

### **Support for Service continuing in future**

All survey respondents were asked if they supported the Service continuing. All but one solicitor (who was unsure) reported that they would support the Service continuing.

Table 15: Support for Service continuing, by respondent group

Do you support the Service continuing in the future?	Students N (%)	Solicitors N (%)	Registry staff N (%)
Yes, very much	2 (100)	4 (57)	3 (60)
Yes, somewhat	-	2 (29)	2 (40)
Unsure	-	1 (14)	-
No, not really	-	-	-
No, not at all	-	-	-
Total	2 (100)	7 (100)	5 (100)

This level of support was also apparent in interviews, with all three respondents reporting that they would strongly support the Service continuing or even expanding in future. The Supreme Court Judges indicated that they strongly supported the pilot continuing.

### **Suggested changes and improvements**

Respondents were given the opportunity to suggest improvements that could be made to the Service. Improvements mentioned were:

- More funding so that the Service could offer more appointments
- That the Service expand to include more days each week, or at least alternate the days the Service is offered so that it is not always on a Wednesday

- That the Service could cover more jurisdictions
- That the Service is more widely promoted
- That new JusticeNet staff and students could benefit from spending time on the registry desk to get a better understanding of the processes involved and different ways in which the Service could help clients to expedite their proceedings
- That it would be useful to have forms, such as court application forms, available as documents which could be typed directly into to save solicitor time for some matters
- Better screening to ensure that only clients who had a case were offered appointments.

## Outcomes

This section summarises respondents opinions about whether, or to what extent, the Service has achieved its stated objectives.

### **Objective 1: Increase access to legal advice and assistance, including alternative dispute resolution, for disadvantaged litigants-in-person**

The JusticeNet interview respondent reported that the Service was holding a regular number of appointments for clients who would not be able to gain assistance anywhere else and therefore they were increasing access to legal advice. They also reported that the solicitors had increased use of methods of alternative dispute resolution through helping clients to settle matters outside of court. The eligibility criteria for the Service ensure that only litigants-in-person who are in genuine financial need can access the Service on an ongoing basis.

Several comments made by students and solicitors also indicated that they felt the Service was increasing access to advice for individuals who would not receive it if the Service did not exist.

### **Objective 2: Promote orderly and timely resolution of court proceedings**

Solicitors were asked whether they thought the Service had promoted orderly and timely resolution of court proceedings, and six of the seven respondents thought it had. Comments suggested that better-prepared documents and the provision of procedural advice were likely to result in more efficient proceedings, and that the Service was achieving this.

The Judges' response indicated that litigants who had been referred to the Service by judiciary appeared to be better informed as a result.

When asked about main benefits of the Service to court processes, solicitors mentioned generally streamlining the process, and improved 'efficiency in the resolution of proceedings'. One elaborated:

*I think it would stop interlocutory applications for further particulars, or striking out where the pleading is just not complying with the rules... For the fact that they're getting advice as well ... hopefully that means they can go through without a lawyer on the other side ripping apart their pleadings and making them start again with applications...*

Courts staff who responded to the survey were asked about what impact they thought the Service had on court processes. Four respondents felt the Service had had 'some positive impact' on court processes and one was unsure. When asked what type of impact, four selected 'Improved compliance by self-represented litigants when filing documents, one selected 'Improved compliance with court orders by self-represented litigants' and one selected 'Fewer unmeritorious actions commenced by self-represented litigants'. (Multiple responses were allowed.)

The JusticeNet interviewee felt that there had been many cases where the Service had promoted the orderly and timely resolution of court proceedings. However they also commented that there had been times when the Service had actually slowed down proceedings, by applying to have a repossession order set aside where it should not have

been issued, or where they had applied for an adjournment to give clients time to properly prepare and file documents. In this way, proceedings may be slower overall, but fairer.

**Objective 3: Diverting unmeritorious matters from court**

As mentioned above, only one of the registry survey respondents felt that the Service was successful at preventing self-represented litigants from commencing unmeritorious actions. One registry respondent felt that the Service was unlikely to be achieving this objective, because of the type of client usually involved:

*[I don't think the Service will help divert unmeritorious cases away from court] because the type of clients who eventually end up in [the Supreme Court] jurisdiction are people who won't go away from court. So, even if JusticeNet were to give them the best information possible and assist them with their case, a lot of these clients still think they have a genuine case, and they're going to bring it back anyway. So from that point of view, probably not and I don't think there's anything that anyone can do about that.*

Solicitors were asked if they felt that the Service was successful at diverting unmeritorious matters away from court, and responses were mixed, as shown in Table 16.

Table 16: Solicitor views about whether Service has helped divert unmeritorious matters away from court

Do you think the SRS has helped to divert unmeritorious matters away from court? (Solicitors only)	Number	Per cent
Yes, very much	1	14.3
Yes, somewhat	1	14.3
Unsure	3	42.9
No, not really	1	14.3
No, not at all	0	0.0
Missing	1	14.3
Total	7	100.0

One solicitor mentioned diverting unmeritorious matters from court as being one of the main benefits of the Self-Representation Service, but another mentioned that this was not a likely outcome for all clients:

*Provision of merits advice from an independent person will assist clients in judging the value of their claim. While there will always be some who insist on pursuing matters on principle (and this can be exacerbated where they are not incurring their own costs), there are many who will take the advice seriously.*

The JusticeNet respondent felt that the Service helps to divert unmeritorious matters away from court in two unique ways. The first is that that they are able to be flexible and offer limited assistance to individuals even when they do not have a strong (or any) case. They feel that when clients come to the Service they have already had a lot of people tell them that they don't have a case and therefore they won't help them. If the Self-Representation Service reiterates that they don't have a case, but agrees to help them prepare documents anyway, this can have a useful benefit in terms of building trust with the client:

*What's really of interest is that, [if] you get a client and you say to them after a one-hour apt, 'You don't have a case for these reasons, you really need to abandon these proceedings', they'll say 'Well, you're just telling me what everyone else has told me' and they'll ... continue anyway. But if you say 'OK, you don't have a case*

*but we'll help you file your ... application for permission to appeal' and you give them two appointments to do that, and they have to ... come in for appointments, they have to provide you with documents, and do things - then ... you say, 'OK, [that was the] first step, [there are] ten more steps to go, and they can see that now, and you say 'By the way, you're still going to lose', at that point they often start listening. If you give someone a little bit, you buy credibility and an ability to be more persuasive.*

Given the comments made by the registry interviewee about how tenacious some individuals can be in terms of bringing an unmeritorious matter to court, this approach could be particularly useful.

The respondent felt that the other unique benefit of the Service relates to the fact that solicitors are acting voluntarily and are effectively 'duty solicitors' in that clients will not see the same person each time. Solicitors voluntarily giving their time to assist reportedly makes some people think twice about using up their time to progress a matter which has no chance of succeeding. Also, the fact that they rarely see the same solicitor twice removes the potential for clients to see them as 'their' lawyer, who would be bound to follow their instructions, regardless of the perceived merits of the case. This thought was echoed by the solicitor interviewed, who thought it would not be a good idea for clients to see the same solicitor each time, for this very reason.

#### **Objective 4: Decreased demands on court staff**

Registry staff surveyed were asked whether self-represented individuals impacted on their workload and all responded that they did. Comments indicated that they spent extra time explaining rules and procedures to self-represented individuals, and that there were a relatively small number of self-represented litigants with complex and repetitive cases who took up a large amount of registry staff time. The response from the Judges also indicated that the greatest benefit to the Court of the Service was that it saved time for registry staff.

When asked if they thought the Service had had an impact on courts staff, four responded that it had had a positive impact and one was unsure. With regard to what type of impact, all four respondents selected 'provides somewhere to refer unrepresented individuals who need help' and two selected 'reduce workload for courts staff' (although one also noted that this was only a personal observation and not supported by any data).

The registry interview respondent reported that they perceived a decrease in the number of clients with a genuine case returning for help and answers to questions, since the implementation of JusticeNet. They reported that it was very common for self-represented individuals to come to the registry desk and ask for help completing documents, which they were not able to provide. The respondent felt that when a client with a genuine need was instead referred to the Service that they were less likely to come back to the registry desk, and this saved time for them.

The registry interview respondent also reported that with some matters the Service had saved time because the solicitors had been able to lodge documents on behalf of clients using the electronic application process, which is not accessible to self-represented parties. For self-represented parties, all documents must be checked by the registrar before being lodged, but having them drafted and lodged by a solicitor instead removed this need.

Another benefit was that even when documents were not lodged electronically, they were clearer and of a higher standard when drafted by a solicitor.

*... [W]here JusticeNet have helped prepare documents it obviously makes the formatting and the content a lot clearer. You get a lot of the extra information removed, so that makes it easier for us to accept the document rather than us saying.... 'No, you can't put that in there', but we can't tell them what they can put in there.... So it becomes a bit of a return process where they have another attempt and another attempt... whereas with the genuine ones, JusticeNet can filter all that out... So that's fairly helpful. I've observed that on about half a dozen occasions.*

The JusticeNet interview respondent also felt that the Service did decrease demands on court staff, based on verbal feedback that had been received from them.

**Objective 5: Increase access to representation for clients with meritorious cases.**

The JusticeNet interview respondent reported at the time of the interview (after almost one year of the pilot operating), that the Service had referred approximately four clients to their pro bono full representation service. This number later increased to five. It is unknown whether those clients would have accessed that service without the Self-Representation Service or not.

**Future direction**

The JusticeNet respondent reported that they would like to see the Service expand to the District Court in future, and that they believed there was a clear unmet need in that jurisdiction. They felt that the Service may not be sustainable at the current one day a week level, and that if it could not expand that it may need to be merged with JusticeNet's separate Federal Court Self-Representation Service. This would have the main disadvantage of being located outside the Supreme Court building, but would allow for other important efficiencies.

The JusticeNet respondent thought there was enough support available amongst the legal profession and the universities for the Service to grow in future. One solicitor reported that their firm's contribution would be sustainable if the attendances were kept in accordance with the standard roster of firm attendances. As mentioned, almost all solicitors responded that they intended to continue volunteering in future.

Several respondents had mentioned that the Service could be better promoted, and the JusticeNet respondent agreed. They commented that if it were to continue or expand more emphasis would be placed on promoting the Service more actively throughout the legal profession and the justice sector more broadly.

The program needs a funding source going forward, and securing funding will pose a significant challenge to the program.

**Summary**

This section presented opinions of those involved with the Service, other than clients. Overall, awareness of the Service appeared sufficient amongst registry staff, but could be improved amongst the legal profession, and this is something that is likely to be targeted if the Service continues.

The Service was well implemented and has been operating well throughout the 12-month pilot period. Some important issues, such as a funding source and improved IT services, will need to be addressed however, for the pilot to continue to operate.

Those involved with the service generally appraised it very well, and volunteer students and solicitors on the whole reported being happy to continue to participate, or that they would recommend volunteering to colleagues. Some better matching of solicitors' skills and experience to matters could improve the experience for both solicitors and clients, but this would presumably need to be done within rostering and scheduling requirements.

Some solicitors mentioned workload issues and that they were asked, or felt obliged, to complete work outside of the appointment time. The way the work outside of appointments is allocated and completed may need to be addressed by JusticeNet if the Service is to continue.

Although a small number of solicitors reported being frustrated at being asked to assist clients with unmeritorious matters, it is also acknowledged that receiving the advice to discontinue proceedings in the context of a provided appointment could assist with the overall likelihood that the client will heed the advice.

The location of the service was viewed as important, particularly that it should be located in the same location as the Supreme Court registry. At least some respondents from each of the

client groups reported that it would be desirable for the Service to operate on more, and more varied, days of the week. This should be investigated in future if at all possible.

Those involved with the Service were able to list a range of benefits of the Service, many focussed on the benefits to clients and their right to access the civil justice system. Although mixed in their views about whether the Service was likely to reduce the number of unmeritorious matters in court, most respondents felt that benefits in relation to reduced workload for registry staff and more orderly and timely resolution of court proceedings were evident.

While some relatively minor suggestions for improvement were noted, respondents were almost unanimously of the view that the Service should continue and even expand in future.

## Client feedback

This section outlines data collected on client feedback forms completed after receiving assistance from the Service. Of the 23 clients who completed a form, all were for Supreme Court matters.

### Ease of using the Service

Nineteen clients (82.6%) reported that they had found it 'very easy' to use the Service, and the remainder had found it 'fairly easy'. One of those who reported that it was 'fairly easy' commented that it was difficult to access because it was only open one day each week, and another mentioned problems with reaching a solicitor by telephone.

### Expectations about Service

Clients were asked whether they had received the kind of service that they were expecting. Most (20; 86.9%) responded that it was 'exactly' the type of service they were expecting, one responded that it was 'mostly' the type of service they were expecting and two reported that it was 'not really' the type of service they were expecting.

One of the respondents who reported that the service was 'not really' what they were expecting commented that the Service had actually exceeded their expectations and the other commented that they had a complex problem and needed a specialist lawyer. Five other respondents volunteered very positive comments, with two also commenting that the Service exceeded their expectations.

### Satisfaction with the Service

Almost all clients (22; 95.7%) reported being 'very satisfied' with the Service, with one respondent being 'fairly satisfied'. Some positive comments were offered:

*Friendly, polite, went out of their way on occasions to [properly] research certain points of law.*

*They explained and helped me to the best of their abilities I believe.*

*Very thorough and professional*

Clients were also asked if they felt they had received the type of help they needed from the Service, and most (19; 82.6%) reported that they had. Three felt they had received 'some' of the help they needed and one did not respond.

When asked if they felt they had enough time with the lawyers, 20 clients (86.9%) reported that they did. Two felt they had had 'almost' enough time with the lawyer and one felt that had 'not really' had enough time. One client commented that they had received more time than initially stated.

All respondents reported that they would recommend the Service to a friend in a similar situation.

### Type of help received

Clients were asked about different ways in which the Service had helped them. Responses are summarised in Table 17. All clients reported gaining a better understanding of the law in relation to their situation, and almost all reported gaining a better understanding of legal processes and procedures in relation to their situation.

Comments regarding other types of help included the provision of general advice, and taking further action.



Table 17: Client assessment of help provided by Service

	Yes, a lot N (%)	Yes, a little N (%)	No, not really N (%)	No, not at all N (%)	Missing
Did the SRS help you...					
Better understand the law as it applies to your situation?	18 (78.3)	5 (21.7)	-	-	-
Better understand the legal processes and procedures as they apply to your situation?	14 (60.9)	6 (26.1)	-	-	3 (13.0)
Resolve your legal problem?	10 (43.5)	6 (26.1)	2 (8.7)	1 (4.3)	4 (17.4)
With anything else?	3 (13.0)	1 (4.3)	1 (4.3)	-	18 (78.3)

Clients were asked what they would have done if they had not received advice from the Service. Most (17; 73.9%) reported that they would have represented themselves but found it very difficult. Only one reported that they would have represented themselves without much trouble, and four reported that they would have paid a lawyer.

### Client intentions

Clients were asked what their intentions in relation to the matter had been before using the Service, and what they were after their using the Service. Of the 21 clients who provided an indication of their intentions after using the Service, 13 (61.9%) indicated that they intended to either commence proceedings in court or continue to progress their matter through court. Four (19.0%) indicated that they would seek a settlement or negotiate out of court, and one (4.8%) reported that they would discontinue the matter. One gave another response and two were unsure how they would proceed.

Clients were asked if their intentions had changed as a result of the advice they had received from the Service. Ten respondents (45.5%) reported that it had and the remaining 12 (54.5%) reported that it had not. When asked to explain in what way their intentions had changed, seven provided a response. These included responses indicating that the lawyer had provided information about forming an argument, or about options for negotiation.

### Other comments

Clients provided a range of very positive comments about the Service:

*I am very thankful and appreciate the help that the Self-Representation Service have given me. I couldn't ask for more.*

*Staff were approachable, friendly, professional and went out of their way to research or contact other legal professionals to assist with specific matters if they were not 100% sure of certain points of law. Outstanding service. They also went out of their way to get letters drafted for me to send etc.*

*Nothing could be done better. All good.*

*I want to say thank you. Staff are very accommodating and very helpful.*

Only two clients offered suggestions for improvement; one that the service was available more than one day each week, and the other that it would have been helpful to have received an 'information sheet' to take away outlining possible options and contacts.

Comments made by clients at various places in the form indicated that many clients felt out of their depth or had only a limited understanding of the legal process or their rights:

*... I'm dealing with people and legal words that are out of my league.*

*[The Service] made me aware that I could negotiate to keep my house.*

*[I needed to] find out where I stood legally.*

*[I] had no knowledge of the steps I needed to take, and SRS provided me this information so I know my rights and what to do.*

## **Summary**

Overall, clients gave very positive feedback about the Service and their experiences of it. Clients who completed a feedback form were generally satisfied with the service they received, and thankful for the assistance they had been provided. Clients generally reported receiving the type of help they were expecting, which indicates that the information provided about the Service at the time of referral is appropriate.

In terms of benefits for clients, all reported that their experience of the Service had provided them with a better understanding of the law in relation to their situation, and almost all reported a better understanding of legal processes and procedures. Almost half reported that their intentions in relation to their matter had changed as a result of the advice they had received, with some also indicating that following the advice they intended to discontinue proceedings or seek out of court settlement.

While it must be noted that only a minority of clients completed a feedback form, these findings suggest that there is generally a high level of satisfaction with the Service amongst client who use it. Further, the increase in knowledge and understanding gained by self-represented individuals is likely to bring modest benefits for the courts, in terms of the clarity of arguments presented and quality of documents lodged.

## Conclusion

This evaluation uses both qualitative and quantitative data to provide a comprehensive picture of the operation of the JusticeNet Self-Representation Service pilot during its first year.

The JusticeNet Self-Representation Service appears to be a well-run service that is valued by all involved with it, particularly the clients it is designed to assist. Despite some mostly minor process issues, the continuation of the Service is almost unanimously supported by all involved.

Although based on data which is limited in terms of numbers and time, this evaluation indicates that the Service is successful in achieving its stated objectives. While difficult to quantify, the Service is likely to be making overall savings for the Supreme Court, particularly in terms of reducing workload of and demand on the registry staff, and in preventing the commencement or continuation of proceedings in relation to unmeritorious matters.

The provision of basic legal advice and assistance to those who could not otherwise afford it has important benefits for self-represented litigants in terms of understanding their own rights under the law and enabling informed decision-making in relation to their matters, as well as improving the likelihood of just and fair outcomes in court for meritorious matters.

The Service continues to face some challenges, particularly in relation to ongoing funding, IT issues and problems associated with the limited availability of the Service. If the Service continues, it will remain a valuable addition to the very limited range of legal services available to assist disadvantaged litigants with civil matters, and the only Service available to assist litigants-in-person in the Supreme Court jurisdiction.