Access to Justice Review submission 2016

Victoria Law Foundation
Helping Victorians understand the law
Scope of this submission

In this submission the Victoria Law Foundation responds to term of reference 1 and 7 of the Department of Justice and Regulation, Access to Justice Review.

For information on this submission please contact:

Executive Director
Victoria Law Foundation
L5, 43 Hardware Lane
Melbourne VIC 3000

Email: contact@victorialawfoundation.org.au
Telephone: +61 3 9604 8100
# Table of contents

About Victoria Law Foundation .......................................................................................................................... 5

Part one: Reference 1 – the availability of easily accessible information on legal assistance services and the Victorian justice system, including advice on resolving common legal issues ................................................................................................................................. 7

Summary ............................................................................................................................................................................. 7

Response .............................................................................................................................................................................. 8

1 Well-recognised entry point ................................................................................................................................. 8

1.1 Why Everyday-Law as the online entry point? .......................................................................................................... 8

1.1.1 About Everyday-Law ............................................................................................................................................. 8

1.1.2 Looking to the future ........................................................................................................................................... 9

1.1.3 Other options ................................................................................................................................................... 11

1.2 A central law help line ........................................................................................................................................ 12

1.3 Opportunities for better coordination .................................................................................................................... 12

1.3.1 Summary .......................................................................................................................................................... 12

2 Legal information in Victoria ................................................................................................................................... 13

2.1 Literacy – why we need audience-appropriate legal information ........................................................................ 13

2.2 What we know about legal information .................................................................................................................. 15

2.3 Legal information resources .................................................................................................................................. 15

2.3.1 Specific observations ........................................................................................................................................... 18

2.4 Legal information websites ........................................................................................................................................ 20

2.5 Quality of legal information in Victoria .................................................................................................................. 22

2.6 Summary ............................................................................................................................................................. 22

3 The continued importance of print publications ..................................................................................................... 22

3.1 Summary ............................................................................................................................................................. 23

Part two: Reference 7 – whether there is any duplication of funding amongst legal assistance providers, and options for reducing that duplication, including the development of legal education material ............................................................................................................. 24

Summary ............................................................................................................................................................................. 24

Response ............................................................................................................................................................................. 24

4 Clarification of functions ........................................................................................................................................... 24

5 Duplication in legal information .............................................................................................................................. 24

6 Addressing duplication .............................................................................................................................................. 25

Bibliography ................................................................................................................................................................. 27

Appendix a ................................................................................................................................................................. 29
About Victoria Law Foundation

Victoria Law Foundation helps Victorians to understand the law and use it to improve their lives.

We are a statutory body funded by the Victorian Legal Services Board Public Purpose Fund. Our governing legislation is the *Victoria Law Foundation Act 2009* (Vic). We are the only statutory body in Victoria whose primary function is community legal education. Our functions are contained in section 5 of our Act, and include functions:

(a) to promote or undertake community education within Victoria, including school programs, in relation to the law and the legal system;

(b) to disseminate knowledge relating to the law to assist persons in accessing the law and to educate lawyers in matters relating to the administration of justice and access to the law;

(c) to commission research, and disseminate such research, in relation to—
   
   (i) access to the law;
   
   (ii) identifying the needs of persons who are unable to access, or face barriers in accessing, the law effectively;
   
   (iii) community and professional education about the law and the legal system;
   
   (iv) the administration of justice;

(d) to make grants to organisations to fund projects and programs in relation to the law that in the opinion of the Foundation are likely to benefit the people of Victoria;

(e) to inform the people of Victoria about matters in relation to the law that are in the public interest;

(f) to publish or subsidise the publication of material relating to, resulting from or connected with, carrying out the functions of the Foundation.

Our programs help to give Victorians the knowledge and confidence to deal with everyday legal issues and seek help for problems.

Our focus is on providing better legal information for the community – for us, this means independent, accurate and easy-to-understand information about the law and the legal system, delivered where and how they want it in interesting and engaging ways.

Our programs focus on engaging a range of audiences. School students at rural, regional and disadvantaged schools attend our Law Talks program. The foundation also provides the community with tailored programs, including Law Week held in May each year; publications on a range of everyday legal issues; and the Everyday-Law website that makes finding legal information easier. And we educate the profession about being better communicators and understanding their clients better.

We support other organisations to undertake similar work through our grants program. These grants are awarded for projects consistent with our strategic priorities.
Our work sets the standard for community legal information in Victoria. We use our position – as a leader in community legal publishing and as an independent statutory body – to advocate for better legal information for all Victorians. We back this up by providing practical training, advice and support across the legal sector.

The foundation is funded by the Legal Services Board, Public Purpose Fund.

More information on our programs can be found in our most recent annual report.¹

Part one: Reference 1 – the availability of easily accessible information on legal assistance services and the Victorian justice system, including advice on resolving common legal issues

Summary
The legal system is complex, and for non-lawyers understanding and navigating it can be challenging. It is particularly difficult for the most disadvantaged and vulnerable.2

Legal information and education plays an important role in helping the community to identify when they have a legal problem, make an informed decision on where to get help, and (in some cases) address the issue themselves. But for many people, particularly those with low literacy,3 written legal information is of limited use. These people need additional assistance to be able to solve their problems successfully. Therefore a combination of easy-to-find, practical legal information and access to individual support has the potential to offer the best ‘first-steps’ assistance to the broadest range of Victorians.

We support the need for a central legal information website and telephone help line as a ‘well-recognised entry point’. But we think these core services must form part of a broader approach to legal assistance that considers the different pathways4 that members of the community take when they have a legal problem.

In relation to these core services and legal information, we have the following recommendations:

- Further development of Victoria Law Foundation’s Everyday-Law website as a portal to information about the legal system and everyday legal problems in Victoria.
- A focus on increasing the capacity of Victoria Legal Aid's 'Law help' telephone line, including further broadening of its range of languages.
- Further promotion of Everyday-Law and the 'Law help' telephone service as key entry points to legal help – including through intermediaries.
- Developing strategies to improve the quality of community legal information to better meet the needs of the community (only 19% of the approximately 3000 resources reviewed by the foundation meet best practice standards)
- Better coordination of distribution of community legal information, particularly through police stations and other key access points.

---

3 See section 2.1.
4 In relation to the actions and types of advisors that people approach when addressing a legal problem. We note that the statistics in Victoria are similar to those in NSW, which has a central access point in LawAccess. Law and Justice Foundation of New South Wales, 'Legal Australia-wide survey: legal need in Victoria' (2012), 92 and 108 <http://www.lawfoundation.net.au/ljf/app/id=45728676D404E99FCA257A000049504>. Law and Justice Foundation of New South Wales, Legal Australia-wide survey: legal need in NSW (Law and Justice Foundation of New South Wales, 2012) 92 and 109.
Response
The following is the foundation’s response to term of reference 1.

On a number of points this response is relevant to terms of reference 2 and 7 of the Access to Justice Review. This response considers the background paper produced by the Department of Justice and Regulation in relation to this term of reference (Background paper) and the Productivity Commission’s Access to justice arrangements report.

1 Well-recognised entry point
The Productivity Commission report7 and Background Paper8 both discuss developing a ‘well-recognised entry point to the law’ – an entry point where the public can find out more about their problem and the services available to them. It is proposed that this ‘well-recognised entry point’ include a legal advice telephone service and legal information website. While the foundation strongly supports the provision of these core services, they cannot exist alone. Instead, they must form part of a broader strategy that considers the various ways people address legal problems.

We note that a dedicated community legal information website offers the most cost-effective option for addressing legal need. But it will not address the needs of all Victorians. Other services such as a telephone help line (with access to advice in a range of languages) and legal assistance and education programs and publications that reach out to specific parts of the community are important, if more expensive, options for identifying, triaging and helping to resolve legal problems.

We believe that the existing Everyday-Law website and Victoria Legal Aid telephone line already provide the basis of an appropriate framework for the delivery of these core services, but that better resourcing and coordination would improve their effectiveness.

1.1 Why Everyday-Law as the online entry point?
1.1.1 About Everyday-Law
Everyday-Law is already fulfilling the role of an online entry point to the law, connecting Victorians with the legal information they want.

Driven by a desire to make it easier for Victorians to engage with the law and find legal information, the Everyday-Law website was launched in May 2014. Our research told us that legal information was fragmented across over more than one hundred websites, was of variable quality, and was often presented with limited context (see section 2). We wanted to make it easier for Victorians to find this information by creating an online portal specifically designed for them. By selecting the best legal information and bringing it together in one place, the public, and intermediaries, are able to access it quickly and have confidence in its quality.

We included a number of features that we thought would both inform Victorians and engage them with their legal system:

---

5 Department of Justice and Regulation, 'Accessible legal information - background paper'
6 Commonwealth, above.
7 Ibid 164.
8 Department of Justice and Regulation, above.
9 Law and Justice Foundation of New South Wales, 'Legal Australia-wide survey: legal need in Victoria', above n, 91 onwards.
10 The model has been used successfully in other jurisdictions: www.lawaccess.nsw.gov.au (NSW), www.adVICeNow.org.uk (UK), www.yourlegalrights.on.ca/ (Canada)
• answers to everyday legal issues in the ‘Have a legal question?’ section. This section covers 11 main topic and 94 sub-topic areas (see appendix a), and includes almost 1500 resources sourced from organisations across Australia
• information about the range of options available for getting legal help, including ombudsman and alternative dispute resolution (ADR) services
• information on the legal sector and how it works
• a comprehensive online directory of free or low-cost legal services throughout Victoria
• upcoming events, including legal information and entertainment-based events.

Content is drawn from over 150 Victorian and Commonwealth organisations, and undergoes a rigorous editorial and evaluation process before being included. Content is updated throughout the year as new material becomes available, with a full site review undertaken annually. This approach ensures that information on Everyday-Law is relevant, and the most current available.

Everyday-Law was developed in line with best-practice processes, including the VLAF guidelines, extensive research and testing at all stages of its development, and it continues to be responsive to changes in technology and online trends.

To build the audience for Everyday-Law, the foundation runs active community engagement strategies under the Everyday-Law brand. These include blogs and promoted Facebook posts on a range of common legal topics, including legal literacy campaigns. The aim is to improve legal literacy and awareness of the range of dispute resolution services available. These blogs are presented in an easily digestible style, likely to appeal to the general public. They play an important role in reaching audiences that are not necessarily motivated to search for legal information or one-on-one assistance.

As a Victoria Law Foundation project, an integrated range of legal literacy programs support Everyday-Law. These include programs for school students and the community as well as education programs for the legal sector.

In recognition of Everyday-Law’s high standard of plain language and clear communication for its community audience, last year it was awarded a prestigious ClearMark Award from the Center of Plain Language in Washington DC.

1.1.2 Looking to the future

There is considerable opportunity for the further development of the Everyday-Law website. Everyday-Law has been online for less than two years. During this time, from a zero base and with a minimal marketing budget, it has been able to build strong traffic numbers. We are confident in the capacity of Everyday-Law to meet community needs in the areas of

---

11 The topic areas were developed after extensive research looking at other models including LawAccess, Legal Information Access Centre at the State Library of New South Wales and focus testing.
16 At the current time we expect to see a 20% growth in visitors in 2015/16 on 2014/15 figures.
community legal information. Additional funding, government endorsement and support would increase community awareness, brand recognition and visitors to the site.

Maximising awareness
As highlighted by the Productivity Commission, raising awareness of services is critical to improving access to legal information. This is best done through a range of activities, including search engine marketing (SEM) – such as paid advertising, search engine optimisation (SEO) and link building – and traditional marketing.

Search engines
Research on the use of different legal information formats found that the ability to appear authoritative and at the top of search results on Google were critical factors in users choosing one legal information website over another.

With a very limited budget the foundation has already had considerable success in promoting Everyday-Law to the top of search results, particularly in popular search topics such as myki fines, speeding fines, and fence laws. We want to continue this success, but would be greatly assisted by further investment in SEM and formal government endorsement.

Promoting the service
The reach of the promotional campaign for Everyday-Law needs to extend beyond online marketing to more traditional marketing that includes promotion to the public and legal and non-legal intermediaries. Research shows that a high percentage of Victorians often seek advice from a range of non-legal intermediaries when they have a legal problem. Canadian research suggests that this is particularly likely in the case of vulnerable and disadvantaged groups. Intermediaries are an important network for connecting the public with legal information in Australia.

Content development
Established in 1999, the Better Health Channel has become one of the most popular health and medical websites in Australia, with over two million unique visitors each month. It has been ranked as the number one health and medical website in Australia.

---

18 Commonwealth, above n, 164.
19 Habanero Consulting Group, ‘Legal Services Society family law in BC website’ (2012), 9. During testing of the site it was evident that, when sorting search engine results, many people did not perceive the family law website as authoritative, and tended to choose other results such as the Attorney-General’s Department. It also found that a high level of traffic came through the Attorney-General’s Department, and it recommended including information about funding from this source in the Google search results to encourage more direct traffic.
20 Community Legal Education Ontario, above n, 23.
21 This campaign should include information on the site, and how they can use it to assist their clients by directing them to appropriate legal information, and the encouragement of organisations to provide links to the site from their websites.
22 Community Legal Education Ontario, above n, 23.
24 Notably, the site follows our recommended model of being a stand-alone information site. It is funded by the Victorian State Government and forms part of the Digital Strategy and Services Unit in the Department of Health and Human Services.
While the Better Health Channel has aggregated content, it also develops original content in partnerships with experts from a wide range of reputable Australian health and medical organisations. These partners provide valuable expertise, helping to ensure that the information on the website is accurate, reliable and reflects current thinking. We think this model could be emulated on Everyday-Law to improve the breadth of good-quality legal information available in Victoria.

Much of the foundation’s publishing already works on a similar model, drawing on expertise from across the sector to assist with the production of our print publications and Everyday-Law blogs. This project would expand this work to engage individual agencies as partners in the development of content for Everyday-Law, particularly where there are identified gaps in information or where existing information is poor. The content produced through these partnerships could then be syndicated to other websites.

**Content breadth**

Using a range of techniques, we are constantly reviewing the coverage of topics contained on Everyday-Law. This work needs to continue for the future of the project, and should be combined with more formal engagement with legal services and intermediaries to find emerging topics and areas of particular need.

We agree with the Productivity Commission that a service of this type should cover both State and Commonwealth law. For the purpose of managing legal affairs, the two are intrinsically linked. Our experience is that the community generally neither makes, nor understands, the distinction between the two.

The position is similar with criminal and civil law. While these areas of law are both covered on Everyday-Law, there are opportunities to extend the amount of information on criminal issues.

**Grants program**

The foundation supports the allocation of funding for the development of high-quality legal information similar to that proposed in the Productivity Commission report.

**1.1.3 Other options**

The Productivity Commission proposed a single point of access to legal information built on the profile of legal aid commissions. We think the public is better served by a dedicated, independent, website designed specifically for the provision of legal information, rather than as a part of a larger legal provider’s site, which is likely to have competing interests. A separate website with its own brand is better able to adapt to the needs of a broad audience, have its own voice and avoid the need to manage competing priorities.

In Victoria very few organisations provide a comprehensive range of legal information on their websites. Organisation websites tend to focus on their services and provide minimal contextual information. Victoria Legal Aid and Law Handbook websites are exceptions.

For the reasons stated above, we do not support the Victoria Legal Aid website being further developed as a ‘well-recognised entry point’ website.

26 [https://www.betterhealth.vic.gov.au/about/about-us].
27 This includes research; being responsive to online search trends and popular topics; as well as feedback we receive from our networks.
28 Community Legal Education Ontario, above n, 23.
29 Commonwealth, above n, 164.
30 [www.legalaid.vic.gov.au].
31 [www.lawhandbook.org.au].
The Fitzroy Legal Service’s online Law Handbook covers a wide range of topics in considerable detail. The language and tone of the handbook is technical, and lends itself well to a legally trained audience or to a member of the public with sophisticated literacy skills. It has more limited use as a ‘first-steps’ publication for a member of the public who has low literacy and little knowledge of the law.

1.2 A central law help line

A central telephone line provides an important core service (including languages other than English (LOTE)), which is particularly suitable for people with low literacy and also for the most vulnerable and disadvantaged in our community (see section 2.1). Often low literacy, vulnerability and disadvantage go hand in hand.

Victoria Legal Aid currently offer this service through its ‘Law help’ telephone line. This service provides legal information and advice in a range of languages.

We think this service should be further promoted as a ‘well recognised entry point’. We note however that raising awareness of the service is likely to create increased demand. This increase in demand needs to be addressed with appropriate resourcing.

We would also recommend that, given the relatively low levels of literacy in some LOTE communities, that consideration be given to broadening the range of languages available.

Better coordination and referrals across the telephone line and Everyday-Law would assist in building awareness. For example, the telephone line should tell callers about Everyday-Law and refer callers to the website for additional information where appropriate. Everyday-Law should use the telephone as a key referral point where appropriate.

1.3 Opportunities for better coordination

This issue is addressed in our response to term of reference 7 of the Access to Justice Review in Part 2 of this report.

1.3.1 Summary

The Everyday-Law website and the ‘Law help’ telephone line should be further developed as core services to address Victorians’ legal needs. An investment in these two programs (including additional funding to address greater demand, to improve quality and to provide better promotion), and better coordination and information-sharing across legal information providers, is likely to reap considerable benefits for Victorians.
2 Legal information in Victoria

While ‘there is a significant amount of material available on legal assistance services and the civil justice system, as well as general information/advice to help people resolve common legal problems’, much of it is not suitable for a community audience.

This section of our submission outlines why appropriate legal information is important and offers observations on the quality of legal resources and websites.

2.1 Literacy – why we need audience-appropriate legal information

In considering the quality and range of community legal websites and information, it is important to understand literacy in Australia.

Much of the legal information currently available is too complicated for a general public audience, lacks appropriate contextual information and is not consistent with plain language guidelines.

Since 1996, the Australian Bureau of Statistics, in conjunction with the Organisation for Economic Co-operation and Development (OECD), has been involved in a number of studies examining Australian literacy in the international context, most recently in 2011/12. The premise of the research can be summarised as follows: ‘good literacy is an essential skill for coping with the many demands of life in contemporary Australian society. Tasks ranging from reading the directions on a bottle of medicine, completing a tax return, or assessing information on the Internet all require a reasonably high level of English literacy’.

In the 2011/12 survey entitled *Programme for the International assessment of adult competencies (PIAAC)*, the criteria changed to consider a broader range of skills. It is therefore also useful to consider the 2006 survey entitled *Adult literacy and life skills*.
In the ALLS survey, prose and document literacy was assessed on a scale from one to five – one being the lowest and five the highest. Level 3 is regarded as a suitable minimum for ‘coping with the increasing demands of the emerging knowledge society and information economy’.

What the ALLS survey found was that almost 50% of all Australians had prose and document literacy levels below level 3 – the stated minimum level. The following extract illustrates the characteristics of skill level 1 to 3 in the ALLS research:

Someone with skill level 1 may have trouble using a bus timetable or completing basic forms. People at this skill level may be able to locate some information on a medicine label, however skill level 1 includes people who could not complete such tasks.

At skill level 2 a person may be able to complete the tasks mentioned above, but may not be able to interpret a weather map or summarise a piece of text.

At skill level 3 people may not be able to compare and contrast written information, extract information from a pamphlet or interpret pie charts.

In general, people with level 1 and 2 literacy levels in the ALLS survey were more likely to be unemployed, have a low income, and low education levels. People in this group are less likely to find written information useful, particularly if it is too complicated, poorly structured and too long.

The PIAAC survey found that the level of literacy varied considerably by country of birth. For example, of the people born in the United Kingdom, 62% achieved literacy levels at PIAAC level 3 or above, compared to 69% of people born in Malaysia.

People whose first language was not English were more likely to be assessed with lower literacy skills. Among this population, 25% were assessed at PIAAC Level 1 or below, compared to 12% of people whose first language was English.

When this information is compared to our research outlined in section 2.3 and 2.4 there is a clear disconnection between the legal information that is being produced (overly technical, ....

---

38 Australian Bureau of Statistics, ‘4102.0 - Australian social trends, 2008 (Adult literacy)’, above n, 1. Information on the skills associated with the literacy levels under PIAAC are available here: ibid 9.
40 Australian Bureau of Statistics, ‘4102.0 - Australian social trends, 2008 (Adult literacy)’, above n, 1. Information on the skills associated with the literacy levels under PIAAC are available here: ibid 9.
43 Ibid 7.
44 Ibid 3.
poorly structured and designed) and the literacy capabilities of the Australian public. In order for legal information to be effective it must accommodate audience characteristics, particularly literacy. Information that does not meet the community’s needs wastes resources which could be better used elsewhere.

The benefits and necessity of good community information for government was recognised in the United States in 2010 when the US Federal Government implemented the Plain Writing Act (US) that required all Federal Government departments to meet plain language standards – which ‘means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience’.46

2.2 What we know about legal information

The foundation has extensive expertise in the area of community legal information and plain language, gathered through delivering programs in these areas for more than twenty years.47

In addition the development of Everyday-Law allowed us to better understand the legal information available in Victoria through a rigorous program of research. This work included:

- In 2013 and 2015, reviews of more than one hundred websites of legal services, advocacy and complaint-handling bodies, courts and tribunals, government bodies, professional legal organisations and research institutes. The reviews focused on the topics covered by the websites under review; the publications accessible from them48; whether the content was available in languages other than English (LOTE); and their use of multimedia, including videos and any metadata (only 2013).49
- Reviewing individual resources for inclusion in the ‘Have a legal question?’ of Everyday-Law (see section 1.1.1). This included:
  - an initial review of over 3000 resources across a range of formats that identified approximately 1500 as being of appropriate quality for ‘Have legal question?’
  - ongoing identification and assessment of new material being produced
  - an annual content review through engagement with contributors, review of their websites, and identification of any new providers.
- In 2015, around 1500 resources included on ‘Have a legal question?’ were assessed and graded for their quality, with particular reference to plain language.

While this work focused on online material, it captured many print publications, as these are generally available in electronic format (such as PDF) from organisations' websites.

Our detailed observations from this work in relation to legal information and websites are discussed below.

2.3 Legal information resources

In 2015, the foundation assessed the quality of the approximately 1500 resources on Everyday-Law against set criteria for their suitability as community legal information.50 The criteria for the grading categories considered the appropriateness of the publications for a community audience,51 and plain language best practice consistent with the VLAF Online

46 Plain Writing Act (US), (2010).
47 This includes the production of print publications, online projects, training programs through our ‘Better information’ activities and in supporting other organisations to do the same through our Grants Program.
48 This included material in PDF, HTML or available to order.
49 This was assessed to determine how likely a user was likely to find the material through a search in Google.
50 As outlined in table 1.
51 Publications in the C and D grades may be suitable for other audiences.
Legal Information Guidelines (see table 1). Resources were graded from A to D, with A being the best and D the worst.

This work forms part of a process of better understanding the quality and range of legal information in Victoria. The next stage, which is underway, will track the results against the 94 sub-topics covered by ‘Have a legal question?’ – identifying what subject areas are well covered, where gaps exist, and where there are opportunities for improvement.

Preliminary work in this area highlights that while some areas, such as family violence and divorce, are well covered by community legal information, there are gaps in common areas such as wills and estates, easy-to-understand information on mediation and other alternative dispute resolution services, and medical legal issues.

Of the ‘best’ resources, only 40%, or 567, met best practice standards (grade A and B). Just over 60%, or 852 publications, were graded at levels that require significant improvement (C and D). The full results are listed in table 1.

The reasons for the results are complex and are likely to relate to competing priorities, limited resourcing and lack of the specialist skills to produce this type of information. However, we argue that good-quality information should be the starting point for any organisation’s interaction with the public.

<table>
<thead>
<tr>
<th>Grade</th>
<th>Summary</th>
<th>Description</th>
<th>Number</th>
</tr>
</thead>
</table>
| A     | Excellent, best practice                     | • Very well-tailored for the intended audience  
• Excellent structure  
• Excellent design  
• Content is highly relevant and reliable.  
• Engagingly/well written and in plain language | 271 (19%) |
| B     | Satisfactory                                 | • Takes the intended audience into account  
• Solid structure  
• Solid design  
• Content is consistently relevant and reliable  
• Written in plain language | 296 (21%) |
| C     | Acceptable but needs significant improvement | • Takes audience into account, but not consistently  
• Adequate structure  
• Adequate design  
• Content mainly relevant and reliable  
• Adequately written and mostly in plain language | 743 (53%) |
| D     | Need for improvement                         | Resource only included for comprehensiveness in the general database.                                                                                                                                                                                                                                                                              | 109 (8%) |

52 An area that the foundation plans to address with a new publication in the coming year.

53 In grading the resources, we did not specifically look at factors such as identification of jurisdiction, date of publication and relevant legislation dates or whether information contained next-steps information. We consider these significant and are currently examining how these could be included in the future.
table 1: Grading criteria for resources and results

Further discussion of our observation of the quality of material is included below.
2.3.1 Specific observations

Plain language principles
Only a small number of resources apply plain language principles.

Audience – lack of clarity and purpose
The most effective information is developed with the needs of a particular audience group in mind – What do they want to do? What do they need to know? What do you know about them? The review highlighted what appeared to be a lack of clarity of audience and purpose\(^{54}\) across much of the legal information we reviewed.

It is not surprising that this situation occurs. Many organisations operating in the legal sector have to meet the needs of several, often diverse, audiences. For example, court websites provide information for use by lawyers and the public. Consider how the different needs, knowledge and education levels of both groups impact on the information they require.

Good-quality legal information needs to be seen as a core activity and prioritised. The quality of legal information could be considerably improved if organisations clearly identified their key audiences and focused on producing information specifically for these audiences. In some cases, this may require the production of a number of resources on the same subject to meet the needs of different groups. Not only is this likely to benefit the user, but it is also likely to reduce complaints, improve compliance, facilitate the positive resolution of issues, and, ultimately, reduce costs.\(^{55}\)

Structure
Poor structure was a common issue in the community legal information in category C and D. Simple tools that help the reader filter information or better understand a process were often not used such as:
  - putting what the user wants to know first
  - moving from general to specific information
  - following a logical order
  - putting like information together.

The use of headings was underutilised.

Language and clear writing
A fundamental flaw with many publications was the choice of language, which was often inappropriate for a community audience. Technical legal terms were used without explanation. More complicated words were often chosen when a simpler word would have done (inquire/ask, in lieu of/instead of). Often the level of detail provided was too complicated for a reader with limited legal knowledge.

Examples of poor writing included being written in the third person and the overuse of the passive voice, which made the writing uninteresting to read.

Layout and design
Layout and the design of publications varied widely. In poor-quality publications, the font size was often too small, with too much information on a page. Numbered and bulleted lists were used poorly, if at all, as were table and charts. These features subtly work in the background of a document to assist with comprehension.

---

\(^{54}\) The best publications stated upfront who the publication was for and its purpose.

\(^{55}\) Australian Bureau of Statistics, '4228.0 - Programme for the international assessment of adult competencies, Australia 2011-12 (Selected characteristics)', above.
Usability and accessibility
Our observation was that information often did not address usability (how easy the website is to use) and accessibility requirements. The quality and suitability of content suggested that it had neither been produced in consultation with the proposed audience nor undergone usability testing.

Information, particularly PDFs based on print publications, were rarely reformatted to read online. While there is an ongoing shift to providing information in more accessible HTML and Word formats, often resources were provided only in PDF.

Other alternative formats that may assist some users such as videos and audio options were available in only a limited number of cases.

Accuracy
While we did not review each resource in detail for accuracy, we often saw examples where material was included without being appropriately checked. This was particularly evident in the description of services offered by other providers, as well as organisation phone numbers. Misinformation of this type adds to the public’s frustration and reduces their chances of finding the right service.

Information on jurisdiction, accuracy and reviews
Most resources do not include information on jurisdiction, information on legal accuracy (for example the date of legislation that it considers), and when material was last updated or will be updated in the future. These are all important signposts to help users determine the suitability of legal information.

Poor use of online features in resources
Our research showed poor use of online features, which if used would vastly improve the user experience. For example, electronic PDFs were often not interactive – content lists did not link to referred content, internal content was not cross-referenced to other relevant information and website addresses were not live. The same was also common in HTML content where the use of hyperlinks across a site would make it easier for a layperson to navigate to appropriate content. For example, terms contained in a glossary were often not linked electronically but had to be navigated to manually. Content may refer to forms which were not linked and unable to be found.

These types of issues frustrate users, making them more likely to give up or seek telephone assistance at considerably greater cost.

Next-steps information
There is still a need to improve the prevalence of ‘next-steps’ information in community legal information. Often resources do not give information on where to get more help if this means accessing external services.

Languages other than English (LOTE)
Our reviews indicated that there is a limited number of legal information resources available in LOTE. The material available tends to focus on how to use services or connect with translation services.

Addressing the gap in LOTE community legal information is complex. Legal information for the LOTE community needs to be tailored for the needs of different language groups. These characteristics may include: low awareness of the Australian legal system, large disparities in the education levels of men and women, a culture of verbal rather than written [56] ‘Web accessibility content guidelines 2.0, Level AA’, (2008) <https://www.w3.org/TR/WCAG20/>.
communication and low levels of literacy. Material needs to be developed in consultation with the different language and cultural groups and be presented in a range of formats, including print, video, aural and one-on-one.

While, due to resourcing constraints, the foundation does not produce information in languages other than English, it is interested in considering how it might do this in the future. It is about to complete a research paper looking at the available literature on this issue. What is clear from this research is that the sector needs a strategy and considered approach to LOTE. The paper will be available mid-March 2016.

2.4 Legal information websites
The 2013 and 2015 reviews of legal information websites in Victoria highlight the need for Everyday-Law. While websites may contain a range of high-quality material, there are many challenges for the public trying to find this information, as it is often buried within these sites. Our observations from both reviews are included below.

Audience
The 2013 review identified that the intended audience for the legal information on the website was often unclear. Often the content on a single website lacked a consistent quality, tone and language, sometimes because it was written for a variety of audiences.

In 2015, many organisations still needed to more clearly define the intended audience and write their information for that audience. Often websites included in the same location material for legal professionals, support workers, service providers and a member of the public with a legal need.

Structure
In 2013, sometimes publications and other information were not organised thematically, were only organised according to traditional legal categories, or reflected internal structures rather than being task-oriented.

In 2015, content could still be better organised thematically, with the most important and relevant content prominent. Some sites would do better to have less content, but effective content that is well-organised, introduced, contextualised and summarised.

Design
With some exceptions, the 2013 review showed that the design of websites and the legal information on them needed substantial improvement. For example, they had unhelpful navigation, uninformative headings and dense text.

By 2015, there had been some improvement in website design, with a number of websites more professionally designed – for example, the State Revenue Office’s and the Office of the Public Advocate’s. Also, some websites usefully segment content by user type (for example, ‘For consumers’, ‘For businesses’) so that the user can more easily access relevant material.

But design, navigation and taxonomy (classification of legal topics) still needed improvement. For example, website navigation is often still busy and confusing. Publications, for instance, might be housed under ‘Publications’, ‘Factsheets’ and ‘Resources’ – all on the one website.

Metadata
In 2013, many websites did not use metadata at all to enhance search functionality, or used it in only a limited fashion – which made it less likely that information on these sites would be found through search engines such as Google. The 2015 review did not examine website metadata because it was considered outside the review’s scope.
Content
The 2013 review demonstrated that the purpose of the content for the user was often unclear and it was too technical. Also, while a substantial proportion of the content told users how to use the organisation’s services, it did not give users general legal information (for example, general information about the legal system).

The 2015 review showed that often content was still too legalistic, going into the detail of legislative provisions, for example, without digesting them so a layperson could readily understand them.

Also, organisations sometimes used forms of communication they assumed were engaging or fitted well with the digital format. But this meant, for example, that intricate and ineffective flowcharts and diagrams were used.

Video and multimedia
Most of the websites reviewed in 2013 did not make effective use of video or other multimedia, even when that would have been especially useful to users with relevant disabilities. For example, videos were too long, focused on in-house or corporate concerns of the organisation or used staff members speaking drily to camera.

This was still the case in 2015, but there were exceptions. For example, CAV’s (Consumer Affairs Victoria) videos on how to avoid common scams are very effective, as are Energy and Water Ombudsman Victoria videos on how it can help with common complaints.

Language
Many of the websites reviewed in 2013 did not present their information in plain language. It was often technical, assumed background legal knowledge and was better suited for academics, lawyers, social justice advocates or bureaucrats.

This remained a problem in 2015. Much of the content was not in plain language or in an appropriate tone for the user. These users would sometimes be disadvantaged Victorians with low literacy and legal knowledge.

It was admirable that some websites included glossaries or tried in other ways to explain technical terms. Unfortunately, often the glossaries or other explanations were themselves in technical language. This meant the reader would ‘pinball’ back and forth between difficult legal terms in the body of a publication and equally demanding explanations of them.

LOTE (Languages other than English)
In 2013, LOTE material was often hard to find or very limited, even on the then Department of Immigration and Citizenship (Cth) website.

By 2015, there had been some expanded provision of LOTE resources, but they were still not consistently or systematically provided. Another issue that remains is the signposting and contextualising of LOTE resources for non-English users. LOTE resources are often hard to find and the explanation of what they are for and how they can be used is often lacking or too sophisticated.

There appears to be a lack of strategy for the kinds of LOTE material provided, by whom and what legal topics they cover. For example, there is no central point where non-English speaking users can access LOTE material.57

---

57 Examples of this type of service exist in other areas: <www.yourlegarights.on.ca/resources-by-language> and <www.healthtranslations.vic.gov.au>.
Mobile responsiveness
Sites varied widely on their mobile responsiveness – ability to adapt their viewing format to a
smaller mobile device. Downloads from mobile devices are increasing rapidly and sites need
to be developed to consider this issue in their design. A comparison of the data downloaded
from mobile devices from the three months ended 31 December 2014 to the three months
ended 30 June 2014 downloads showed an increase of a significant 36%.58

2.5 Quality of legal information in Victoria
As outlined above the quality of legal information in Victoria varies widely. While there are
some excellent examples, much of it falls short of what is required to assist the public in
solving their legal problems. Organisations must prioritise improving the legal information
they offer to a general community audience, allocate appropriate funds and obtain relevant
expertise. Better information, if done well, is likely to reduce the call on other services and
the costs of the delivering these services.

The VLAF guidelines59 should be adopted across government and other related
organisations.

2.6 Summary
Victorians are not as well served as they should be by the quality of legal information
available. Often there is a disconnection between the legal information available and the
audience for which it is produced. Central coordination of the development of material to
standards that meet the community’s needs, and identifies gaps, would ensure the best
allocation of resources and the best results for the public.

3 The continued importance of print publications
Our experience, and international research, points to the continued importance of print
publications as a means of providing legal information to the public,60 particularly for the
most disadvantaged in our community. This needs to be considered in any access to justice
strategy.

Although online legal information offers universal access, it does have limitations:
• a user has to be able to identify that they have a problem
• have a basic understanding of what that issue is
• be motivated to search for an answer
• have access to, and the skills to search for, that information online.

While the availability and willingness for using online resources is changing rapidly61 and the
quality of internet access is increasing62, the most disadvantaged in the community still face

58 Australian Bureau of Statistics, ‘8153.0 – Internet activity, Australia, December 2014 (Mobile
handset subscribers)’ (2014)
<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Previousproducts/8153.0Main%20Features6December
%202014?opendocument&tabname=Summary&prodno=8153.0&issue=December%202014&num=&v
iew=>
59 Joseph Kimble, Writing for dollars, writing to please: The case for plain language in business,
60 Victorian Legal Assistance Forum, above.
61 Community Legal Education Ontario, above n, 11.
62 Australian Bureau of Statistics, ‘8146.0 - Household use of information technology, Australia, 2012-
13 (Household internet access)’ (2014)
barriers in using online legal information due to poor literacy (see above at section 2.1), low computer skills and lack of access to a computer.63

Unlike online legal information, the distribution of hardcopy publications can 'bring information to the community' rather than relying on them to 'find the information'. For example, while a publication on the law relating to cats and dogs is a useful publication to have available at a legal service, it is more likely to reach its intended audience and offer assistance at the earliest stages of a problem if also distributed through veterinary surgeries or council offices. In this case, the person may pick up a publication, read it and as a result be better informed about their rights and responsibilities – all without the need to recognise they have a legal problem.

The importance of police stations
Police stations are an important portal for the distribution of community legal information, both criminal and civil, with almost 21.4% of Victorians seeking advice from the police when they have a legal problem.64

Opportunities exist to improve the distribution of community legal information to police stations (and other popular non-legal advisors). At present the distribution of this type of information is decentralised, requiring police stations to order material individually. This is time-consuming and leads to inconsistencies of information from station to station. The process of distributing legal information to police stations should be centralised. Information on where to find more information such as the Everyday-Law website or the 'Law help' phone line should also be promoted.

The importance of intermediaries
Research in Canada highlights that 'low-income and socially isolated people are most likely to seek out or rely on in-person support from a trusted intermediary, such as community workers, when seeking information and assistance'. This includes people who speak non-official languages, Aboriginal people, people with low literacy skills, people with disabilities, and others who have a low income and the disadvantaged.65 Physical resources, whether in a print format, or printed from a resource such as Everyday-Law, are particularly useful in this case.

3.1 Summary
Printed legal information is still an important format for the community. Better coordination of the distribution of publications to locations where the public are accessing support, such as police stations, would make it easier for the public to find the legal information they want.

65 Community Legal Education Ontario, above n, 27.
Part two: Reference 7 – whether there is any duplication of funding amongst legal assistance providers, and options for reducing that duplication, including the development of legal education material

Summary
There is only limited duplication in the development of community legal educational material in Victoria. Greater clarification of roles of providers and better coordination, would address the duplication that exists and assist in improving the quality of legal education material.

Response
Our response to this term of reference is limited to the issue of legal education material. In our view there is only limited duplication in this area across the legal assistance sector. Key points are discussed below.

4 Clarification of functions
Various organisations have education at the core of the provision of their services, in particular Victoria Legal Aid, Victoria Law Foundation and community legal centres.

In the case of Victoria Legal Aid and the foundation legal information and education are at the core of their statutory functions. The scope of these functions is similar, although the actual content and extent of such provisions must in each case turn on their particular statutory context.

In our view, generally speaking there is limited duplication of effort. However, better clarification of the role that government sees for these bodies, and appropriate allocation of funding for such purpose, would be beneficial for the further development of the legal information sector.

5 Duplication in legal information
As outlined elsewhere in this submission, the legal information landscape is complicated.

Many organisations produce legal information for the community, as a result it can, and does, occur that publications relate to the same topic area. But this does not, of itself, equate to duplication that is inappropriate as many of these publications are produced with different audiences and purposes in mind. We support this appropriate duplication as publications tailored to an audience’s needs and specific purpose are more likely to be effective.

Often more particular factors may operate to lead to the duplication of material for the same audience and purpose. Examples include:

- **Conscious duplication due to organisation priorities**
  Where an organisation produces a resource covering the same subject area, and for the same audience as an existing resource, to promote their services or complete a suite of publications produced by their organisation. Our experience suggests that this is relatively limited.

- **Lack of awareness of available resources**
  Organisations may produce a duplicate publication due to lack of awareness of what is currently available. This is generally due to inadequate research and consultation.

66 Legal Aid Act 1978 (Vic) see definition of ‘legal aid’ in s2 and s4(a)(d), and s6(1)(a)(d). Victoria Law Foundation Act 2009 (Vic) s5.
Everyday-Law assists with the research aspect of this issue by making it easier to find available material.

- **Multiple publications produced at the same time**
  This tends to occur as a result of ‘hot topics’ generally driven by government policy or linked to funding. For example family violence is a popular topic at present and the foundation has received multiple grant applications for the production of information on this issue. Other topics we have observed, over time, include the development of information on the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, transgender issues, and videos for newly arrived immigrants. The CLEAR[^67] database was developed to address this issue but is underfunded and lacks profile outside community legal centre and legal aid commissions networks which impacts on its effectiveness. Duplication of this type is also often linked to inadequate research and consultation.

The final two forms of duplication are the area of greatest concern.

### 6 Addressing duplication

Better coordination of information sharing is the best way to address duplication in the legal information sector. It also offers the opportunity to gain, as a result, a better understanding of how Victorians access and use legal information and advice, and improve the quality of legal education materials more generally. Better coordination would also allow the sector to take greater advantage of partnerships and sharing of templates and successful models for the development of new or expansion of existing resources. We would recommend a range of strategies:

- Establishment of a body to coordinate the collection, analysis and distribution of information on legal information in Victoria.
- Establishment of a sector-wide community legal education/information working group under the umbrella of Victorian Legal Assistance Forum (VLAF) to act as a reference group for the coordinating body. With a long-term focus on establishing a national network of similar groups under the umbrella of the Australian Legal Assistance Forum (ALAF).
- Encourage continued involvement of sector-specific working groups in this process.

**Data collection and analysis coordination**

A body should be appointed to coordinate the collection, analysis and distribution of information on legal information in Victoria. This includes: identifying currently available material, tracking quality, identifying gaps, better understanding how Victorians use and access legal information and identifying opportunities and strategies for improving the provision of legal information material in Victoria. This information would be provided annually to the sector, including grant makers, to assist with their planning throughout the year.

The body could also work with partners to establish and promote standards in the area, as is currently occurring with the VLAF online legal information guidelines[^68]. Resources that meet these standards could receive some form of acknowledgement.

While coordination of research could be done by a joint working group we think, given the complexity of the work involved, it has a greater chance of success if it is integrated into an organisation’s operations. This would also allow the organisation to develop a high level of expertise in the area and build relationships and networks.

[^68]: Community Legal Education Ontario, above n, 27.
We suggest that the foundation take on this role. The foundation already undertakes aspects of this work as part of its publishing, grants and Everyday-Law programs (as documented in section 2). This role is also consistent with the foundation’s current work in promoting best practice to the sector; this is encompassed in its ‘Better information’ programs. The ‘Better information’ programs\(^69\) include: a searchable database of plain language material, training in plain language for the sector and law students, promotion of the VLAF online guidelines\(^70\) and delivery of Better Information Workshops that cover a wide range of topics on issues relevant to delivering best practice community legal information.

Additional funding would allow the foundation to expand this work to include deeper analysis of data available across the sector and share it through an annual review. It would allow it to expand the work undertaken through its Grants Program to share information on upcoming projects, identify arrangements for possible partnerships or information sharing across organisations and highlight successful projects.

**Role of VLAF**

The Victorian Legal Assistance Forum (VLAF) should play an important role in supporting improvements to the coordination of around legal information. We will be recommending to VLAF the establishment of a sector-wide community legal education working group in Victoria. This group could play an important role as a reference group for the coordinating body. And could also bring the sector together to look at strategies for addressing issues raised in the annual legal information reviews.

Ultimately the VLAF working group should encourage the establishment of a national network in this area under the umbrella of the Australian Legal Assistance Forum (ALAF). Establishing a group of this type would allow a greater insight into work being undertaken nationally in relation to Commonwealth issues that could be shared with Victorian service providers. It is also consistent with the principles outlined in the Productivity Commission’s report.\(^71\)

**Role for existing working groups**

Other well-established specialist networks that undertake coordination roles within their own sectors, such as the Federation of Community Legal Centres’ ‘Community development and community legal education working group’, the Legal Aid Commissions’ legal information group, should also play a strong role in this process.

---

\(^69\) More information on these programs can be found here: http://www.victorialawfoundation.org.au/better-information

\(^70\) Victorian Legal Assistance Forum, above.

\(^71\) Ibid.
Bibliography

Commonwealth, 'Access to justice arrangements ' (2014) (72) Productivity Commission

Victorian Legal Assistance Forum, 'Best practice guidelines for the development and maintenance of online community legal information in Victoria' (2014)


Habanero Consulting Group, 'Legal Services Society family law in BC website' (2012)

Joseph Kimble, Writing for dollars, writing to please: The case for plain language in business, government, and law (Carolina Academic Press, 1 ed, 2012)


Plain Writing Act (US), (2010)

Department of Justice and Regulation, 'Accessible legal information - background paper'
Department of Justice and Regulation,


Australian Bureau of Statistics, '4228.0 - Programme for the international assessment of adult competencies, Australia 2011-12 (Selected characteristics)' (2013)

Australian Bureau of Statistics, '4228.0 - Programme for the international assessment of adult competencies, Australia, 2011-12 (Appendix, scores and skill levels)' (2013)


Law and Justice Foundation of New South Wales, Legal Australia-wide survey: legal need in NSW (Law and Justice Foundation of New South Wales, 2012)


'Web accessibility content guidelines 2.0, Level AA', (2008) <https://www.w3.org/TR/WCAG20/>
### Everyday Law - 'Have a legal question?' topic list

<table>
<thead>
<tr>
<th>Cat no</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Family, relationship and children</td>
</tr>
<tr>
<td></td>
<td>Births, surrogacy and adoption</td>
</tr>
<tr>
<td></td>
<td>Marriage, separation and divorce</td>
</tr>
<tr>
<td></td>
<td>Defacto relationships and same-sex relationships</td>
</tr>
<tr>
<td></td>
<td>Parenting arrangements and child support</td>
</tr>
<tr>
<td></td>
<td>Grandparents' rights</td>
</tr>
<tr>
<td></td>
<td>Family violence and intervention orders</td>
</tr>
<tr>
<td></td>
<td>Child abuse</td>
</tr>
<tr>
<td></td>
<td>Family benefits</td>
</tr>
<tr>
<td>2</td>
<td>Wills, estates and powers of attorney</td>
</tr>
<tr>
<td></td>
<td>Wills, estates and probate</td>
</tr>
<tr>
<td></td>
<td>Death and funerals</td>
</tr>
<tr>
<td></td>
<td>Powers of attorney and guardianship</td>
</tr>
<tr>
<td>3</td>
<td>Housing and neighbours</td>
</tr>
<tr>
<td></td>
<td>Disputes with neighbours</td>
</tr>
<tr>
<td></td>
<td>Fences</td>
</tr>
<tr>
<td></td>
<td>Noise complaints</td>
</tr>
<tr>
<td></td>
<td>Trees</td>
</tr>
<tr>
<td></td>
<td>Animals</td>
</tr>
<tr>
<td></td>
<td>Buying, selling or building houses</td>
</tr>
<tr>
<td></td>
<td>Renting</td>
</tr>
<tr>
<td></td>
<td>Owners corporations</td>
</tr>
<tr>
<td></td>
<td>Planning and development</td>
</tr>
<tr>
<td></td>
<td>Nursing homes and retirement villages</td>
</tr>
<tr>
<td></td>
<td>Homelessness</td>
</tr>
<tr>
<td>4</td>
<td>Cars and driving</td>
</tr>
<tr>
<td></td>
<td>Road rules and fines</td>
</tr>
<tr>
<td></td>
<td>Drink driving</td>
</tr>
<tr>
<td></td>
<td>Car accidents</td>
</tr>
<tr>
<td></td>
<td>Car insurance, claims and car repairs</td>
</tr>
<tr>
<td></td>
<td>Buying and selling cars</td>
</tr>
<tr>
<td></td>
<td>Drivers' licences and registration</td>
</tr>
<tr>
<td>5</td>
<td>Money, credit and debt</td>
</tr>
<tr>
<td></td>
<td>Credit and debt help</td>
</tr>
<tr>
<td></td>
<td>Banking and finance</td>
</tr>
<tr>
<td></td>
<td>Taxation</td>
</tr>
<tr>
<td></td>
<td>Mortgages</td>
</tr>
<tr>
<td></td>
<td>Superannuation</td>
</tr>
<tr>
<td></td>
<td>Pensions</td>
</tr>
<tr>
<td></td>
<td>Bankruptcy</td>
</tr>
<tr>
<td></td>
<td>Gambling</td>
</tr>
<tr>
<td></td>
<td>Crime and fines</td>
</tr>
<tr>
<td>---</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td>6</td>
<td>Fines</td>
</tr>
<tr>
<td></td>
<td>Arrest and bail</td>
</tr>
<tr>
<td></td>
<td>Assault</td>
</tr>
<tr>
<td></td>
<td>Crimes</td>
</tr>
<tr>
<td></td>
<td>Going to court - crime</td>
</tr>
<tr>
<td></td>
<td>Intervention orders</td>
</tr>
<tr>
<td></td>
<td>Police</td>
</tr>
<tr>
<td></td>
<td>Prisoners and parole</td>
</tr>
<tr>
<td></td>
<td>Sentencing</td>
</tr>
<tr>
<td></td>
<td>Victims of crime</td>
</tr>
<tr>
<td></td>
<td>Young people</td>
</tr>
<tr>
<td>Medical treatment</td>
<td></td>
</tr>
<tr>
<td>-------------------</td>
<td></td>
</tr>
<tr>
<td>Disability</td>
<td></td>
</tr>
<tr>
<td>Drugs</td>
<td></td>
</tr>
<tr>
<td>Pensions and payments</td>
<td></td>
</tr>
</tbody>
</table>

### 11 Rights, discrimination and government

- Aboriginal and Torres Strait Islander
- Citizenship
- Defamation
- Discrimination
- Freedom of information
- Government benefits
- Human rights
- Immigration and refugees
- Privacy