

Republic of North Macedonia: support to legal aid reforms

Supporting enhanced access to Free Legal Aid services in North Macedonia:

Output 2.1.2: providing knowledge and guidance on how to establish a co-ordination mechanism for FLA and supporting the work of the National Co-ordination Body and local co-ordination groups

Guidelines for establishing

- a referrals protocol
- an advice directory

14 May 2020

1 What this document attempts to do

This is a discussion paper initially for the project team right now, but with the intention that we move rapidly towards consulting the inner circle NCB about next steps in taking it further. Once the next steps are agreed, such as a mini-conference to inaugurate the referrals protocol and launch the compiling of the directory, many elements of the text in this document can be fully incorporated into a document to form an explanatory memo to the Protocol and Directory.

2 Two essential outcomes: a referrals protocol and a directory of organisations providing legal and other help

A key element inseparable from the Partnership concept is to work together on a Referrals Protocol. An effective referral system contributes to improving access to justice. It increases the likelihood that the beneficiaries will receive free legal aid which corresponds to their specific needs and interests. Appropriate referrals ensure that clients are routed to the most suitable and capable service providers. Effective and seamless referral reduces drop-outs and increases the satisfaction of users. It means clients are dealt with holistically rather than as the owner of several discrete legal problems. Referrals also help ensure that the capacity of the providers of free legal aid is being used in the most effective manner. People and their problems are correctly directed down the right route, and the public money funding legal services (or other funding or resource) does not then pay for duplicated or inappropriate help. People entering the FLA system may have a range of problems: some will be FLA-eligible legal ones, some legal but non-FLA-eligible, some non-legal ones, and some a practical or psychological side-effect of their main problem. As well as getting their necessary FLA help, those people can also be signposted towards support for these non-legal or ineligible problems, holistically improving their life-situation from several angles.

The **Protocol** is an agreement between legal aid providers. It is a document shared by the whole network defining agreement on how referral will be done (a 'living document' subject to continuous improvement). Its existence and principles should also be promulgated to 'outer circle' stakeholders.

The **Legal Aid Directory** lists sources of help both **within** and **outside** the legal aid scheme.

This initiative attempts to systematise the way referrals happen in North Macedonia. It is not intended to over-regulate, given that many effective referrals happen informally. Sometimes mis-referrals happen however, and eliminating these as far as possible is one objective. Supervising centrally how it's done is important at all levels but gets harder the further you move from the 'inner circle' of stakeholders. It is recognised however that existing personal connections and ultra-local networks – often the first basis for a referral especially in smaller towns – may be an important starting point. These ultra-local collaborations could be reinforced with a bit of structuring.

3 Benefits of the Referrals Protocol and the Directory of organisations

The Referrals Protocol and the co-operation needed to run it are central to the success of the FLA network. If it works well it results in

- reduced wastage of taking instructions that lead nowhere because the work needed is outside the adviser's scope, remit or ability
- reduced frustration on the part of clients passed pointlessly from one agency to another
- reduced drop-out rate through 'referral-fatigue'
- improved mutual understanding between FLA providers
- allows client to give their essential details as few times as possible (preferably once only)
- reduced duplication of provision by providers
- an increased awareness of each agency's 'unique selling points'
- better, more focused specialisation by providers
- an incentive to maintain expertise, reputation and profile amongst advisers' peers
- an overall more smooth-running and efficient FLA network.

4 Case-study: the client's journey

It makes sense to look at the benefits of effective referrals from a client's point of view. Consider her/his journey through the system. Is the system welcoming, seamless, appropriate and respectful? Or does it increase anxiety, create additional problems for the client, send them on fruitless missions and reject them at the end as impossible to help?

A case-study

Mrs. Stojanovska comes in to her local MoJ Regional Office with a mixture of problems all stemming from the fact that she has just left her matrimonial home with her two children because of her husband's recent violence to her. She is staying with her mother but only temporarily as her mum only has one bedroom and one living room.

Her problems therefore include homelessness, child protection, matrimonial rights, a potential criminal complaint, quickly sourcing cash income from the social protection department, the effect on her mental health of the trauma of the domestic abuse and violence, and the difficulties associated with her older child having poorly controlled epilepsy.

Hence some of her pressing problems are justiciable; and some - the more health-related and social issues - are not. The RO correctly processes her legal aid application with regard to justiciable matters, using the RO staff's own knowledge to allocate lawyers to her who can do that type of work.

No-one is sure if the local epilepsy support group still exists (it certainly used to) or how to find it. They are also not sure if the Centre for Social Work can help, as she is still married and not street homeless as such. They send her to the CSW anyway, though do not have time to call the CSW to say Mrs. Stojanovska is coming. One RO staff member knows of a mental health support organisation but thinks users can only be referred by a doctor so they do not follow that up.

She is reluctant to identify as a single parent so she rejects the idea of a single parent network the RO mention. But she later talks to her general practice family doctor who suggests she consider mediation with her husband, and after she has left, a phone number is found for a local mediator, which the family doctor practice calls to give her, leaving a message with her husband.

Comment: a not uncommon multiplicity of potential problems that can be solved either legally or via other means. There are examples here of good practice in referral, poor practice and one instance of seriously bad practice. The requirement on MoJ ROs to keep the allocation of lawyers randomised or alphabetised is a largely necessary feature but does not negate the need for the referral to be appropriate in terms of expertise, geographical location etc, and for the person to person handling of the referral to be done with skill and sensitivity. Where the person has already engaged a lawyer, there needs to be proper handling of the process by which the RO appoints that lawyer for FLA purposes and, as it were, sends the person back to their existing lawyer.

NB: No criticism of ROs is intended! As practitioners we've all done it.

5 Principles of referral

5.1 Reasons to signpost or refer

A client or enquirer often needs be signposted or referred on. This is not a negative or admission of defeat. The reasons for needing to refer include:

- The problem falls outside the adviser's (or organisation's) subject area/level of expertise:

We know all about immigration law but very little about family law and child contact so whilst we'll represent you on your immigration matter, we'll send you to an expert in family law for that part of your problem.

- The provider of preliminary legal aid is not competent to deliver the secondary legal aid that is needed: see relevant steps in the procedural Tool for MoJ ROs as to this stage.
- The client falls outside the stakeholder's target group – e.g. BME groups, those with specific access needs, older people, homelessness etc:

We are a civil society organisation set up to help the over-60s; as you're in your 40s we are going to suggest this self-help group who deal with housing issues like yours.

- There is a breakdown of trust between the client and adviser:

Because of the dispute that has arisen about the quality of our service, and as you are highly dissatisfied with the help we have given you, we'll suggest you go to this other lawyer who does similar work.

- There is a conflict of interest:

Sorry we can't help you as we are already advising your ex-husband; instead we urge you to go to this other law firm who won't be conflicted.

- Capacity issues generally:

We are so busy with enquiries right now that we cannot take on your case, but we will recommend another lawyer working in the same field.

- The referring organisation is not one that offers help or advice at all – it is nevertheless a 'problem-noticing' body:

As a public library / court / local tax office we can't advise you about your housing problem but we do have this Directory leaflet I can give you a copy of, and I'll now help you find the pages that list the sort of help you might need...

5.2 Referring is a skill

Handling this well is not always easy. People don't always like being referred on. They may

- feel rejected
- think there is a conspiracy to deny them help
- feel the referring provider is being lazy or uncaring
- be at the end of their mental or physical energy and may doubt their ability to face making yet another enquiry
- have mental health issues such that the referral triggers feelings of paranoia
- feel their disempowerment in the system is aggravated.

So referrals demand an awareness of the need for sensitivity and gentle explanation of 'why we can't help you (but there is someone who *can* help you)'.

5.3 Getting referrals right

Sometimes you think you know an lawyer or organisation that can help a client and you tell them about it, hoping they will make contact. Often that is not enough. You may not fully know what that organisation or person can and can't do, or whether they have capacity or are overstretched, or what is the best way to make first contact. The client for their part may have difficulties making phonecalls or visiting new places, even if they do not tell you this. The referral can fail for one reason or another.

With a referrals protocol that works well, the client should get referred

- **appropriately**
- **sympathetically and sensitively**
- **efficiently**
- **quickly** and
- **once only** (for each problem they have).

5.4 What makes referral effective?

All the following are ingredients. Some need the right structural elements; some require skills; some need good inter-agency dialogue

- trust between organisations
- clarity
- management and co-ordination
- understanding on level of competency of receiving organisation
- personal skills of patience and sensitivity on the part of the referrer
- collaboration and sharing of information with correct protection of data
- destination-organisations' systems for handling inward referrals
- personal skills of welcoming and courtesy on the part of the adviser accepting an inward referral
- capacity to accept referrals.

5.5 Referral mishaps

To be avoided are these situations:

- Client arrives at destination organisation outside of opening hours
- Clients given private non-public phone numbers for a stakeholder
- The referring agency thinks you cover a certain area of law which you actually don't
- Client is not properly directed or helped to get to the destination organisation
- And more...?

6 Types of referral

6.1 Referring or signposting?

A **referral** may look like this:

The MoJ RO have provided preliminary legal aid and further diagnostic input. The RO worker knows what the client's problem is, knows who can help by consulting the MoJ RO's list and confirming suitability of the lawyer likely to be chosen by looking them up in the Directory, follows the destination organisation's (lawyer's) instructions as to how to refer, shepherds the client through the referral process and is satisfied that the client has reached the destination organisation. Probably the referring MoJ RO will be in contact direct with the destination organisation. The MoJ RO keeps records of that referral in the normal prescribed way.

That is a vertical referral, but many of those features can apply equally in a peer-to-peer referral from one lawyer to another. Referral is about the adviser taking at least partial responsibility for contacting other organisations when, for whatever reason, they are no longer able to assist the client. A referral may involve the adviser making contact with the organisation to arrange an appointment and make any other necessary arrangements to ensure that the case continues smoothly. It involves some 'shepherding' of the client – making sure they get to the destination agency. The referring organisation whether it is an MoJ RO or not, would be expected to maintain some record of the referral, and even a system to check later on whether the referral worked. Referring may require a degree of skilled case assessment and diagnostic skill, involves transfer of information with the client, is focused and gets the client to the right agency within the FLA network.

Signposting may look like this:

A counter staff assistant in a public library is asked by a user of the library whether he knows if there is any help for people like her elderly lonely mother who is facing eviction and she believes is malnourished. The library assistant checks out a few possibilities, prints out, photocopies or writes out some details which he gives to the user, and leaves it to her what happens next. No record of the transaction is likely to be made by the library other than maybe recording it as a statistic.

Signposting is about the client taking (or being given) responsibility for contacting other organisations to help them resolve their problem. It will typically be done by problem-noticing agencies rather than legal aid providers – maybe a library, after-school club, court staff etc. Little skill is needed. Access to the Directory is needed though; it gets the client entry into the FLA network, they may then have to be referred-on.

6.2 Examples of referral

Sometimes it is a lawyer or stakeholder with legal expertise who still has to refer the client or enquirer on to a different source of advice. Sometimes it is an agency or stakeholder relatively external to the free legal aid ‘eco-system’ – for example a family doctor, teacher, librarian, social worker, trade union – such people may signpost an individual and may be termed ‘problem-noticers’. Here are some examples of both...

Informal legal referral – lawyer to lawyer: Lawyer M may decide that whilst the client’s main presenting problem is within her competence, the client’s ancillary issues – some legal (or ‘justiciable’) and some not – are outside the lawyer’s competence. The lawyer is keen not to let the ancillary matters go unaddressed so she calls another lawyer she knows well and asks if he can deal with one of the other matters (a legal question). He can; he speaks to the client there and then and they make an appointment: job done! (almost...) Then there is the matter of the client needing bereavement counselling; lawyer M does not know how to address this.

Signposting by a problem-noticing stakeholder – pre-natal clinic staff to domestic violence self-help group: Ms K is in her neighbourhood pregnancy clinic and browses leaflets while awaiting her pre-natal appointment; noticing a leaflet about domestic violence abuse she discretely pockets a copy and then wonders if staff on the counter can help her as she reasons that they are likely to be sympathetic. She does not know herself what kind of help she wants: is it legal help or emotional support or both? Staff on the counter are sympathetic but are not trained in helping with things like domestic abuse; they nevertheless find a help-group in the same town by doing a quick internet search. They tell the patient about the place and write down its address for her. They also mention the nearest MoJ RO, and legal aid. It is for the patient to make her way there if she can summon the courage.

Referral based on the Referrals Protocol – NGO self-help group to lawyer (and maybe MoJ RO too): An NGO /self-help group devoted to assisting disabled people and promoting their interests has a visit from a man with a visible high level of mental distress who is having difficulty staying calm. His legal problem (to do with security of tenure in his apartment) is outside their field but they check what is available locally in the Directory of Legal Advice. It lists three local solicitors who are able to deal with this type of legal housing problem; in the Directory, lawyer 1 says they are open for drop-in visits by prospective client any time 0900-1700 Monday to Friday; lawyer 2 asks that a referring agency call them to discuss sending clients; and lawyer 3’s listing asks referrers to e-mail them before giving a potential client their address and opening hours (1000-1300 Mondays to Wednesday only). It is Thursday now. The NGO calls lawyer 2, discusses the case, gives them some personal details with the client’s permission, and an appointment

is made for him for the next morning. The NGO also calls the MoJ RO to seek advice on whether the enquirer can get help on his housing problem under FLA.

6.3 Who are the stakeholders between whom referrals are made?

Who may refer clients to whom? Within the North Macedonia scheme a quite wide group of players may have a role in some level of referring or signposting.

	Inner circle	Outer circle and beyond
Type of body / organisation / stakeholder	<ul style="list-style-type: none"> • Ministry of Justice Regional Offices (MoJ Ros) <p>Legal aid providers in</p> <ul style="list-style-type: none"> • state and • non-state, • commercial and • non-commercial <p>sectors</p> <ul style="list-style-type: none"> • lawyers • central MoJ • NGOs who provide FLA services 	<p>Public counters and public phonelines of:</p> <ul style="list-style-type: none"> • Public Revenue Office • Land Registry • Municipalities (departments for local taxes, value of land, procedures for building permits, legalisation of unlawful construction, housing, social protection etc) • Ombudsman • Commission for Protection from Discrimination • Centres for Social Protection • Central Registry (Trade register and register for other legal entities) • Employment Service Agency • Pension and Disability Insurance Fund • Health Insurance Fund • Ministry of Interior - Police <p>Groups that represent the interests of users of legal and advice services, such as</p> <ul style="list-style-type: none"> • community organisations • tenants' and residents' associations

		<p>Local organisations representing particular groups such as</p> <ul style="list-style-type: none"> • young people • older people • disabled people • people with mental health problems • single parents • substance misusers • homeless people • members of particular minority ethnic communities like Roma <p>Support groups for those same categories of person but with only group support/peer-to-peer therapy etc objectives and without any campaigning dimension</p> <p>Community and family mediation providers</p> <p>Local charitable / benevolent organisations</p> <p>Government or municipality bodies</p> <p>Courts</p> <p>Health authorities</p> <p>Probation services - after-prison or instead-of-prison social care and monitoring of offenders</p> <p>Other area-based initiatives or partnerships, eg local strategic partnerships, city regeneration or neighbourhood regeneration projects</p> <p>Public libraries</p> <p>Health clinics, hospitals, doctors' surgeries</p>
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		Schools, kindergartens, parenting support organisations, after-school club Trade unions
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6.4 Holistic referral or legal only?

Where do the limits of an FLA system's referring responsibilities lie? Is it within the responsibility of a FLA system to effect referrals which do not culminate in legal advice (eg emotional support, self-help, practical help)? Or referral which lead to a legal solution to a problem not within the scope of FLA (eg ?

We suggest that it *is* the responsibility of an FLA system to effect these types of referral and signposting. One reason is that individuals are largely not trained to identify and categorise their own problems. Research shows that people often not know whether their issues is justiciable or not. They may not even be able to articulate what exactly the problem is. They may not know there is a solution to the issue they sense they have. Sometimes even a legally trained adviser may not know, because it is outside his/her specialism.

Once the state FLA system starts to be seen as a contact point for problems and where to go to get help, especially where a state body like MoJ may be the designated first point of contact, the FLA system acquires a responsibility to make sure that people are pointed in the right direction. This is a kind of covenant that is set up by the state proclaiming that it is open for enquiries about legal problems. On a positive level it is a tangible expression of 'the caring state'.

7 Mechanics of referral

7.1 Step by step what to do to refer

- identify the problem you can't assist with
- check client's view
- check out possible sources of help
- keep client on-side (in agreement that they need to see someone else)
- agree one or more avenues of referral with client
- agree clearly with client what personal information you can tell the destination-organisation about them (see below at paragraph 7.3)
- contact the receiving stakeholder (destination-organisation)

- carry out the destination-organisation's instructions (things like: phone us, take some basic details, e-mail us, ask client to drop in, let's make an appointment now, pass the client to us on the phone right now, photograph some docs for us etc etc)
- check out any accessibility problems that may arise on arrival at the destination-organisation, along with any disability- or mental health-related travel issues the client may have getting there
- record in your own system
- follow up what happens – check that the client was able to be helped
- agree explicitly about any on-going collaboration between you the referrer and the destination-organisation on that person's case
- close the case in your own system (or that part of it that you have referred on)

7.2 Special issues for vertical referral MoJ downwards

Referrals between peer organisations can be seen as horizontal. At the same time, if MoJ markets itself and its website as a central single point of entry for someone wanting FLA, its referrals can be seen as more vertical, ie from a central access point cascaded down to an MoJ RO and/or an individual legal aid provider. The systems, principles and mechanics for those referrals may need adapting because referrals between an MoJ RO and a provider of secondary legal aid do need to follow prescribed procedures.

7.3 Data protection

Sometimes a referral works well because the referring organisation supplies the destination organisation with some key personal information (like name, address, date of birth, social security number, a short résumé of the problem, referrer's initial thoughts on how the receiving organisation might help, etc). It reinforces the useful concept of the client having to give their basic details once only, which helps the system to be as seamless as possible.

But all of this is protected personal data, and can only be shared with the client's / enquirer's permission. Asking the client if they are OK with each bit of information shared, is good practice and necessary. Where there is a tension between seamlessness and data protection, the protection of personal information must prevail.

8 The Legal Aid Directory

We call it Legal Aid Directory provisionally but the title needs to be agreed. As can be seen below, it will include sources of help outside the traditional inner circle of legal aid suppliers. Perhaps it needs a title more like Advice and Help Directory.

8.1 Which stakeholders should be included in the Directory?

MoJ ROs should have their own special section in the Directory because of their particular role as a first point of contact for many advice-seekers. The Directory should also include

- known legal aid providers or others in the 'inner circle' of the National Co-ordinating Body – if they offer a direct service to members of the public, and
- those who may be categorised as in the 'outer circle', if they have dealings with members of the public.

The criteria for who is included in the directory are whether

- they **help, assist, advise** or **support** members of the public...
- ...at no cost...
- ...independently...
- ...in matters which affect people's rights, responsibilities, entitlements or well-being...
- ...in problem-areas such as:
 - Welfare
 - Health
 - Low income
 - Housing and homelessness
 - Child contact and access; child support maintenance
 - Other parenting / pregnancy-related issues
 - Social welfare
 - Crime (whether victims or accused)
 - Consumer rights
 - Debt
 - Property rights (landlord-tenant problems)
 - Property rights (home-owners)
 - Matrimonial and relationship issues
 - Mental health
 - Disability
 - Health / ill-health
 - Education rights
 - Bereavement
 - Employment rights (for employees)
 - Immigration/asylum
 - Tax (for employees)

The meaning of 'help, assist or advise' is not confined to legal problems. It may be about rights but not strictly 'legal advice', or it may be practical help and advice eg. of the kind that a disability-specific self-help group might offer on a peer-to-peer basis (for example, an epilepsy support group, or a group for parents of Down syndrome children).

Second-tier organisations who do not interface directly with members of the public can be included in the professionals' version of the directory but not the version aimed for

public consumption. These might include central government ministries, some municipal departments, Bar Association, any confederations or umbrella-groups of NGOs.

Bodies that do interface with the public but do not have a 'helping' role or any kind of public enquiry desk should probably not be included. But for some bodies this will be a matter for discussion – eg tax office, police, land registry – because it may be they are problem-noticing bodies and also may be the right destination for certain enquiries about non-contentious matters.

8.2 What information should be included?

A Referrals Protocol works best if referring agencies and signposting agencies have good up to date information in the Directory about the other stakeholders to whom they send clients or enquirers. This includes

- their main client-group
- their specific expertises
- their opening hours
- their physical location
- physical accessibility info
- the staffing
- the capacity to take new clients
- etc etc

of the receiving stakeholder.

8.3 “How to refer to us” guidance

Moreover the receiving organisation will be able to specify how they prefer clients to be referred to them, for example,

Please call us first and discuss the suitability of the client you wish to send to us

Tell the client you are referring that we are open for first-point-of-contact drop-in sessions every Wednesday afternoon 14-16h

Give us their phone number with their permission and we will call them within one week

or things like

Please do not give out our direct phone number as we don't have capacity to answer calls right now.

If, once you have referred someone to us, you wish to carry on working in their interests collaboratively with us, that is OK as long as we do not duplicate the work done on their behalf.

If possible we ask you to e-mail us the person's name, address, date of birth, social security number, and a very short summary of the problem

All that information can be included in a directory/brochure which is updated a few times a year and is also available online, updated continuously. Some of the information can be made available to the public too. The agreement to respect each organisation's modalities with regard to receiving referrals is in the Referrals Protocol.

8.4 Two directories

There are two levels of information in the Directory so that a redacted version of it can be made public both online and in print.

Internal version for stakeholder organisations

Some information is of use only to professionals who might want to refer people to an organisation. This might include individuals' phone numbers or e-mail addresses that are not meant for full public circulation. There is nothing secretive or un-transparent about this – it is just a way of filtering incoming calls and mails to the right phonenumber or mailbox, and making sure individuals in receiving agencies are not subject to a flood of inquiries that then have to be re-directed.

Public version

The public version of the directory is short, concise, easy to use and minimal in the information it provides. It might for example end up as a 20-page A5 pamphlet that is made available to pick up for free in a wide range of locations like municipal offices, libraries, hospitals and clinics, courts, shops and post offices. It may be appropriate to distribute to stakeholders more likely to be signposting people to receiving organisations.

Comparison of the information fields needed for the two versions:

Public version of directory	Professionals' version of directory
Organisation name	Organisation name
Street address	Street address
Best way to make first contact with us (phone/e-mail/drop-in?)	
Public phone number	Public phone number

Public version of directory	Professionals' version of directory
	Professionals only phone numbers
Public e-mail address	Public e-mail address Professionals only e-mail addresses
Public presence eg in pop-up locations	Public presence eg in pop-up locations
Do we offer preliminary legal aid / secondary legal aid?	Do we offer preliminary legal aid / secondary legal aid?
Areas of law / advice covered (from a finite checklist)	Areas of law / advice covered (from a finite checklist)
One line on 'what we do and who we try to help'	One line on 'what we do and who we try to help' and What we do: more detailed - mission statement - and more?
Aiming to assist particular, targeted groups of clients?	Aiming to assist particular, targeted groups of clients?
Opening hours: when you can contact us	Opening hours: when members of the public can contact us When other professionals can contact us
What we cannot help with	What we cannot help with: more detailed
Are all services free (subject to FLA eligibility) or are some paid for? (specify)	Are all services free (subject to FLA eligibility) or are some paid for? (specify in detail)
Accessibility	Accessibility with notes on how we overcome access difficulties

Public version of directory	Professionals' version of directory
	How to refer a client to us (for other advisers or problem-noticers referring to us) – see paragraph 8.3 on page 14 above for examples
	How to refer a client to us (specific instructions for when MoJ ROs refer to us)
	Times when we can take referrals by phone
	Information we would ask you to collect about the client and pass on to us
	Internal phone numbers (not for public publication)
	Internal e-mail addresses (not for public publication)
	How far we are content to have a referring body stay in touch about a referred person – how far we allow for on-going collaboration in a given case

8.5 Collecting the data from the stakeholders

There needs to be an exercise in collecting this data in compatible format from a wide range of stakeholders wishing to participate. See section 12 *Strategy: next actions*, below. The information in the Directory needs to be kept always up to date, so the procedure for altering an entry in it must be clear – the e-mail address of the person currently responsible for amendments must appear in the paper version and on the webpages where the e-version is accessed.

9 Risks: potential problems with the Referrals Protocol and Legal Aid Directory

Things to watch for include:

- lack of clarity in the Protocol

- it could over-complicate and over-regulate well-functioning existing local networks and in so doing, may generate resistance
- poorly-functioning existing local networks nevertheless continue to define the way referrals and signposting happens in a given town
- difficulties in finding an agency that can take on the case – especially in legal areas of rare expertise or towns with low supply of providers
- agencies / lawyers unwilling to accept the limits of their expertise? (“we'll try anything”)
- over-referring by one agency to another (“we always send employment enquiries to provider X as they once did a good job for one of our clients”)
- clients not wanting to be referred (they like the provider / adviser they're already dealing with; their mental health condition results in resistance to change or paranoid symptoms)
- breach of data protections when referrer shares information with the receiving agency
- suggesting a person seek advice from a body that may not be neutral or may even be hostile (often the mistake is to send someone to a government department for advice when that department could become their adversary in legal proceedings)
- legal aid suppliers who do not consider it part of their role or responsibility to refer a client towards non-legal help with non-justiciable problems
- lack of interest in signposting on the part of outer-circle problem-noticing stakeholders who do not see themselves as part of an advice network
- the Protocol gets ignored or falls into disuse
- Protocol undermines existing MoJ RO procedure?
- the Directory does not get updated
- no-one knows about the Directory, especially outside the inner circle
- there is inadequate funding for a large annual paper print-run of the public version of the Directory

Some of these pitfalls are associated with stakeholders continuing in old behaviours, a common occurrence. Like the majority of these risks, this can be tackled with further training.

10 Evaluation

Some measurable outcomes would include:

- strength of the referral system built upon the partnership. Sources of data: experts, projects researchers (qualitative)
- number of referrals (desegregated by provider, type of problem, place, gender etc). Sources: information management systems of free legal aid providers
- communication density (quantity and quality of communications between the participating stakeholders). Sources: CoE experts' assessment, qualitative interviews with stakeholders.
- balanced coverage of the free legal aid system (measured as presence of providers in the territories or as mean distance to the closest provider of free legal aid). Sources: experts' assessment (long term - for discussion)

11 Testing the proposal against six key values of the scheme

Accessibility	The Directory allows better access to justice broadly by promulgating more information about legal services. It will contain physical accessibility information, allowing clients with physical disabilities to make better choices about where to seek advice. Appropriate referrals can also try to take into account people's accessibility limitations when referring and can check out the solutions to accessibility difficulties at the point of liaison with the organisation they are referring to.
Quality	The appropriateness of the organisation trying to assist an individual is a component of quality. By getting the client /enquirer to the right source of advice and help sooner, the interests of quality are served. Also, encouraging the reporting-back to referrers of referral mishaps is one small part of a good quality standard.
User-perspective	Clients with experience of being passed repeatedly from one source of help to another are likely to feel disempowered. The concept of 'referred once only' recognises this by trying to minimise the repeat referrals that some clients suffer. That said, a referral can still feel demeaning to a client, putting them in the hands of a system. Emphasis on the skills of referral – sensitivity, patience, care – can minimise the person's sense of disempowerment. Effective referring can reduce the extent to which clients get lost in the system.

	Collecting user feedback on how the referral was handled will help the legal advice community understand the effect a referral has on vulnerable people.
Sustainability	Getting referrals right is one way to reduce duplication of provision and eliminate taxpayer-supported resources paying the wrong organisation to deliver legal aid. That in turn makes the publicly funded system more efficient and more likely to stay maintainable. Well-managed referrals can increase public confidence in the FLA system, which helps politicians to support FLA as a concept in the long term.
Anti-discriminatory	Referrals may take into account protected characteristics when deciding an appropriate route to send someone on. This can include ethnicity-specific agencies like NGOs aimed at assisting Roma communities, or it may take account of gender sensitivities. As above, it can also encompass disability-focused modalities. Sensitivities in relation to gender may well come into play too especially in regard to certain areas of law. Appropriateness of a referral in relation to race, gender, disability and other characteristics will help build a non-discriminatory legal aid system.
Partnership	This goes without saying. Clearly, partnership and collaboration between stakeholders is the absolute bedrock of this whole concept. The Referrals Protocol is a concretisation of the co-operative notion.

12 Strategy: next actions

12.1 Preparing the ground

- Liaise with NCB; form an NCB sub-committee or working group to take responsibility?
- Hold a mini-conference. Purposes: groundwork for a Protocol and Legal Aid Directory, build trust between providers, agree on some basic principles. This could be done online too.
 - Participants non-competitively pitch their strengths, scope, expertise, specialisms, generalist capacities, to one another so that others learn about what they all do – who they help, what is their capacity, what types of advice, where they operate, their limits and parameters, etc
 - Agree on a basis for mutual referrals – a tangible commitment in the form of the protocol template below at paragraph 13

- Agree to distinguish between referral and signposting
 - Agree on basic design of a referral form (what info to collect – using the above suggestion in paragraph 8.4 as a starting point) - online or paper or both
 - Discuss agencies' systems for receiving incoming referred cases and confirming arrival with the referring agency
 - Agree on record-keeping of all onward and inward referrals and a system of reporting back referral mishaps (part of a good quality standard)
 - Agree on customer care principles so as to handle referrals sensitively with clients especially those with mental health problems which can be exacerbated by a perceived sense of rejection when referred on; look at whether training on this is needed
- Questionnaire to stakeholders: especially in the absence of live meetings, we need to get some detailed information on how stakeholders currently refer people from one stakeholder organisation to another. See below at paragraph 14.

12.2 Putting it into action

- Decision on how to e-publish, and publish and physically distribute on paper, the Directory; what to call it
- Collect data according to the fields set out above at paragraph 8.4 at pages 13-14 in compatible format from a wide range of stakeholders wishing to participate
- Input that collected data into database
- Design webpages and the paper leaflet with database data embedded so it continuously updates
- Consider how to achieve on-going monitoring
- A 2-hour training module on: using the Directory – observing the Protocol – developing your skills in referring vulnerable individuals.

13 Template for a protocol

Free Legal Aid in North Macedonia

National Co-ordinating Body

Referrals and signposting protocol

We agree to follow the following precepts as part of our mission to service clients and enquirers better, whether they are already engaged as clients within the FLA system or on the periphery as casual enquirers or those unable to be helped directly by FLA.

We endorse the overriding objective of getting the client or enquirer to the right source of advice, legal help, or other support quickly, efficiently and sensitively with a minimum of further hand-overs to someone else.

We acknowledge that many clients can be adversely affected by being referred on, and that the negatives for vulnerable individuals need to be minimised, so we undertake to effect referrals with sensitivity and care.

Us referring or signposting people for help elsewhere

As a referring organisation we will follow the advice in the Legal Aid Directory as to

- choosing the right destination agency for a client we are referring on
- observing that organisation's requirements on how to refer someone to them
- following up – we may re-contact the destination organisation later on to check how the referral went (subject to client's permission)

We agree that a proper referral may holistically include destination organisations outside the formal network of FLA suppliers.

We undertake to

- train our advisers/colleagues how to refer conscientiously and sensitively
- make sure they do so
- keep ourselves informed about the expertise, scope and capacity of the agencies we may refer to (especially those we refer to a lot)
- keep anti-discriminatory values strongly embedded in the way we handle outward referrals

Us receiving incoming referrals from elsewhere

As an organisation receiving referrals from other stakeholders and problem-noticers, we undertake to

- have agreed systems to accept referrals
- accept those referrals with grace and courtesy (especially towards the client) even if the referral has shortcomings
- inform the referring body of our acceptance of the referral
- keep the referring body informed so far as they wish to be (and subject to client's wishes), as to further outcomes as appropriate, and continue to work with them so far as that benefits the client and does not lead to duplication
- keep anti-discriminatory values strongly embedded in the way we handle incoming referrals

We undertake to

- train our advisers how to receive referrals and signpostings from other organisations
- stay in communication with referring stakeholders and signposting stakeholders so as to improve the quality of referrals and signpostings

The Legal Aid Directory

This protocol is to be read in conjunction with the Legal Aid Directory. We agree to take responsibility for what our entry in the Directory says, and to keep it up to date by contacting a relevant subcommittee member if there are any changes (hours, how to contact us, who does what, areas of expertise).

Data protection

We promise to look after the personal data of clients and enquirers. Where we make a referral and in so doing we tell another stakeholder any of a person's personal details (which they as receiving organisation have asked us to collect before referring), we will do so only with the person's permission. This duty may include advising the client not to share certain items of personal information.

14 Questionnaire

This might be the basis for discussion amongst participants at the initial mini-conference. This could be done online too.

Please discuss and answer these questions to stimulate your own thinking about and help us analyse how referrals work in your area and type of work

1. What currently happens if you want to send a client or enquirer to a different source of help?
2. Give examples of times when you have sent someone to another adviser
3. Why did you do that /have to do that?
4. What were the benefits to the client?
5. Do you know what happens when you send someone to another source of legal help?
6. Do you ever suggest somewhere they can go to get help that is non-legal eg health and disability support?
7. How do you make those referrals?

8. Where do you get info about where to send people?
9. Is this reliable?
10. Do you ever think you sent them to the wrong source of help?
11. Do you communicate with other organisations that you send people to?
12. Do you know them personally?
13. Do you know what their expertise is?
14. Do you have confidence in their capacity / expertise to deliver the help your referred person needs?
15. Please give examples of successful referrals
16. Please give examples of referrals that have gone wrong

17. Do you have examples of receiving successful or unsuccessful incoming referrals?

18. If unsuccessful, have you contacted the referring body to ask them to do it differently in future? Did that work?

15 Glossary

Some terms we use:

Client: someone who has been accepted for at least preliminary legal aid, but more properly someone who is being given legal help, advice or assistance; details have been taken and an agreement has been made to help them

Enquirer: someone who has made contact with a stakeholder organisation but is only at the stage of an initial point of contact: no details have been taken and no agreement made to help them

Advice-seeker: someone who knows they need legal advice and is expressly looking for it

Referrer / referring body: a person, stakeholder, organisation who asks a client or enquirer to go elsewhere for the help they need and carries out agreed procedures as to how to make sure they get to the source of help that has been identified

Destination organisation / referred-to body: the source of help to whom a person is referred, sent, advised to phone or go to.

Signposter: someone likely to be in an 'outer circle' role, not a legal aid provider, who notices a problem and points a person/customer/patient/client/enquirer in the direction of a source of help, perhaps giving them an address or phone number, but leaves it up to the person to make contact with that source of help

Problem-noticer / problem-noticing agency/ problem-noticing body: a person or organisation in an 'outer circle' role, and not a legal advice body of any kind, where the type of contact with the public means staff are likely to notice people's justiciable problems as a tangent to the main work/service the organisation provides.

Agency/organisation/stakeholder: these are used interchangeably and may be a body, group, organisation, firm, person in any of: statutory sector (local or national government), NGO / not-for-profit sector, commercial sector etc [I realise *organisation* is hard to translate into Macedonian without meaning specifically an NGO]

FLA: free legal aid

Legal aid supplier / provider: a lawyer, designated NGO or MoJ RO etc who is actually engaged in giving legal advice and assistance under the FLA scheme

Inner circle / outer circle: refers to the tiers within the National Co-ordinating Body structure, reflecting the central membership of legal aid providers and interested national bodies contrasted with a wider periphery of bodies that are interested but not actively delivering FLA. That distinction is also elaborated in the table above at section 6.3.

MoJ RO: Ministry of Justice Regional Office

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