Helping those who help themselves: Evaluating QPILCH’s Self Representation Service

Jeff Giddings, Blake McKimmie, Cate Banks and Tamara Butler

This article reports on an evaluation of the Self Representation Service (SRS) provided by the Queensland Public Interest Law Clearing House (QPILCH). The evaluation was commenced in 2012 and continued until early 2014. It involved surveys of judges, their associates and registry staff from the Queensland Supreme Court, Court of Appeal, District Court and the Queensland Civil and Administrative Tribunal. The evaluation team also surveyed users of the SRS, paying particular attention to their experiences of the service from a stress and coping perspective. The article explains the nature and purposes of the evaluation project and considers the contexts within which self-represented litigants seek to conduct their own legal work. It then reports on and analyses the data collected as part of the evaluation and details recommendations in relation to the promotion and operation of the SRS as well as for the conduct of future research.

INTRODUCTION

This article reports on an evaluation of the Queensland Public Interest Law Clearing House (QPILCH) Self Representation Service (SRS). The SRS was developed with reference to a similar scheme conducted at the Royal Courts of Justice in London by the Citizens Advice Bureau. QPILCH has operated its SRS in the civil division of the Queensland Supreme and District Courts and Court of Appeal since October 2007. The SRS provides users with discrete task legal advice and assistance throughout the progress of their civil litigation, from drafting and amending pleadings, to disclosure of documents, preparation of evidence, conducting settlement negotiations and preparing for trial. All self-represented litigants (SRLs) who approach the SRS with proceedings in the appropriate courts are offered a one hour appointment with a solicitor (either a volunteer or staff member) but ongoing assistance is provided only to those unable to pay for private legal representation.

In January 2010, the SRS expanded its operation into the jurisdiction of the Queensland Civil and Administrative Tribunal (QCAT) and in July 2011, QPILCH commenced a pilot service for six months in the Federal Court of Australia (Brisbane Registry). The QPILCH SRS is a national leader.

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in delivering advice and assistance to SRLs. Elsewhere in Australia, services are provided to SRLs by organisations such as community legal centres, legal aid agencies and QPILCH sister organisations in other Australian states.6

This article outlines the nature and purposes of the evaluation project and then considers the contexts within which SRLs seek to conduct their own legal work. It then reports on the two parts of the evaluation – surveys of court officials and users of the SRS. The article also details a set of recommendations in relation to the promotion and operation of the SRS as well as for the conduct of future research.

THE SRS EVALUATION PROJECT
With support from the Australian Institute for Judicial Administration, QPILCH sought assistance from the authors to conduct an independent evaluation of its SRS.7 The first part of the evaluation involved a survey of judges, their associates and registry staff in relation to their understanding of the work of the SRS. The survey was deployed in February 2012 and addressed respondents’ knowledge of the service, their referral practices and their opinions of the stages of litigation at which SRLs could most constructively engage with the SRS.

The second part of this research focused on the experience of users who accessed the SRS. This research was conducted via surveys distributed at the time of clients’ initial meeting with a Service representative (Time 1) and via a follow-up survey that was mailed out to clients (Time 2). The surveys were designed to assess clients’ perceptions from a stress and coping perspective.

Objectives of the SRS evaluation project
• Identifying the demand for such services and the data processes for recording delivery of the service. This involved collecting data with the assistance of both the courts and the SRS.
• Understanding the utility and appropriateness of the current services, in terms of cost-effectiveness, accessibility, addressing legal and emotional needs of litigants.
• Considering access to justice issues generated by SRLs, for themselves and other litigants.
• Identifying appropriate arrangements (in terms of service provision and resourcing) to sustain this type of service.

Effectiveness of self-representation services
In order to examine the effectiveness of the SRS, the following questions were addressed:
• Does the Service better prepare litigants to conduct their proceedings to finality, including greater use of mediation services and informal resolution?
• What information should be collected and what processes are needed to more readily ascertain the effectiveness of the service on an ongoing basis?
• Are the Service’s procedures for assessing the merit of applications adequate?
• Does the assistance the Service provides meet the SRS’s objectives?

Pathways, critical points and roadblocks
• What court rules may particularly impede self-represented litigants’ access to the courts and navigation through the system and how can they be improved for self-represented parties?
• What are the relevant referral pathways followed by self-represented litigants and what are the critical points along those pathways?
• What are the best ways to explain those critical points to self-represented litigants?


7 The research team operated independently of QPILCH. While it was necessary to have QPILCH staff and volunteers involved in the distribution of the survey to SRS users, this involvement was limited to the distribution process of that part of the research. All survey responses were directed to the research team and the analysis and findings contained in this report have not been developed with input from QPILCH. A draft of the report was shown to QPILCH staff prior to finalisation with a view to identifying and addressing any inaccuracies.
Consequences of self-representation

- What is the emotional impact of self-representation on the parties and are there better strategies for ameliorating that impact?
- What initiatives can be used to assist litigants to reduce the impact of their litigation on them, their families, other parties and the courts?

The evaluation project was distinctive in terms of its focus on seeking to understand the mental wellbeing of users of the service. It sought insights from service users and from those working in the court system. It was also ambitious in its scope. The limited resources available to undertake the research meant that not all of the objectives could be comprehensively addressed. This article chronicles some of the challenges faced with this research.

Self-represented litigants

Australian civil justice processes have traditionally been structured with an expectation that litigants will have had the benefit of legal advice and that they will have legal representation. This can no longer be taken for granted as the numbers of SRLs have increased. It is widely acknowledged that SRLs are increasingly prominent in civil justice processes and present significant challenges for courts, tribunals and legal service agencies. While limited legal aid availability and rising legal costs oblige many litigants to self-represent, others are SRLs by choice. Navigating the legal system can challenge SRLs, being more stressful and time-consuming than they imagine. While courts have made various process changes to assist them, SRLs pose challenges for legal practitioners, court staff and the judiciary. They may have limited understanding of legal issues and processes and this can generate concerns for other litigants.

A series of government and non-government reports have highlighted the need for better understanding of the prominence of SRLs in terms of their numbers, attributes and impacts. To date, the study of SRLs in Australia has not been systematic or comprehensive. Much of the Australian research in this area was conducted in the early 2000s and relates to the family law jurisdiction.

The Australian Senate’s Legal and Constitutional Affairs References Committee’s 2009 report *Access to Justice* recommended that Federal, State and Territory governments quantify the economic effects that SRLs have on the justice system (see recommendation 16), that Federal courts and tribunals report self-representation data publicly (see recommendation 17), and that Federal, State and Territory governments jointly fund and establish a comprehensive duty solicitor scheme in high need jurisdictions.


Distribution of the survey to court officers and staff was undertaken with the assistance and involvement of the relevant courts. The content of the survey was confined to respondents’ professional engagement with and awareness of the SRS and ethical clearance was not considered necessary for that part of the project.


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areas in self-represented matters (see recommendation 18). The Australian Government agreed in principle to recommendation 16 and noted recommendations 17 and 18.13

Part of the policy challenges presented by SRLs relates to the limited data available about their experiences and characteristics. Research conducted through the Griffith Socio-Legal Research Centre developed a framework for understanding the capacity of SRLs to effectively address their legal concerns.14 The research involved gathering data on the experiences of legal self-helpers SRLs in a range of contexts – including transactional legal work along with litigation and in civil and family law jurisdictions. In situations where citizens act in legal matters without representation by lawyers or other professionals, the quality, conduct and experience of their self-help legal work will be positively or negatively influenced by a large number of potential variables, which can be grouped into three main factor sets:

- The context/environment, referring to the general setting in which the self-help legal activity is carried out. Contextual factors include the utility of the physical environment from the self-helper’s perspective, the quality and levels of information, support or assistance available to self-helpers, as well as the attitudes and practices of the officials and other players who inhabit the spaces in which this work is performed.

- The legal work itself, or the kind of “legal transaction” being undertaken, including its nature and the type of legal activity required to complete it; hence, its level of difficulty or otherwise from the self-helper’s perspective, which was referred to by the shorthand of its degree of “legal complexity”.

- The actual users of the legal transactions themselves, the self-helpers, referring to their variable personal characteristics including, for example, their age group, gender, vocation, income level, skill set and language abilities. Some of these, such as skills and language abilities, might significantly facilitate or hinder the conduct of the matter at hand. Personal characteristics also include attitudinal characteristics of the users, such as levels of motivation, engagement and commitment. We refer to this set throughout the article as the “personal factors.”15

Robertson and Giddings note the importance of recognising the likelihood that these factors are often inter-connected as far as the self-helper’s own performance is concerned. For example, even when users of particular legal processes are extremely well served with documentary and other resources, their ability to understand and manage their dispute more effectively will often also depend upon whether or not they find the legal tasks and process daunting (complexity factors), as well as their own skills and approach to the tasks and processes at hand, including whether or not they themselves approach these with a positive and constructive attitude (personal factors).16 This framework highlights the challenges facing those SRLs who are involved in complex litigation in circumstances where personal factors may hinder their efforts to undertake the various steps involved.


16 Robertson and Giddings, n 15.
RESEARCH INSIGHTS FROM THE COURTS

The initial phase of the evaluation involved a survey of judges, their associates and registry staff in relation to their understanding of the work of the SRS. It addressed their knowledge of the service, referral practices and opinions of the stages of litigation at which the SRS can be most constructively engaged.

Methodology

The research commenced in February 2012 with the first phase to collect data from the courts, registry staff, judicial officers, associates and other potential referral bodies and stakeholders including Legal Aid Queensland and community legal centres. The research took much longer than expected because of the low response rate. Potential participants were contacted three times at three month intervals. Data collection was completed in early 2013.

Awareness of the SRS

A directed email survey was commenced to engage appropriate sources including members of the judiciary, judicial associates, registry staff and potential referral agencies to invite them to participate in the study. There was a disappointing response to the initial survey and as a result the decision was made to rerun the survey, three months after the initial deployment. This was repeated once more nearing the end of 2012. All responses received came from within the courts and were sent directly to the research team.

There were no responses from any of the potential referral agencies. Due to time and budgetary constraints it was not possible to follow this up, and as a result it is not possible to draw any conclusions about the lack of response from non-court referral paths. It was also not possible to conduct individual interviews with participants to gain further insight into the responses. This research would certainly have been enriched by hearing the views of other organisations.

Prior to the survey all participants were given an Information Sheet detailing the purpose of the research, the methodology, the way in which the data would be used and contact details in case there were any concerns about the ethical conduct of the research.

A short survey was distributed to a wide range of participants, including superior and intermediate State courts – the Supreme Court, Court of Appeal and District Court – along with the court network organisation, Legal Aid Queensland, and members of the Queensland Association of Independent Legal Services. The surveys were sent to relevant contacts within the judiciary, court registry and relevant directors of the other organisations. Almost all were distributed via email, although some hard copies were provided to participants who asked for that format. A total of 43 responses were returned anonymously to the researcher Dr Banks, and all those were from within the State courts. There were no surveys returned from outside referral agencies. It is not clear why this was the case.

Of the surveys returned 14 were from judicial officers, 10 were from judges’ associates and 16 were from registry staff. Anecdotally, the research team was informed that some people were reluctant to fill in the survey because they weren’t quite sure whether they knew enough about the service and would be able to participate effectively. Dr Banks offered to run information sessions about the research to explain the purpose in a face-to-face forum to registry staff but the offer was declined and some surveys were returned shortly afterwards.


18 Giddings, McKimmie, Banks and Butler, n 17, Appendix 2.

19 Only a small range of demographic information was collected. All of the participants were from Brisbane, as a result we have decided not to provide the exact ages of all the participants to preserve anonymity. However, the age range of participants was 22-68. Four participants chose not to reveal an age. In terms of gender distribution, there were 18 female participants (42%) and 24 male participants (58%).
The surveys were all returned to the research team, via email or post. They were then de-identified and collated accordingly.

**Research questions**

We had six main areas for participants to consider:
(1) General information regarding demographics.
(2) Knowledge of the service.
(3) Understanding of the purpose of the service.
(4) Referral to service – where and when (if any).
(5) Opinion on stage of litigation process for necessary referral.
(6) Impact of the service on clients and courts.

**Knowledge of the service**

Seven of the 43 respondents had not heard of the QPILCH. As per the survey form that meant they went no further with the survey.

**Views on the purpose of the SRS**

We asked judges and court officials what they understood about the purpose of the service in order to see whether it aligned with the intentions of the service and whether judges had a working knowledge of the service guidelines. We know that these parties are involved in a traditionally adversarial system which is predicated on two equally matched parties presenting a case to an impartial judge. Judges and associates indicated that a number of self-represented parties who present to court do so without skills and experience that they identify as a potential disadvantage in presenting their claim or defence effectively.

**Judges**

Most judges defined the purpose of the SRS in terms of what the service can offer, in particular advice and assistance. Others framed the purpose by what the service does not do, specifically in terms of not providing litigants with representation. While some responses were general, others provided a detailed explanation.

- Offer advice to those who do not have legal representation in relation to conduct of proceedings.
- Provide advice to SRLs and to assist them in preparation of documents if required in court proceedings.
- Provide assistance to SRLs, particularly assist them in understanding and dealing with court process.
- It assists self-represented litigants with information about court procedures relevant to matters they are involved in and perhaps with adverse consequences or how to prepare their application and court documents.
- To enable people to represent themselves in court.
- Contact point to endeavour to locate legal assistance for litigants.
- To provide assistance to SRLs and where possible to refer them to legal practitioners either pro bono or to seek legal aid (if that is possible).
- To assist but not represent unrepresented litigants desiring assistance.
- To assist litigants without legal representation to take the practical steps necessary to prepare their case for hearing and determination or for alternative dispute resolution so that those who have a valid claim or defence do not find themselves unable to litigate because of their lack of understanding of the procedural requirements of court process. By providing free legal advice, it also assists those whose claim or defence is likely to be successful to prepare for trial[;] or alternate dispute resolution [for] those [whose] claim or defence is unlikely to be successful to understand that continuing proceeding may not be in their interest.
- To assist litigants prepare to represent themselves in proceedings and not to provide legal advice on its own or to represent them in court.
- To arrange pro bono assistance to unrepresented worthy litigants.
Judges’ associates

The comments from judges’ associates seemed to be fairly similar to those of the judges regarding their understanding of the purpose of the SRS.

- The self-representation service exists to provide advice to self-represented litigants on conducting matters. As I understand it, their role is not to provide (substantive) legal advice generally, but advice related to the conduct and procedure of litigation.
- To help clients with legal information that we can’t provide them with.
- Assist people with preparing for court interactions.
- Provide legal advice to those self-represented litigants who have a matter that is of interest to QPILCH.
- To assist those people who are SR in how to conduct their own proceedings where legal aid funding may not be available.
- A service for self-represented litigants in civil proceedings that are unable to afford their legal advice, but require advice to properly litigate their matter.
- Assist self-represented litigants with the court processes – what to do when etc.
- To provide legal and procedural advice to self-represented parties.

Registry staff

- To help clients with legal information that the registry can’t provide them with.
- To assist self-reps with legal advice.
- To provide legal services on a voluntary basis to provide access to the legal system for those who would not normally be able to do so.
- To assist self-represented litigants investigate or respond to proceedings when they could otherwise not afford to proceed.
- Provide free legal advice to SRL.
- To assist SRL due to lack of funds or lack of knowledge with matters that are important to public interest.
- To help people with no knowledge of the law/court/legal system.
- Provides legal advice for free or reduced fees which assists self-reps in their legal matters.
- Without giving formal legal advice, direct unrepresented litigants to legislation, rules and forms, court practice, and procedures and generally assist these people prepare their cases but not appear on their behalf.
- Assist economically disadvantaged in civil matters whose matter has a strong likelihood of success.
- Free service offered by the courts to provide legal advice to self-represented litigants.
- To help self-represented litigants prepare their cases for court by assisting them with forms, fees and legislation.
- To assist self-represented clients with preparation of court documents.
- Service provides free confidential legal advice to self-represented litigants who want to commence/conduct proceedings (civil) in the Supreme and District Court, you also provide assistance for litigants in the Court of Appeal.

Views on the value of the SRS

We sought the views of all participants regarding whether they consider the SRS to be a valuable service.

Judges

- This is a very valuable service. SRLs occupy an increasing amount of court time. It is often inappropriate for a judge to give advice and the capacity to refer to this service is often of great assistance to the parties and to the courts.
- I might have heard of the SRS some time ago but have no real knowledge of it. I am not aware that any self-represented litigants before me had engaged with QPILCH.
- Don’t know the outcome or no feedback. It is very helpful to have a contact person.
Inevitably some LIPs do not meet the criteria for assistance from the courts point of view, almost every legal rep is better than none. Judges are very grateful for the assistance provided to those who need help.

Judges’ associates

- The service is a very worthwhile one helping to increase access to the law and assisting in the efficient administration of justice. Dealing with self-represented litigants (in my case most frequently by email) is difficult when fundamental concepts to lawyers are not known to self-represented litigants. For example, not including judges’ associates in contentious correspondence or disclosing without prejudice communications to the court without agreement from other parties.
- More information made available about the service (pamphlets at courts etc) – and address explicitly the limitations of the service.
- The service doesn’t appear to have a presence in the Beenleigh District Court.
- I can’t answer Question 9 as I don’t know what became of the one litigant that His Honour referred to the service. From the perspective of an associate the service is useful because it gives an option [to] the Judge to adjourn the matter and refer a litigant to the service, rather than simply summarily dismissing their application, or summarily ordering judgment against them. It gives them an extra chance.

Registry staff

- Would be great if we could have a meeting with staff and find out more info about the service. The registry would really benefit from this.
- It is helpful to know that this service is available to unrepresented litigants and allows the registry staff to have a positive option to offer to clients.
- Maybe a bit more transparency regarding the role/services QPILCH can provide so registry staff can refer clients better.

Referrals to the SRS

We asked all participants whether they made referrals to the service and, if so, why?
- 14 judges responded, 12 of whom had heard of QPILCH, while eight had made referrals.
- 10 judges’ associates responded, eight of whom had heard of QPILCH.
- 18 registry staff responded, 15 of whom had heard of QPILCH.

On average, judges referred two or three matters over six months, with one judge referring 10. From their comments, it was clear that judges value the presence of the SRS in the court and are aware that it provides them with the opportunity to make an immediate referral from the bench. Interestingly, most judges who explained why they did not refer said that they thought litigants wanted to be self-represented. It would have been informative to pursue these comments more directly with the judges. We know from the surveys that judges and their associates did refer parties to the SRS for legal advice and information regarding their litigation on foot.

Consistent with the findings of previous research, judicial officers were concerned about the lack of legal assistance and advice for people who appear before them.20

As mentioned earlier, the survey did not allow us the luxury of eliciting any further detail from any participants (from face to face interviews) to elaborate on their understanding about the purpose, availability and usefulness of the service. This would be an interesting research question to pursue and would shed more light on what is going on.

The surveys and informal discussions with court staff revealed that registry staff are the most likely to see SRLs at the coal face, with direct face-to-face contact right from the beginning of the process, such as the document filing stage. Although we saw evidence that sometimes judges directly referred SRLs from the bench, there was concern to ensure this remained an arm’s length process because of the nature of their role in the court system. We also know from the data that other referrals are made via the associates rather than by judges in court per se.

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20 Dewar, Smith and Banks, n 11.
There did not appear to be patterns in relation to when referrals to the SRS occurred. For instance, there appeared to be a lack of alignment between the stages at which judges considered SRLs needed the service and the stages at which referrals were made. Judges indicated that parties may need to access legal assistance before the first mention date so as to receive legal advice regarding the merit of their claim or to file documents completed accurately. But they are not able to make referrals until a later stage in the litigation process, once the SRLs have appeared before them.

The surveys indicated that most participants who referred SRLs to the service, did so because they believed that those parties would have difficulty stating their issues clearly enough, either in the documents or in court regarding their dispute. Some of the participants indicated that the knowledge of SRLs, regarding procedural and documentary requirements, was a limitation on their proceeding and that a referral to the SRS would be beneficial for that particular client.

The number of referrals varied between the participants. Eight out of the 14 judges answered that they had referred SRLs to the SRS at different stages of the litigation process. Twenty-one of the judges’ associates had made referrals. The referral rate from registry staff was high – 14 out of the 16 participants (although two did not answer).

The timing of the referrals also differed between participants. Figure 1 outlines the responses.

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21 Two did not answer the question.
22 One respondent did not answer that question.
Main reasons for referral

We extracted the following comments from the participants to provide detail into the reasons for referral.

**Judges**

- Concern that a reasonable claim/defence might not succeed and that there might be no prospect of settlement in absence of proper articulation of the SRL’s case.
- They do not understand what is required of them under the rules of court or generally in relation to the court process.
- They appeared out of their depth but willing to learn.
- Litigants mainly in applications who had no idea of what to do or where to go. I have referred all who I considered would be assisted.
- In the Supreme Court many people appear in the applications jurisdictions without lawyers. I encourage them to seek assistance. I have had the responses that QPILCH cannot help them which I interpret meaning that they did not like the advice they got from QPILCH.
- Person needed help.
- Parties being disadvantaged by not being represented.
- I suspected that they might have a good case which they were unable to put forward properly or to put forward without assistance.
Judges’ associates

• The service is a very worthwhile one helping to increase access to the law and assisting in the efficient administration of justice. Dealing with self-represented litigants (in my case most frequently by email) is difficult when fundamental concepts to lawyers are not known to self-represented litigants. For example, not including judges’ associates in contentious correspondence or disclosing without prejudice communications to the court without agreement from other parties.
• More information made available about the service (pamphlets at courts etc) – and address explicitly the limitations of the service.
• I can’t answer Question 9 as I don’t know what became of the one litigant that His Honour referred to the service. From the perspective of an associate the service is useful because it gives an option [to] the Judge to adjourn the matter and refer a litigant to the service, rather than simply summarily dismissing their application, or summarily ordering judgement against them. It gives them an extra chance.

Registry staff

• It is a list of phone numbers we have to assist self-representatives.
• Legal advice.
• They required advice and direction in preparing documentation.
• No legal representation or knowledge.
• The clients were needing legal advice and could not afford it.
• To get some advice.
• They were self-reps who were refused Legal Aid or couldn’t afford legal fees to proceed with their court matter.
• The person had no idea how to prepare the necessary documents.
• The registry is only able to provide procedural advice, not legal advice to clients.
• The parties involved required legal advice.
• Clients needed assistance to complete court forms.

Most important point in litigation process to refer

Participants were also asked to rate the points in the litigation process at which they considered referral to the service was the most important (see Figure 2). Their responses were fairly uniform in identifying the early stages of the process as most important, along with the trial preparation stage. The stage involving interlocutory steps was viewed by all three groups as less important.
FIGURE 2  Most important time to refer

Participants’ views on the most important stage for assistance

The participants in the survey were asked specifically about the stages of the litigation process at which they were making referrals to the SRS. To some extent, the responses correlated with their role in the court process. For instance, registry staff said more often that they may make referrals at a time when people are commencing and responding to proceedings or initiating or responding to interlocutory step and seeking further clarification about procedural matters.

Most judges answered that the most important steps for parties to receive QPILCH assistance were responding to allegations, or response to allegation of defects or noncompliance seeking endings to proceedings.

There were a wide variety of responses from the other participants about which stage of the process was the most important time to refer.

The survey asked respondents to rate the effect (positive or negative) of the service on SRLs and the court. There were a wide variety of responses but more participants rated the Service above five (of seven as the highest).

Discussion

The performance of the QPILCH SRS is to be commended. A significant number of SRLs are looking for a service that will provide them with legal representation and the SRS offers them a different service. To achieve strong levels of satisfaction in this context is a considerable achievement. There is nothing in the data that revealed any indication from the judges, associates and registry staff that they are frustrated by the service. In fact, all accounts point towards members of the judiciary and other court personnel being satisfied with the operation of the SRS and the benefits it generates for the SRLs it serves.
Alignment of understanding with purpose

The prevalence of SRLs indicates the importance of services like the SRS to the operation of a modern court system. Survey respondents identified a key purpose served by the SRS as it being an additional check on glaring injustice and a safeguard of the rights of SRLs. This was recognised as an important role and contribution made by the SRS to the workings of the court system. Responses most frequently related to the provision of advice on matters such as the conduct of proceedings, drafting of documents and court procedures. One response noted the importance of explaining to SRLs the possible adverse consequences of their litigation. The service was viewed by several judges as an avenue for identifying possible sources of pro bono legal representation.

Operation of the SRS will benefit from all concerned clearly understanding what services it provides. This research has demonstrated that those court officials and staff who engage with the SRS have a range of understandings of what the SRS can provide to SRLs. Some referred to the provision of advice, others to the provision of information or the completion of paperwork. There were other respondents who identified the arrangement of pro bono legal representation as the main purpose of the SRS. QPILCH should continue to work with the courts to clarify what it sees as the priorities and parameters for the SRS.

Referral vs screening

It appears that judges, their associates and court registry staff are screening SRLs rather than referring all such litigants to the SRS. The SRS will have a better opportunity to fulfil its potential and support SRLs and the courts if all SRLs are referred for consideration. Early in 2013, a link to the SRS section of the QPILCH website was included in the Judicial Virtual Library to provide judges with information about the SRS. This page may need to be revamped if it is to assist in raising understanding of the purpose and parameters of the SRS.

Enhancing communication

There were some differences in the reasons for referral, while a small number of respondents had not heard of the SRS. This suggests the need for better communication and it would be appropriate to initiate information sharing and education sessions with all relevant court officers and staff, a newsletter or other regular updates. It might be useful for QPILCH to offer focus group discussions or an ongoing dialogue with the court staff to provide feedback about where they may see a need for the service in the litigation process. Judges’ associates knew less about the SRS than might have been expected but did seem to have the ability to assist judges in making referrals. More communication with the judges’ associates, such as through briefing them during their induction process, would certainly raise the profile of the SRS in the minds of the new recruits.

Although we did not have the opportunity to speak directly (face to face) with all the registry staff, recent research involving a similar QPILCH service provided some information that correlates with some of the comments made by the State court staff. In particular, we know that registry staff are often impacted by stressful situations when the difference between providing legal advice and legal information is not clear to SRLs. We also know that it is the registry staff that often bear the brunt of dissatisfaction, confusion and sometimes aggression as self-represented people try to navigate their way through a complex system and may be unable to complete their documents adequately or on time.

Early referrals to services designed to support SRLs appear to be recognised as the most constructive. This emphasises the importance of the SRS continuing to engage with court registry staff to promote the service and understand the SRL-related issues faced by registry staff. This is particularly critical when litigants attempt to direct complex dialogue to staff who are unable to provide them with the specialized legal advice or information they may need.23 The limitations of the survey format meant that we did not have the opportunity to pursue this any further during this research. But some of the comments by the State court registry staff indicated that they would value information clarifying the boundaries between the services provided by the registry and those offered

23 Banks, n 5, p 17.
by the SRS. It may assist in avoiding duplication of effort between registry staff and SRS staff in relation to matters such as the filing of incomplete or defective documents. It may also relieve pressure on registry staff by assisting them to understand the scope and potential of the SRS as well as its limitations. Greater understanding is likely to result in more effective referrals.

Communication with key court staff is central to the effective operation of the SRS. Registry staff and the officers of the courts need to be clear regarding what the service can and cannot do and to feel confident when referring SRLs to the SRS. The survey responses indicate the importance of sharing information on the functions and activities of both organisations. QPILCH advised us that the relevant solicitor for each arm of the SRS meets as needed with senior registry staff. In addition, the SRS offers twice yearly “information sessions” directly to registry and other court staff to increase their understanding of how the Service can help, and how people can access the Service. For wider promotion, the SRS works mostly with Legal Aid Queensland and community legal centres by participating in network meetings in different areas of law.

The lack of survey responses from justice sector agencies and organisations beyond the courts suggests that QPILCH and the SRS need to work to strengthen the sector’s understanding of and confidence in the SRS. While most of the court staff who completed the survey knew about the service and made referrals, their responses provided little information regarding how the SRS promotes its services to SRLs and to the courts.

Promotion
Promotion of the service to SRLs, the courts and related organisations from across the justice sector needs to be a continuing priority. A major focus of such promotional activities should be to outline what the service can and cannot provide to SRLs. One of the recommendations of this research is that surveys be used to publicise the service and obtain feedback from court staff and service users. Such surveys are likely to promote more effective referrals, not just to the court but to share information about other service needs of SRLs.24 There may be underlying non-legal issues that litigants face that impact on whether they choose to continue the litigation process and their ability to engage in the demanding process of litigation. The development of a broader referral base within the community justice sector rather than just from within the court itself would present clients with alternative options. These may or may not include services such as counselling and support from other relevant services. These would be beneficial for all stakeholders in the system.

Operation of the SRS will benefit from all concerned having shared understandings of its purpose or purposes. This research has demonstrated that those court officials and staff who engage with the SRS have a range of understandings of its purpose. Some referred to the provision of advice, others to the provision of information or the completion of paperwork. There were also respondents who identified the arrangement of pro bono legal representation as the main purpose of the SRS. QPILCH should continue to work with the courts to clarify what it sees as the priorities and parameters for the SRS.

There appears to be a need for mechanisms that will enable the SRS to inform court staff of the progress of SRLs that have been referred. We note that the Chief Justice has recently issued a new Practice Direction to flag cases involving an SRL in order to enable more active management of such matters, including referral to support services.25

Further research will be important in relation to the operation of the SRS. When justice sector agencies provide funding for this type of innovative service, there needs to be a commitment to evaluation with a view to supporting the work of the service.

24 This was also raised in the Federal Court Self Representation Service offered by QPILCH in Banks, n 5, p 19.
SURVEYS OF USERS OF THE SRS

The second part of the evaluation project focussed on the experiences of users who access the SRS. This was conducted via surveys distributed at the time of clients’ initial meeting with a Service representative (Time 1) and via a follow-up survey that was mailed out to clients (Time 2 – not reported here due to a low response rate). The first part of the survey focussed on how clients accessed the service, and the positive and negative aspects of their experience with the service.

The second part of the survey was designed to assess clients’ perceptions from a stress and coping perspective. In essence, this approach sought to assess how they viewed the demands placed on them (for example their legal issues) in terms of whether it was a threat or not and in terms of whether they had the coping resources to be able to manage the demands. We were particularly interested in whether receiving support from the Service would be related to how the legal problem was perceived. We then assessed a number of ways that these appraisals can influence important outcomes such as wellbeing, coping, and coping styles (effective task-oriented coping, as well as ineffective emotion- or avoidance-oriented coping). We were also interested in clients’ perceptions of their ability to be able to manage their legal problem effectively. The general approach can be summarised in the following model (see Figure 3).

FIGURE 3 Conceptual Framework

Time 1: Initial survey of SRS users

Legal issues faced

Respondents were asked to describe why their legal issue became a problem.

They described a range of legal issues as follows:

• 19.5% – property, tenancy, and leases.
• 12.2% – legal problems broadly to do with awards or claiming damages.
• 9.8% – family law, custody and wills.
• 7.3% – defamation legal matters.
• 4.9% – reported business liquidation or issues with lawyers or the cost of lawyers.
• 2.4% – had legal matters to do with fence lines, privacy matters, or patent expirations.

About a third of the sample (34.1%) did not respond to this item or were unclear on how the problem arose.

How users first dealt with it?

Respondents were asked how they chose to deal with the legal issue that brought them to the SRS in the first instance.

• 53.7% – reported that their first method of dealing with the issue was to seek legal advice. This included a range of different sources, such as legal aid or a lawyer.
• 24.4% – made contact with the other party involved in the legal issue.
• 7.3% – reported that their first method of dealing with the issue was an emotional response (for example, embarrassment, anger, or anxiety).
• 4.9% – dealt with the problem alone.
• 2.4% – mentioned having to borrow money to deal with the issue, or trying to ignore the problem, respectively.
• Two responses were missing or unclear.
Who did you seek assistance from then?
The majority of respondents reported that their first source of assistance with the problem was a legal source (70.7%).
- 12.2% – reported not getting assistance from anyone.
- 7.3% – reported getting assistance from a friend or family.
- 4.9% – reported getting assistance from another non-legal source.
- 4.9% of responses were missing or unclear.

Other problems at the time?
Respondents were also asked if they were experiencing any other problems during the time that they first went to the SRS for their legal issue. Most reported not having any other problems (29.3%).
- 14.6% – were only having problems related to the legal issue.
- 12.2% – reported having financial difficulty.
- 7.3% – reported having family or relationship difficulties, or problems at work.
- 4.9% – reported having health or mental difficulty, or problems with property.
- 19.5% – of responses were missing or unclear.

Motivation to resolve the issue
There were high levels of motivation to resolve the issue, even if it meant compromising (M = 6.55, SD = 1.15, on a 7 point scale). A one sample t-test (against the scale mid-point) revealed that respondents were significantly motivated to resolve the issue, t(39) = 13.98, p < .001.

Summary
While there was some delay between accessing the Service and when problems arose for a substantial proportion of respondents, this may have been due to pursuing legal advice from other sources prior to being referred to the Service, rather than avoiding engaging with the legal issue. Respondents appeared to be motivated to resolve the issue, even if it meant compromising to reach an agreement. This suggests that the typical respondent was not vexatious and generally did not have other concurrent problems in their lives.

Major advantages and disadvantages of using the SRS
Respondents were asked what the three main advantages and disadvantages of using the SRS were. For advantages, the most frequent response was that the SRS provided legal advice. The next most frequently noted advantage was that the SRS provided legal advice at no cost. The most frequent disadvantage related to time. This included responses such as that visiting the SRS was time-consuming or that not enough time was allocated for each appointment. The next most frequent disadvantage was that the SRS was not helpful enough with the specific legal issue.

Level of support and evaluation of support
Respondents reported receiving a significant amount of emotional (average of 3.93 (SD = 1.26) on a 5-point scale) and instrumental (average of 3.98 (SD = 1.27)) support from the Service. Self-efficacy (average of 2.85 (SD = 1.58) on a 7-point scale) and response efficacy (average of 3.09 (SD = 1.90) on a 7-point scale), essentially the extent to which respondents thought they could manage their legal problem by themselves, were both relatively low (and below the mid-point of the scale). Respondents’ wellbeing was also only modest (average of 2.16 (SD = 0.63) on a 4-point scale), and below the mid-point of the response scale. Finally, the level of reported negative coping behaviours (for example, denial, self-blame) was low (average of 1.96 (SD = 0.74) on a 4-point scale).

Emotional support and evaluation of emotional support were positively correlated, r = .68, p < .001, such that the higher the level of emotional support provided by the Service, the more positively respondents evaluated the emotional support. Instrumental support and the evaluation of instrumental support were also positively correlated in this same way, r = .82 p < .001. Instrumental and emotional support appeared to be linked in that the more that respondents reported receiving one type of support, the more they reported receiving the other, r = .91, p < .001.
Support and appraisals

Correlations were conducted in order to test the possibility that support from the Service might be related to how respondents’ legal issues were perceived by respondents. As displayed in Table 1, primary appraisals were not significantly correlated with emotional or instrumental support. However, secondary appraisals were significantly correlated with emotional and instrumental support—the higher the level of emotional support and instrumental support from the SRS, the more positive the secondary appraisals of the legal issue. Therefore, although support from the SRS did not influence whether the legal issue was seen as a challenge or a threat, higher levels of support from the SRS were associated with respondents feeling as though they could manage the legal issue.

Appraisals and coping, wellbeing, and efficacy

Bivariate correlations were conducted to examine if appraisals of the legal issue influenced the use of positive and negative coping styles, subjective ratings of coping, wellbeing, and efficacy (see Table 1). Primary and secondary appraisals were not significantly correlated with positive or negative coping styles. However, evaluations of the legal issue as a challenge (rather than a threat) were associated with better subjective coping, wellbeing, self-efficacy, and response efficacy. Similarly, feeling as though they had the resources to manage the stressful situation was associated with more positive subjective coping, wellbeing, self-efficacy, and response efficacy.

| TABLE 1 Correlations between appraisals and support, coping, wellbeing, and efficacy |
|----------------------------------------|-----------------|-----------------|
|                                       | Primary appraisals | Secondary appraisals |
| Emotional                             | .26              | .42*             |
| Instrumental                          | .21              | .40              |
| Positive coping styles                | .30              | .29              |
| Negative coping styles                | -.29             | -.21             |
| Subjective coping                     | .40*             | .44**            |
| Wellbeing                             | .40*             | .37*             |
| Self-efficacy                         | .52**            | .50**            |
| Response efficacy                     | .63***           | .54**            |

Note. *p < .05, **p < .01, ***p < .001.

Summary

The level of instrumental support reported by respondents was linked to the level of emotional support they perceived. The more that support of either type was provided by the SRS, the more positively respondents evaluated the support. Respondents’ perceptions that they had the coping resources to manage the demand created by their legal issue (their secondary appraisals) were positively related to receiving instrumental and emotional support from the Service. The more that respondents felt they were receiving support, the more they that they thought they had the resources to cope. Primary and secondary appraisals predicted a range of outcomes—more positive appraisals were associated with higher self-efficacy and response efficacy, and more positive well-being and subjective coping.

Service users

The modest to low levels of wellbeing were of concern and it could be prudent for the SRS to consider providing information to clients about seeking additional assistance from mental health professionals where appropriate. Given that emotional and instrumental support were associated with respondents having an improved sense that they could cope with the demands of their legal issue, it would be beneficial to provide both types of support as part of the service. The data suggest that this is happening already, and so the SRS is encouraged to continue with its current method of offering support. As primary and secondary appraisals were related to a number of positive outcomes (improved efficacy, well-being, and subjective coping), it would be worth building on the support that the Service already provides to promote positive secondary appraisals (the sense that one can cope), and help clients to develop a more positive primary appraisal (the sense that the legal issue is a challenge rather than a threat).
Overall, the support provided by the Service is well received by clients, and generally has a positive impact on clients’ subjective experience of their legal issues. The Service should be commended for the support it is already providing, and it is recommended that some attention is given to building clients’ sense of efficacy, perhaps by identifying the particular aspects of their legal issues that clients do not feel capable of managing and providing some clearly defined steps that can be followed.

**Recommendations from the evaluation project**

**Publicising the SRS**

QPILCH should clarify and publicise the services provided by the SRS. This needs to be an ongoing focus of the Service as the survey responses indicate the need for greater clarity around the provision of information, advice, assistance to SRLs and general eligibility to access the Service. We note that service users identified the receipt of legal advice as the main advantage of accessing the SRS.

Providing a benefit of accurate knowledge to clients would assist them in commencing their relationship with the SRS based on a realistic understanding and expectation of the Service and staff. In turn, it would also provide clients with clarity on what may be expected of them. Indeed, in some instances, it may be appropriate for some of the referral agencies to provide information about the Service to the clients in order to reduce any misconceptions about the Service. It might be useful for the Service to consider providing other agencies with information provided in plain language about the aims of the Service and how it operates for the benefit of users of the courts (as SRLs).

**Data collection**

This research has highlighted the challenges involved in collecting data in relation to the experiences of court officers and staff in relation to the experiences of SRLs. We recommend that QPILCH and the SRS work with senior members of the relevant courts to convene a round table discussion on data collection relating to SRLs and the operation of the SRS.

**Communication processes**

Communication with key court staff is central to the effective operation of the SRS. Registry staff and the officers of the courts need to be clear regarding what the service can and cannot do and to feel confident in relation to referring SRLs to the SRS. Early referrals appear to be recognised as the most constructive. This emphasises the importance of the SRS continuing to engage with court registry staff.

The data we gathered indicates that, in general terms, the interactions of the various groups of court personnel with the SRS are relatively loose and unstructured but they are nonetheless operating in ways that support the goals of the SRS. There is a gap in the data about what, if any, difficulties are faced by the SRS and the courts in terms of working collaboratively. QPILCH, the SRS and the courts should consider ways in which to share information on their work with SRLs and the operation of the SRS in particular.

Given that SRS-related communications between the stakeholders are not structured, the SRS and the users of its services would benefit from the development of cross disciplinary training for all relevant court staff to improve their general understanding of the needs of SRLs, the purposes of the SRS and the services it can provide. More communication with the judge’s associates such as through briefing them during their induction process would certainly raise the profile of the SRS in the minds of the new recruits.

While the survey data does not indicate that there is any “breakdown” in communication, some comments indicate that it may be possible to address information barriers related to the services that different professions can provide to SRLs. Joint professional development meetings would provide a clear and accountable way to generate a positive working relationship between the groups and increase the expertise of the staff who represent the SRS.

**Working with the justice sector**

The lack of survey responses from justice sector agencies and organisations beyond the courts suggests that QPILCH and the SRS need to work to strengthen the sector’s understanding of and
confidence in the SRS. Promotion of the service to SRLs, the courts and related organisations from across the justice sector needs to be a continuing priority. A major focus of such promotional activities should be to outline what the service can and cannot provide to SRLs.

Referral processes

It appears that judges, their associates and court registry staff are screening SRLs rather than referring all such litigants to the SRS. The SRS will have a better opportunity to fulfill its potential and support SRLs and the courts if all SRLs are referred for consideration and it is recommended that court officers and registry staff refer all SRLs to the SRS for assessment and advice.

A mechanism that enabled the SRS to inform judges and court staff of the progress of SRLs who have been referred would be useful to build confidence in the SRS. We recognise that any such mechanism must respect duties of confidentiality owed to service users.

Service users

The modest to low levels of wellbeing were of concern, and given that emotional and instrumental support were associated with respondents having an improved sense that they could cope with the demands of their legal issue, it would be beneficial to provide both types of support as part of the Service. The data suggests that this is happening already, and so the Service is encouraged to continue with its current method of offering support. As primary and secondary appraisals were related to a number of positive outcomes (improved efficacy, well-being, and subjective coping), it would be worth building on the support that the Service already provides to promote positive secondary appraisals (the sense that one can cope), and help clients to develop a more positive primary appraisal (the sense that the legal issue is a challenge rather than a threat).

Overall, the support provided by the Service is well received by clients, and generally has a positive impact on clients’ subjective experience of their legal issues. The Service should be commended for the support they are already providing, and it is recommended that some attention is given to building clients’ sense of efficacy, perhaps by identifying the particular aspects of their legal issues that clients do not feel capable of managing and providing some clearly defined steps that can be followed.

CONCLUSION

Further research will be important in relation to the operation of the SRS. When justice sector agencies provide funding for this type of innovative service, there needs to be a commitment to evaluation with a view to supporting the work of the Service. We note the research gaps and the comprehensive list of variables identified by the Australian Centre for Justice Innovation as relevant to SRLs in its 2012 report, Self-Represented Litigants: Literature Review.26

As mentioned earlier, the survey did not enable the eliciting of any further detail from any participants (face to face interviews) to elaborate on their understanding about the purpose, availability and usefulness of the service. Gathering qualitative data of this kind would most likely shed more light on the operations of the SRS. An economic analysis of costs savings was not possible as part of an evaluation with such a small budget. Such an analysis could usefully be the focus of a future project.

Another SRL-related issue warranting further research relates to identifying what services and processes can support SRLs to constructively contribute to handling their own cases. Services could be providing constructive messages to SRLs to promote increased levels of self- and response-efficacy. They need to identify the importance of effective preparation by SRLs, the value of obtaining and considering professional advice, along with the importance of SRLs understanding, accepting and operating within the legal processes they encounter.27

26 Richardson, Sourdin and Wallace, n 9.