

# Submission

## Addendum Response to the Access to Justice Review

20 June 2016



Programs of the Advocacy & Rights Centre Ltd trading as ARC Justice

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## Background

This Addendum Response addresses the effectiveness of the Health Justice Partnership, Bendigo, and should be read in conjunction with the original submission provided to the Review by Loddon Campaspe Community Legal Centre and Goulburn Valley Community Legal Centre, and findings from the meeting on 21 March 2016 between the Access to Justice consulting team and staff at the Goulburn Valley Community Legal Centre regarding their Therapeutic Justice Program pilot.

This submission has been co-authored by Peter Noble, Executive Director, ARC Justice, Dr Liz Curran at the Australian National University and Dr Robert Southgate Lawyer / Research Assistant and Jessica McCartney Health Justice Partnership Lawyer at Loddon Campaspe Community Legal Centre. This submission has also used the interim conclusions of the Health Justice Partnership Evaluation drafted by Dr Liz Curran at the Australian National University.

## Measuring the Impact of Bendigo's Health Justice Partnership

The Bendigo Health Justice Partnership (HJP) is an innovative collaboration between Bendigo Community Health Services and the Loddon Campaspe Community Legal Centre.<sup>1</sup> This three-year initiative has been funded by the Clayton Utz Foundation and is being independently evaluated by Dr Liz Curran from the Australian National University.

The HJP has involved embedding a lawyer at BCHS to:

- Deliver legal services more effectively to target clients, particularly those accessing family services.
- Develop the capacity of BCHS staff to identify and respond to legal issues.
- Identify legal policy/systemic issues that impede client wellbeing and require reform.

The service design is predicated on research which indicates that only a very small proportion of people with legal issues actually seek legal assistance, with many preferring to seek guidance from health or social service providers.<sup>2</sup> This research also indicates that people with a health issue or disability tend to experience higher rates of legal issues than the general population. LCCLC believes that by having its lawyers work alongside health professionals, it is better able to identify legal issues at an early stage and in turn assist health professionals to address the potential causes of health issues associated with previously unidentified and unresolved and legal issues.

As part of the Bendigo HJP, a lawyer is located at the Kangaroo Flat site of BCHS three days a week to provide on-site legal assistance which is easily accessed by clients and health workers. The lawyer is experienced in a number of different legal practice areas most relevant to clients' needs, such as family law, child protection, fines, discrimination, consumer law, housing, family violence, and criminal matters. The lawyer receives referrals from health workers, provides secondary consultations to BCHS staff and also offers legal education. Through being onsite at BCHS, the lawyer is able to build and maintain relationships with health workers and create a multidisciplinary service for clients when they come to their medical appointments.

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<sup>1</sup> LCCLC is a program of ARC Justice. Visit <http://www.lcclc.org.au>

<sup>2</sup> NSW Law and Justice Foundation LAW Survey 2012

## Impact of the Health-Justice Partnership

Now in its third and final year the HJP has been a success. It has:

1. Assisted in 130 cases and 175 advices to date<sup>3</sup>.

Key problem types are:

- Child protection
- Family law parenting disputes
- Government administration matters relating to fines and mental health issues
- Credit and debt
- Consumer matters

- 41% of cases involved clients with a disability. 44% of these people had a psychiatric disability.

- 19% of cases had a family violence indicator; where family violence was a feature of the client's personal circumstances.

- The data showed a clustering of legal problems for 27% of clients: 73% had one problem, 21% had two, 5% had 3 and 1% had 4.

2. Delivered numerous professional education to BCHS staff, especially regarding child protection and family law related matters.

3. Contributed to three policy initiatives including:

- A review of the Conciliation conference process operated by Child Protection.
- A review into the support needs of children with autism and their families.
- A report by the Office of the Public Advocate *Rebuilding the Village: Supporting Families where a Parent has a Disability*<sup>4</sup>

4. Provided the impetus for a dedicated Child Protection Legal Assistance program at LCCLC, constituting two full-time lawyers focussing on this high-needs area.

5. Been thoroughly evaluated. The methodology included one community Focus Group and three intensive data collection Snapshot evaluation assessments. Some of the key themes emerging from the evaluation of the HJP thus far are detailed below.

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<sup>3</sup> Total advice and casework outputs for the full service evaluation period 1 January 2014 to 3 June 2016. The characteristics of the HJP data presented here are for a shorter period 1 January 2014 to 21 January 2016 and extracted from an earlier interim evaluation. It is believed that these characteristics will hold fairly true for the entirety of the project.

<sup>4</sup> <http://www.publicadvocate.vic.gov.au/our-services/publications-forms/241-rebuilding-the-village-supporting-families-where-a-parent-has-a-disability-report-2-child-protection-2015?path=>

But for this focussed service being provided at BCHS it is extremely unlikely that LCCLC and BCHS could have collectively achieved these outcomes.

## Evaluation preliminary findings

Dr Liz Curran from the Australian National University has led an action research evaluation which created a 360 degree profile of the project by interviewing staff, clients and external stakeholders. It has been an embedded, longitudinal study enabling comparisons and contrasts over the life of the project, including three intensive snapshot periods. While the final evaluation findings will be published in late 2016, we are able to offer some preliminary findings and case-studies regarding the effectiveness of the service.

The evaluation plan and tools seek to measure the extent to which activities (outputs) and impact (outcomes) demonstrate the following characteristics (being proxy indicators for improvement in Social Determinants of Health for clients, and improvement in practice capacity by HJP professionals and other stakeholders):

- Collaboration
- Capacity
- Engagement
- Voice
- Empowerment
- Improved advocacy

Preliminary evaluation findings<sup>5</sup> of the HJP show:

1. Almost all clients interviewed would not have accessed legal help if it had not been for the HJP referral from the BCHS professional.
2. All clients interviewed experienced positive health and other outcomes following the HJP intervention, including reduced stress and reduced anxiety as a result of knowing their legal position.
3. BCHS professionals increased their knowledge, capacity and confidence to identify legal problems for the clients/patients. The building of trust and relationships with HJP lawyers over time led BCHS professionals to refer their clients for assistance and access the service themselves for brief legal secondary consultations.
4. Overall service-effectiveness is greatly improved by having the opportunistic availability of the lawyer to be immediately responsive to need. The 'approachability', non-judgmental, and respectful attitude of the lawyers were critical factors to successful client and professional engagement, supporting a 'wrap around' and 'holistic' service to clients in need.
5. The HJP has significantly increased the engagement, capacity, and empowerment of client, professionals, counteracting siloed service provision and improving integrated service collaboration.
6. The three-year pilot funding period enabled enough time to build trust and engagement and achieve service effectiveness.

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<sup>5</sup> This Summary has been provided by Dr Liz Curran, Australian National University in her Summary of Overall Findings of the research evaluation of the Health Justice Partnership in Bendigo, June 2016.

## Conclusions following Evaluation Snapshots 1 and 2 only

### Non-Judgemental Services, Shared Trust, Reciprocal Professional Development and Increased Professional Capacity

A re-occurring finding is that clients need to be afforded the opportunity to engage with the HJP and receive assistance from professionals in a non-judgemental way. It is very clear from client interviews that this important (non-judgemental) prerequisite was being achieved by BCHS prior to the HJP being formed but that it has been enhanced by the HJP lawyer being present at BCHS.

Another clear message emerging from interviews conducted during snapshots 1 and 2 is that the development of professional relationships between BCHS workers and the lawyer results in a symbiotic improvement in professional capacity realised via a collaborative approach to casework and via secondary consultation (86% of professional BCHS workers report secondary consultation with the lawyer as being useful to their practice). This in turn appears to result in an improved sense of trust on the client's part towards the HJP lawyer, with all clients interviewed report that they trust the HJP lawyer whereas they might not trust a lawyer outside of the HJP. By "*borrowing*" the trust already developed between BCHS professionals and the client/patient, the lawyer's ability to engage vulnerable and disadvantaged clients who might otherwise be reticent to seek legal assistance has been positively influenced. In essence, clients appear to trust a referral made by a BCHS professional to the HJP lawyer. This is an advantageous development as over time it will likely result in continued engagement on the part of a client who might otherwise disengage when legal issues arise.

Indeed one BCHS worker noted that the HJP lawyer, in using their legal lens, builds upon the BCHS worker's practice which results in a "more wholesome practice" on the part of the BCHS worker. It was noted by the HJP lawyer that working with BCHS professionals has provided "*a more nuanced view of the rights of the child*" in child protection matters.

### Flexibility, Opportunity and Co-localised Services

It has been noted that due to the patient/client demographic targeted by the HJP, keeping appointments can often be problematic. This is sometimes due to the general sense of chaos within clients' lives or can simply be due to the need to juggle varied responsibilities. Irrespective of the reason for missing appointments, the need and ability to be 'flexible' and 'opportunistic' has been identified as important determinant for the HJP lawyer when engaging clients (this goes hand-in-hand to some degree with the combined need for the service to approach clients in a non-judgemental way which as evidenced via client interviews is clearly being achieved by the HJP).

This opportunism is greatly assisted by the co-localised nature of the Bendigo HJP. Clients who have significant health and legal complexity in their lives and exhibit confusion or a lack of confidence are likely to be overwhelmed by additional issues as and when they arise. Indeed, again as noted in client interviews and during the community focus group, clients "*need help when they need help, not 2 weeks later otherwise life turns to shit*". Accordingly, the timeliness of assistance is critical when a client is in crisis.

As noted by professional workers through the in-depth interviews conducted during snapshots 1 and 2, the HJP doesn't rely on clients to work out if their problem is legal. Rather, a trained BCHS intermediary (through professional development and secondary consultations) identifies the

problem and then makes the clients' pathway clearer as the professionals have been trained to identify legal issues. This "*creates hope*" as the client now has someone to advise, negotiate and advocate on their behalf to better address their legal position. In turn BCHS professionals feel "*empowered*" to deal with a client's legal issue as the pathway to referral is easily achievable.

In summary, flexibility, opportunity and the co-localised nature of the HJP service feeds into and promotes those positive attributes described earlier namely shared trust, symbiotic professional development and increased professional capacity which collectively creates a holistic service for the community that is assisted by BCHS.

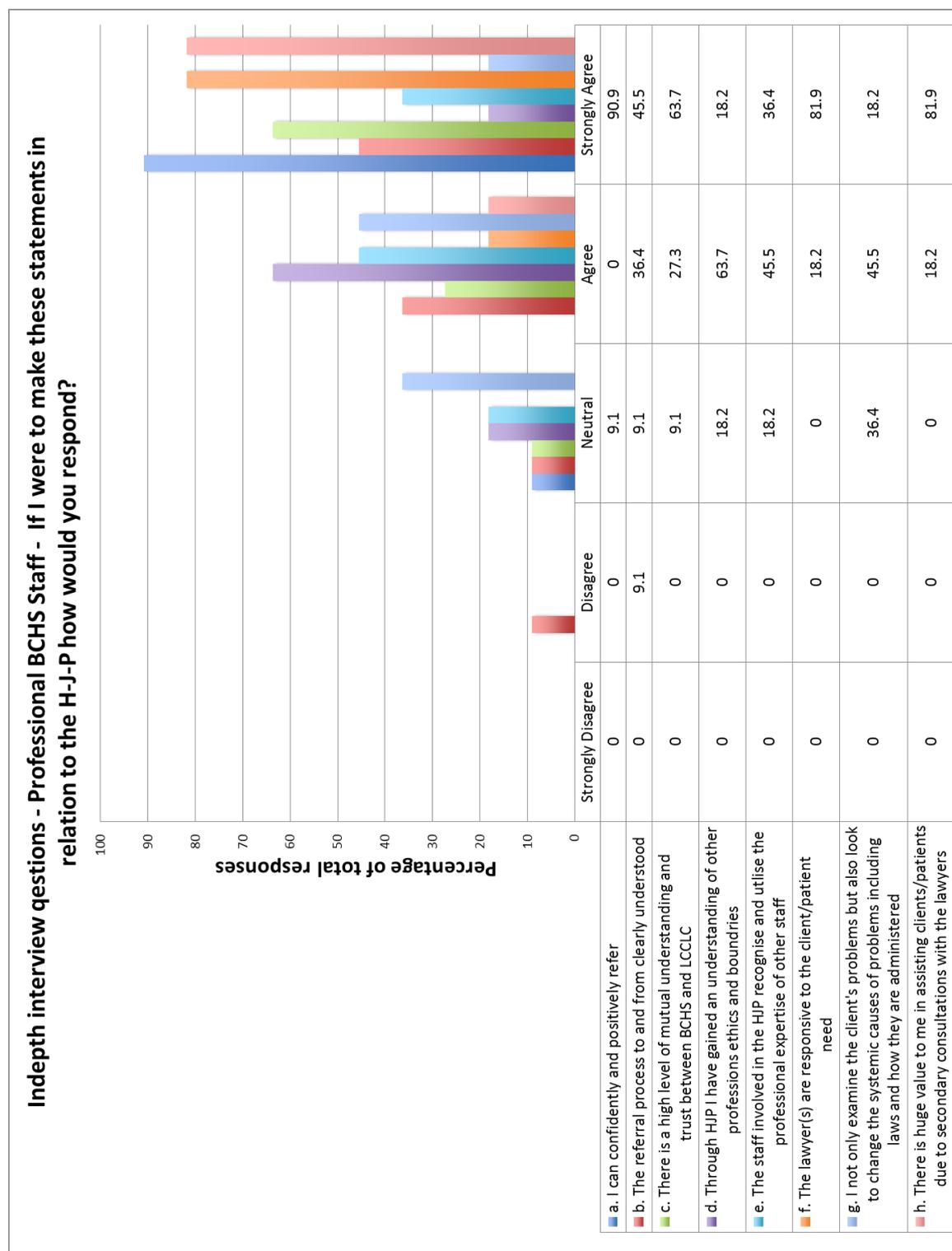
### Personal attributes of the lawyer

The type of lawyer is critical to the success of a HJP. Feedback from interviews with BCHS professionals rightly identified that lawyers can't just sit in their office but need to interact, integrate and need not be "*too stuffy*" or "*too hierarchical*". They need to "*avoid jargon*", and show "*respect*". Thus, the type of person in the lawyer role is key to the success of the HJP. The HJP lawyer has integrated and broken down stereotypes and, as commented during the interviews with BCHS professionals, "*we work as a team*" we just need "*more of the same*".

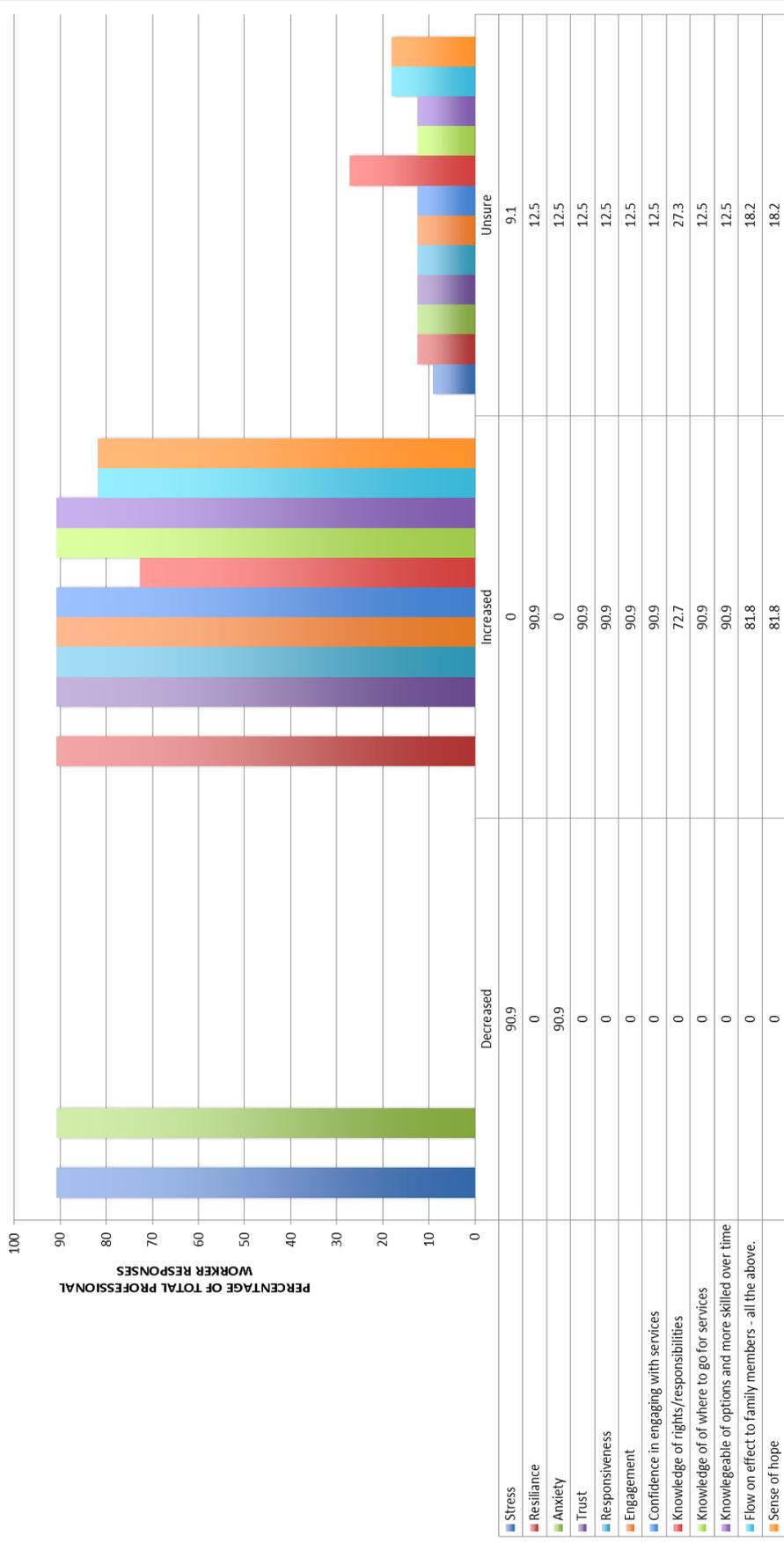
*"I was heading to a very dark place... without that help I may have been dead by now. I thought I was going to gaol, but I ended up with a CCO. I've been in services for a long time and this one is remarkable...Stress has been reduced 100% My life was out-of-control...now I feel more in control...I feel as if I have hope...) feel as though I have been empowered."* Client quote

## Professional Impact of Health Justice Partnership

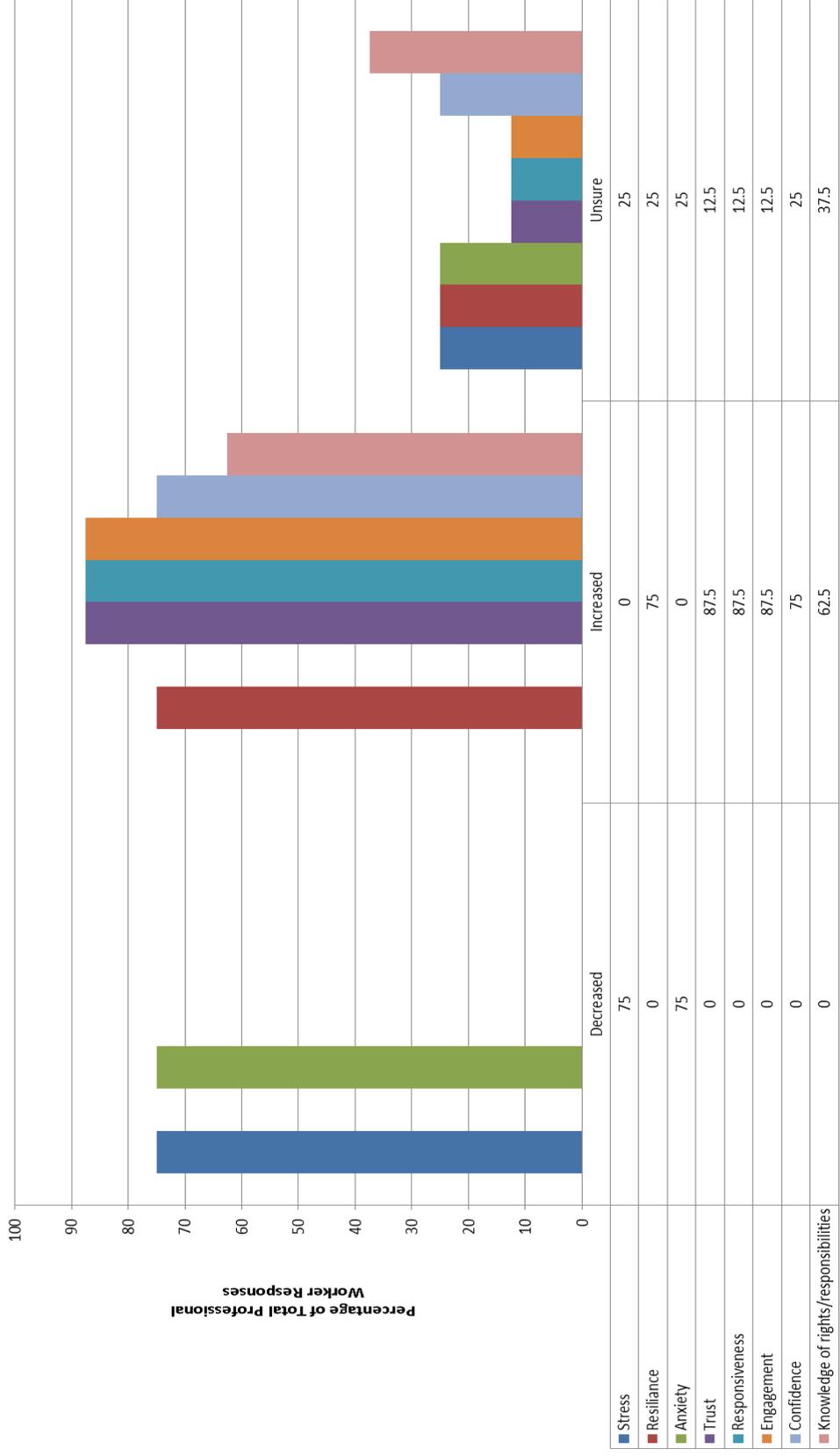
Many BCHS Professionals were interviewed and surveyed over the course of the evaluation. In Snapshot 3, 11 professionals participated in in-depth interviews. The quantitative results relating to these interviews were as follows:



Have you noticed any of the following improvements in the client(s) since the involvement of the inter-disciplinary team of the HJP:



**Have you noticed any of the following personal (professional) changes since you started your involvement with the inter-disciplinary team of the HJP?**



BCHS Professionals also participated online surveys throughout the snapshots with notable findings from the Snapshot 3 survey including:

Qn 8. The [legal] issues facing clients adversely impact on client health. 100% Strongly agreed.

Qn 14. I routinely ask my clients if they need legal assistance.

Strongly agree	20.83%
Agree	37.50%
Disagree	33.33%
Strongly disagree	8.33%

Qn 17. I would use a “Legal Health Check” survey in my current work?

Yes	50%
No	25%
Not sure	25%

Qn 18. A community lawyer as part of my team will add value to BCHS’ case management of clients

Yes	87.5%
No	4.17%
Not sure	8.33%

Qn 19. A community lawyer on my team at BCHS will ensure that client legal problems do not escalate and client overall health is improved.

Strongly agree	75%
Agree	16.67%
Not sure	8.33%

Qn 21. Collaborative, client focussed practice at BCHS can successfully involve a lawyer.

Strongly agree	70.83%
Agree	20.83%
Not sure	8.33%

### Client Impact of Health Justice Partnership

10 clients were interviewed over the course of the evaluation. Unfortunately we did not have client continuity through the snapshots (as had originally been hoped), meaning that we could not track client experiences. Having a higher number of unique participants over the course of the evaluation could have resulted in a wider variation of response but it did not. Responses remained remarkably consistent.

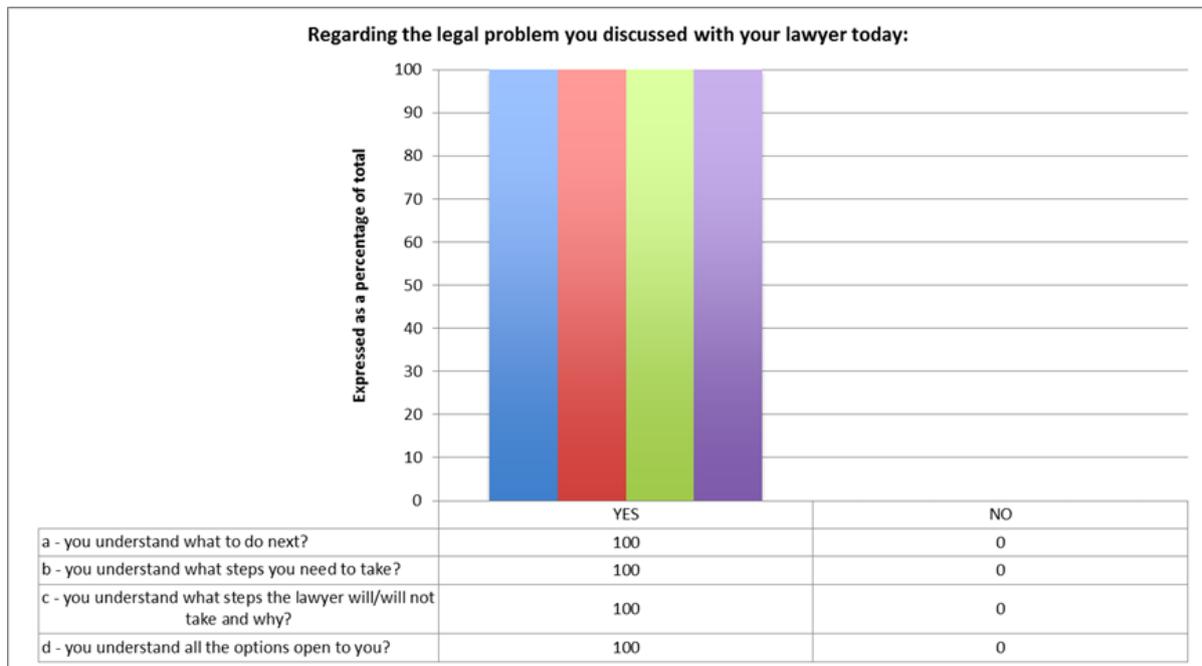
#### Client interview feedback snapshot 3:

Notable quotes from clients who were interviewed about their experiences are as follows.

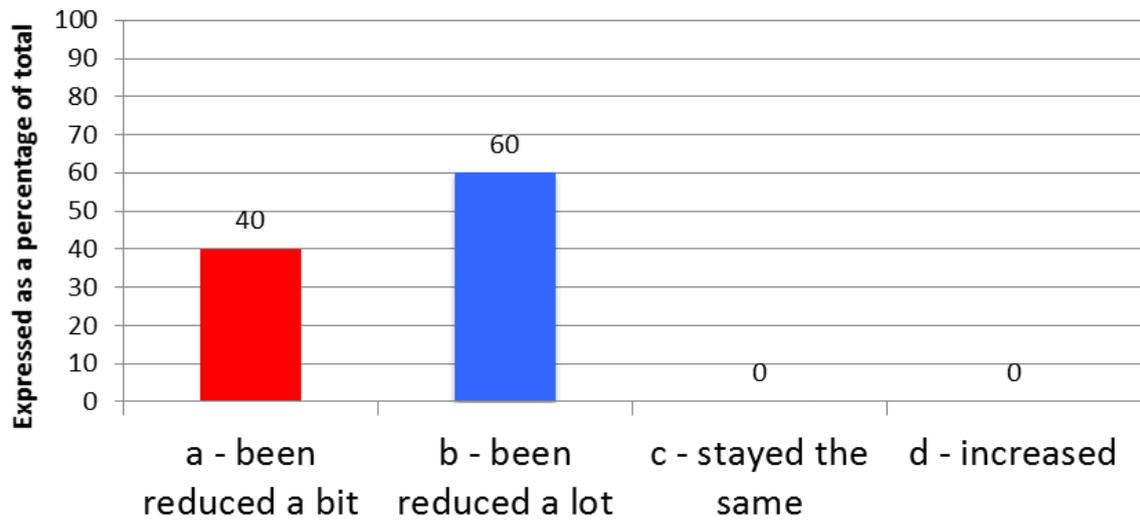
When asked about his legal problem, one client stated *“the Department was making unsubstantiated allegations. Once the lawyer got involved they dropped out of the picture... they [the Department] try to pigeon hole you!”* Another client said of her positive experience with the HJP that

*"I know when there is a problem I can talk to the lawyer".* Regarding her own empowerment as a result of assistance from the HJP the client stated *"Recently I advocated to deal with my Civic Compliance warrant by myself".* When asked if the assistance of the HJP had eased her stress/anxiety level she said *"I don't have to stress about the little things. I don't have depression as much anymore. I was waking up 9 to 10 times a night because of the depression before I got help from the lawyer".* Another client sought some assistance for her parenting matter and after receiving advice and casework assistance said *"I feel I have a better knowledge of the rights of a Mum now".* Another client, who was the subject of a Guardianship order, when asked if his legal matter was creating stress said *"Yes, I was in hospital over it. In there for nearly a week and a half. This was what precipitated the heart attack".* The client was then asked if the lawyers assistance gave him a better sense of his legal position, he answered *"Yes, I feel like a human being again"* and when asked if he is now better able to manage his affairs he stated *"yes. Because I am in Control of them".*

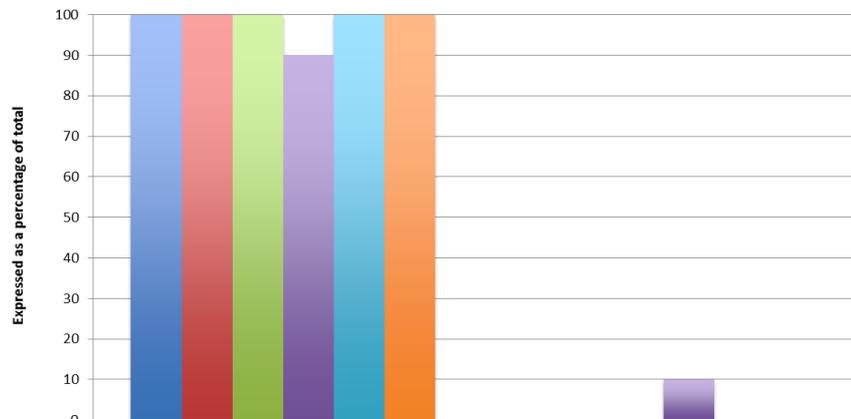
Quantitative results relating to these client interviews were as follows:



### As a result of the advice you received has the stress:



### As a result of the assistance I've received via the Health Justice Partnership, Bendigo:



	YES	NO
a - My voice is being heard because of the help from the H-J-P	100	0
b - I know more about my rights and where I sit in the legal system process	100	0
c - I feel I have options that I did not know I had	100	0
d - I have a better sense of security now I know my legal position	90	10
e - Even though my legal position may not be ideal, I feel I am supported by the H-J-P through the process	100	0
f - Overall I have had a positive experience with the service	100	0

## Client Stories<sup>6</sup>

1. Angela was referred to the Health-Justice Partnership Lawyer following a decision in 2014 by Child Protection to implement a non-reunification case plan for her primary school aged daughter. Angela expressed concern that this meant she now had no chance to bring her daughter home. The lawyer assisted Angela to ask for internal review of the case planning decision. With renewed hope that she may still have had a chance to do the things she needed to again care for her child, Angela was motivated to continue to address the issues in that were a concern for Child Protection. These included substance abuse and family violence. Throughout the period that we worked with Angela, she made significant changes in her life; returning to study, meeting a new friendship group, reducing her use of marijuana, all the while remaining committed to regular contact with her daughter. This took time. By 2016, Angela had been spending block time with her daughter, but reunification had not yet occurred and the matter had been listed for a contest prior to the Permanent Care amendments starting in March of this year. Ultimately, the application resolved one week out from the contested hearing, with a 6 month Supervision Order being made to Angela enabling her to have her daughter home.

Angela reflects on her matter and says that, but for the existence of our Health Justice Partnership, she simply may not have gotten legal advice when she was told about the non-reunification plan in 2014. *"I was ready to give up. I thought I had no options left. The lawyer gave me hope that if I continued doing the right things my options would remain open and that I couldn't lose hope about getting my daughter home."*

2. Helen was referred to the HJP Lawyer for assistance with a car contract that she had signed many years ago with a motor car trader. Helen was struggling to meet repayments and wanted assistance to apply for financial hardship to vary the payments.

Upon viewing the contract and obtaining more information from Helen, the HJP lawyer quickly identified that there had been breaches of the Australian Consumer Law (ACL). Helen did not have a high level of education, she was rushed through the contract and signed it relying on the misrepresentations made by sale representatives at car dealership. At the time Helen signed the contract she believed she was signing for finance to purchase the car, not finance to lease the car.

The HJP lawyer wrote to the trader setting out the breaches of the ACL and negotiated a good outcome. Helen was able to keep her car and all future payments & liabilities of approximately \$10,000 were waived. Helen was so relieved and happy. She said she had a sentimental attachment to the car because it was purchased when her late father was alive. She has developed a trusting relationship with the HJP lawyer and has now come back for assistance with a different legal issue.

3. Brent was in his 50s and experienced long-standing physiological issues and high levels of anxiety. Brent's only source of income is a disability support payment and Family Tax

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<sup>6</sup> (Note identifying information has been changed to protect their confidentiality and privacy)

Benefit for his son. Brent was referred to the HJP lawyer from counsellors at BCHS because it appeared evident that he had many financial and legal issues that were exacerbating Brent's anxiety.

When Brent came to see the HJP lawyer, he was highly anxious and distrustful. Brent had debt collectors after him for personal loans and the Department of Health & Human Services (DHHS) were investigating his ability to care of his son. Furthermore, he had a court date coming up for a criminal offence of stealing a microwave from Kmart.

The HJP lawyer was able to develop a trusting relationship with Brent in order to ascertain facts from him. The HJP lawyer contacted DHHS and assisted Brent to negotiate with them. DHHS subsequently closed their file. The lawyer represented Brent at court for his criminal matter and received a favourable outcome. Finally, the HJP lawyer successfully negotiated with the financial institutions/debt collectors resulting in a complete waiver of over \$14,000.

The HJP lawyer is working with BCHS workers to ensure that Brent is linked in with the right support services.

After the criminal plea at court and waiver of the debts, Brent seemed so relieved. He kept thanking the HJP lawyer and said that he really appreciated the time and effort given to him. He said that he felt that not many people cared or listened to him, but that the HJP lawyer has really gone over and above for him.

4. When Lisa first came to the HJP lawyer she was in tears and fearful of her next-door neighbour who would hurl abuse at her and shout. The HJP lawyer immediately assisted Lisa to fill out an application for Personal Safety Intervention Order (PSIO) and referred her to the Magistrate's Court to file the application. The HJP lawyer liaised with the court to ensure that they were aware that Lisa was on her way and that she was supported. An interim PSIO was granted.

BCHS staff contacted the HJP lawyer to ensure that Lisa was supported because she had been distressed in her counselling sessions. The HJP lawyer assisted Lisa for several subsequent court appearances and was finally able to negotiate with the other party to consent to a 12 month PSIO to be made in Lisa's favour. This was a great outcome and Lisa was extremely relieved. Lisa came past the HJP lawyer's office a month later to thank her and also to update her that she was successful in relocating houses. Through obtaining positive outcomes for clients and building their trust, this in turn builds the trust of BCHS workers.

5. Sarah is in her mid-twenties and the single mother of a new born baby. Sarah was referred to the HJP lawyer and was supported in her initial appointment by a worker from BCHS. Sarah was in an emotionally abusive relationship with John. Even though John moved to live interstate, Sarah still felt intimidated from him.

John was contacting Sarah demanding that she send him his personal items. Sarah was distressed and upset because she felt that John was only contacting her to harass her. Sarah did not want to apply for a Family Violence Intervention Order.

The HJP lawyer contacted the John and told him that all communication was now to be directed through her and not to contact Sarah. The HJP lawyer negotiated the return of personal items to John and confirmed that he would not need to contact Sarah again. As

soon as John stopped contacting Sarah, she felt much better. She no more felt bullied and anxious whenever she heard someone message her phone.

6. Paul is a 60 year old man who had been the subject of an administration order with State Trustees for a number of years. Paul felt frustrated by this order; he did not feel that he was receiving the right payments and felt that he should be able to have control over his own money. Paul had lost a lot of faith in State Trustees and did not trust anyone easily.

The HJP lawyer soon gained Paul's trust by listening to his story and contacted State Trustees to set up a meeting with Paul's case worker. The HJP lawyer resolved a number of issues at the meeting and received favourable outcomes for Paul. The case-worker appreciated the involvement of the HJP lawyer because it made the communication much easier.

The HJP lawyer represented Paul in the VCAT to become independent from State Trustees and regain control of his affairs. Paul feels thankful that the lawyer is listening to him and assisting him. As a result of Paul's confidence in the service, he has referred another friend of his to see the HJP lawyer for assistance.

7. Betty is in her mid-thirties and has an intellectual disability. Betty was referred to the HJP lawyer due to some concerning behaviours by her friend. Betty described physical abuse and financial coercion by her friend. Betty was staying with her mother in fear of returning home.

The HJP lawyer assisted Betty in making an application for a Personal Safety Intervention Order for her safety and subsequently represented her at court. Betty's friend did not appear at court so the order was granted in her absence. Betty was very relieved and felt safe to live in her home again.

8. Sam is in his mid-forties and was struggling to support his four children as a sole parent. Sam was referred to the HJP lawyer for assistance with a contract he signed for a car. At the time Sam signed the contract for finance to purchase a car, he was not working, he had a family to support and he was not in a financial position to enter into such a credit-contract. He also did not understand the terms of the contract clearly, because of his relatively low level of education and the use of confusing and lengthy terms.

Sam explained that he was told to come back near closing time to sign the contract and there were many other customers waiting to be served. Sam felt pressured to sign it and simply relied on misrepresentations by sales representatives. The HJP lawyer identified that Sam had been subjected to unfair tactics, misrepresentation and thus breaches of the Australian Consumer Law (ACL).

The HJP lawyer wrote to the other party setting out the breaches of the Australian Consumer Law and threatened to complain to the Financial Services Ombudsman. The other party settled the matter by waiving all future moneys owed under the contract (which was approximately \$7,000), agreeing not to negatively report against Sam's credit rating and removing any encumbrance over the car so that Sam could keep it.

Sam felt extremely relieved with this financial burden lifted. He said it was causing him a lot of stress.

9. George was referred for legal help by a BCHS drug and alcohol nurse. Although George's English was good, he had a strong accent that could be somewhat difficult to understand over the phone.

George came to see the HJP lawyer and was extremely confused, distressed and anxious stating that he had just discovered that his licence had been suspended. George had just come from interstate and did not know who to call or what to do.

The HJP lawyer spent over an hour with George calling different departments to discover what had happened. It appeared that unbeknown to George, he had received an infringement in another state. Because George did not pay for this infringement his licence was suspended.

The HJP lawyer eventually got through to the right department where George was able to pay for the infringement and have his license reinstated. George left the office extremely relieved now that this issue had been sorted out.

10. Rachel was referred to the service by a BCHS family support worker. Rachel is in her forties and the single mother of a young boy who has autism and other medical conditions. Rachel was served with divorce papers from her ex-partner James. Rachel did not agree with some of the facts set out in the divorce such as where James has described the health and care of their son. Rachel did not wish to oppose the divorce, however wanted to challenge the facts. Rachel was anxious about appearing at the divorce hearing unassisted.

The HJP lawyer assisted Rachel to file a 'Response to Divorce' to correct facts that she did not agree with. The lawyer then appeared at the divorce hearing by phone with Rachel so that her anxiety was reduced and so she felt supported. Rachel feels relieved that the divorce has now been granted.

11. Gwenn is an elderly lady who came to see the HJP lawyer for some advice about making slight alterations to her Will. When reading through and explaining the terms of the Will to Gwenn, she was shocked by its contents. Gwenn stated that it did not reflect her wishes at all.

The HJP lawyer called the lawyers who drafted this Will and confirmed that it was the most recent Will to be made.

Although Wills are not normally done through the HJP, the lawyer spent time with Gwenn to roughly draft a new Will in accordance with Gwenn's wishes. The lawyer then provided a list of private lawyers who could review the instructions and draft the Will. Gwenn was extremely happy with this assistance and said that if she didn't see the HJP lawyer she would have had no idea that the original will was so incorrectly drafted.

Gwenn came to the HJP lawyer several weeks later to let her know that the will has been changed. Gwenn noted how convenient and easy it was for her to access the HJP service, because she could see the lawyer when coming to her medical appointments. Furthermore, she could come without fear of her husband knowing she was seeking legal advice.

12. Bob is 35 years old and experiences mental health issues. He was referred to the HJP worker from a BCHS drug and alcohol counsellor. Bob had a Family Violence Intervention Order placed against him by the police on behalf of his de-factor partner Sarah. Bob said

he subsequently agreed to the order being made because he was stressed and confused at court and didn't know what to do.

As soon as the FVIO was placed against Bob, Sarah began messaging him telling him that she did not want the Order to be made against him. Bob can't communicate to her due to the FVIO in place against him. The HJP lawyer therefore made an application for leave to vary the FVIO. Leave was granted by the Magistrate and Bob was represented to vary the Order.