



VIET NAM
LAWYERS ASSOCIATION



EUROPEAN UNION



UNITED NATIONS
DEVELOPMENT PROGRAMME

LEGAL CONSULTANCY TRAINING MATERIALS FOR MEMBERS OF VIET NAM LAWYERS ASSOCIATION

SET I: (1) INTERVIEWING SKILLS; (2) LEGAL CONSULTATION SKILLS; (3) LEGAL MATTER PLANNING SKILLS

Handbook for trainees



EU JULE

Contents

Introduction to the Participants on How to Use This Handbook.....	4
Participant Handbook	6
Preparation for Participants and Interactive Training Tips and Methods	6
Lesson 1: Person Requesting Legal Assistance Communication, Information Gathering and Interviewing Skills	7
Goals of Session:.....	7
Learning Outcomes:.....	7
After this lesson, Participants should be able to:	7
Part 1: Preparation Materials for Participants.....	8
Introduction.....	8
Content	8
1. Communications Skills	8
1.1. Why communication skills are important for Legal Aid Providers. ...	8
1.2. Different types of communication skills	9
2. Person Requesting Legal Assistance Information Gathering and Interviewing	14
2.1. The Definition of Interview	15
2.2. Purpose in Interviewing Persons Requesting Legal Assistance	16
2.3. Interviewing Dynamics	17
2.4. Organizing the Interview	19
2.5. Questioning during an interview.....	22
2.6. Find out the facts and content of the incident and build a legal story.	26
3. Professional Responsibility, Ethics and Interviewing Skills	26
4. Working with Vulnerable Persons Requesting Legal Assistance	27
4.1. Working with Vulnerable Persons Requesting Legal Assistance in General.....	27
4.2. Vulnerable Persons Requesting Legal Assistance and Trauma.....	28
4.3. Strategies for Working with Persons Requesting Legal Assistance in Trauma.....	30
4.4. Impact of Person Requesting Legal Assistance Trauma on the Legal Aid Provider. Understanding Secondary Trauma.....	32
5. Appendix 1: Person Requesting Legal Assistance Intake Form.....	33
Lesson 2: Client-Centered Lawyering, Counselling and Decision-Making Skills .	34
Goals of Session:.....	34

Learning Outcomes:.....	34
Part 1: Preparation Materials for Participants.....	35
Introduction.....	35
Content	36
1. Defining Client-Centered Lawyering.....	36
2. The Basic Principles of Client-Centered Lawyering.....	36
2.1. Person Requesting Legal Assistance Participation	36
2.2. Person Requesting Legal Assistance Empowerment	37
2.3. Holistic Problem-Solving	37
2.4. Legal Aid Provider Self-Awareness.....	37
2.5. Partisan Advocacy	37
2.6. Conclusion.....	38
3. Counselling and Person Requesting Legal Assistance Decision-Making Skills.....	38
3.1. The Problem-Solving Process.....	38
3.2. Counselling Process	39
4. Things to Consider Regarding a Person Requesting Legal Assistance’s Options	39
5. Potential Outcomes.....	42
6. Ethical Conduct During Counselling	43
Lesson 3: Legal Matter Planning	45
Goals of Session:.....	45
Learning Outcomes:.....	45
Part 1: Preparation Materials for Participants.....	46
Introduction.....	46
Content	46
1. What is Legal Matter Planning?	46
2. The Elements Common to all Legal Matter Planning Models	47
3. The Major Steps to Legal Matter Planning.....	47

Introduction to the Participants on How to Use This Handbook

This Handbook is designed to give the Participants (the persons using this Handbook) instructions on how to effectively use this Handbook. After reading this section the Participant will know how to use the different sections and tools in this Handbook.

The materials contained in this Handbook are designed to assist the **Vietnam Lawyer's Association** (VLA) Legal Aid Provider (LAP) senior members in strengthening the ability of other VLA LAP in three (3) specific skills areas related to working with persons requesting legal assistance.

These areas are:

- 1) Person Requesting Legal Assistance Communication, Information Gathering,
- 2) and Interviewing Skills (skills in communicating with persons requesting legal assistance and stakeholders)
- 3) Client-Centered Lawyering, Counselling and Decision-Making Skills (skills in empowering persons requesting legal assistance to make their own decision for their matter)
- 4) Legal Matter Planning (analyzing and developing a Legal Matter Plan)

The above three skills areas are a result of a 2019 survey report assessing the capacity of VLA's LAPs. One of the key findings of the survey demonstrated a need for more training in the above skills areas.

To deliver the three above groups of skills, two Handbooks have been designed. They are:

- **Handbook 1:** This Handbook contains reading and study materials for Facilitators/Trainers and Participants. This Handbook is a reference guide for Teachers (Facilitators/Trainers) and Participants (Trainees). This Handbook contains background and content information related to the 3 groups of skills referred to above. This Handbook has been designed and contains much content information related to the three lessons mentioned above (the concept of skills, why these skills are important and how do these skills work in the process of working with Persons Requesting Legal Assistance.
- **Handbook 2:** This Handbook is a guide for Facilitators/Trainers. This guide assists the Facilitators/Trainers on how to teach the content in Handbook 1, using and applying interactive and experiential teaching methods, with a Participant-centered approach. This Handbook is an

effective training tool to help Facilitators/Trainers to deliver the skills and content in the Handbook 1 to Legal Aid Providers, who participate in the workshop.

In both the Facilitator/Trainer and the Participant Handbooks there is important information related to the topics in the Handbook. However, this information is not always the same. The Participant's Handbook contains important legal information related to each of the topics in the Handbook. This is referred to as, the Content. The Facilitator Handbook contains information on how to train the Participants (VLA Legal Aid Providers) to understand and apply the topics in the Participant Handbook. This includes a basic summary of interactive teaching methods, and lesson plans which are specifically designed to make sure that the Participants understand the information found in the lesson.

The materials and training lessons contained in this Handbook are to be used for a two (2) day workshop. The lessons and content contained within are not meant to be exclusive of all that needs to be known about how to apply these skills. Each of the above skills can take many years to master, and the trainings related to each of the skills can also be done over many days, weeks, months and even years. However, it is recognized that in order to master any skill, it is important to start somewhere, and this Handbook is meant to be a good starting point.

The content is based on many years of design, implementation, and fine-tuning, and applies information contained in training curriculum created by many experts, and used globally. The materials use a type of experiential, interactive training method. While the training materials are experiential, they are not experimental! The model suggested here is well tried and tested and have been used to train LAP throughout the Asia region and globally.

Sincere thanks go out to all of the National and International experts who worked to create these Handbooks.

Participant Handbook





This is an introduction to the use of the materials in the Legal Advice Capacity Building Training Handbook for Legal Aid Providers of the Vietnam Lawyers Association (VLA) within the framework of the Law Strengthening Program and Justice in Vietnam (EU JULE). This Handbook is a study document for VLA LAP Participants to read prior to, during and after their trainings on the content in this Handbook.

This Handbook contains three different lessons.

- 1) Person Requesting Legal Assistance Communication, Information Gathering, and Interviewing Skills (skills in communicating with persons requesting legal assistance and stakeholders)
- 2) Client-Centered Lawyering, Counselling and Decision-Making Skills (skills in empowering persons requesting legal assistance to make their own decision for their matter)
- 3) Legal Matter Planning (analyzing and developing a Legal Matter Plan)

Each lesson has detailed information at the beginning, including:

Preparation for Participants and Interactive Training Tips and Methods

	Lesson Goals
	Outcomes, including the Knowledge, values, and skills gained after completing the training
	Introduce the lesson
	Introduce the content structure of the lesson to each chapter

Prior to any training it is strongly recommended that Participants review and be familiar with the content in the Participant Handbook. While it is not necessary for the Participants to review the Facilitator Handbook, it is essential that the Facilitator review the substantive information contained in the Participant Handbook. This is necessary in order for the Facilitator to effectively be able to apply the lessons in the Facilitator Handbook and make sure the Participants understood the information that is contained in the Participant Handbook.

Lesson 1: Person Requesting Legal Assistance Communication, Information Gathering and Interviewing Skills



Goals of Session:

To train Legal Aid Providers of the Vietnam Lawyers Association on communication, information gathering, and interviewing skills.



Learning Outcomes:

After this lesson, Participants should be able to:

<i>Knowledge</i>	<ul style="list-style-type: none">• Understand the basic principles and role of the person requesting legal assistance communication, information gathering and interviewing skills.
<i>Skills</i>	<ul style="list-style-type: none">• Prepare and conduct a basic person requesting legal assistance communication and intake interview using clear language, question and appropriate non-verbal communication.• Conduct questioning for information gathering during the interview process and use suitable effective language in communication (verbal and non-verbal communication skills).• Identify the use and need of a person requesting legal assistance intake form.
<i>Values</i>	<ul style="list-style-type: none">• Understand and appreciate the importance of building a relationship with persons requesting legal assistance, and gathering the information for giving accurate legal advice, especially when working with vulnerable persons requesting legal assistance.• Understand and appreciate the need for Legal Aid Providers to be trained in how to work with vulnerable persons requesting legal assistance during the communication and interview process.• Understand and appreciate the importance of good communication and interviewing skills in establishing trust with persons requesting legal assistance.

Part 1: Preparation Materials for Participants

Introduction

This lesson provides Participants with the concepts and content of communication, information gathering, and interview skills. The lesson provides opportunities to use, and apply these, skills when interviewing, and, in particular, takes into account ethical responsibility and work with vulnerable groups of persons requesting legal assistance.

1. Person Requesting Legal Assistance Communication

2. Person Requesting Legal Assistance Interview

3. Professional Responsibility, Ethics, and Interviewing Skills

4. Working with Vulnerable Persons Requesting Legal Assistance

Content

1. Communications Skills

1.1. **Why communication skills are important for Legal Aid Providers.**

- Most of what Legal Aid Providers do involves communication.
- Effective communication skills are a hallmark of good Legal Aid Providers.

1.2. Different types of communication skills

Communication is the exchange of information to establish the relationship and contact between people to achieve a certain purpose.

- ✓ Listening skills in communication helps the Legal Aid Provider grasp the problem, collect information; thereby improving interaction and understanding with the other party. At the same time this creates an emotional connection between the speaker and the listener, thereby creating good relationships.
- ✓ Focus on communication
- ✓ Don't interrupt
- ✓ Understanding, interacting through expressions such as: surprised, touched, nod (body language)
- ✓ Don't judge or force the person requesting legal assistance
- ✓ Know how to ask questions

1.2.1. Active Listening

a. Listening Carefully

Listening to what a person requesting legal assistance says is one of the most important, and fundamental parts of effective communication between a Legal Aid Provider and a person requesting legal assistance. Listening is not just hearing what someone tells you word for word. You have to listen with a heart. This is especially true for Legal Aid Providers who work with persons requesting legal assistance who are often vulnerable and marginalized. It is not just about being quiet. It's about listening to what people say, what they don't say, and listening to what they mean. Listening is about hearing with our eyes, our ears, and our heart.

Listening includes figuring out the person who is speaking. You need to ask yourself the questions to understand the full meaning behind the words, such as: What matters to her/him as a person? How does she/he see the world?

The ability to listen well is as important in the practice of law as the ability to talk well. The popular image of a Legal Aid Provider is of a person who is very good at talking, to other Legal Aid Providers, to judges, to adversaries. But in the end, the Legal Aid Provider who knows how to listen has a tremendous advantage. Knowledge can be power, and in the practice of Law one of the most important means of gaining knowledge is to listen carefully and precisely.

When listening, it is not only important to listen, but to make sure you listen carefully. If you ask a question on topic A, and get some of the information you ask for, you may ignore the missing information on topic A, and ask an unrelated question on topic B. But if you act like a good Legal Aid Provider, you will not go on to topic B until you have asked all the follow-up questions

necessary to get on the information you need on topic A. Find out everything, not just a lot of things, everything.

Active listening goes beyond simply listening to a person requesting legal assistance. Active listening involves the Legal Aid Provider playing an affirmative role by asking the person requesting legal assistance to provide more information, details, examples, evidence. The benefits of active listening can include encouraging open conversation, avoiding misunderstandings, resolving conflict and building trust. Active listening is not simply listening passively. It encourages persons requesting legal assistance to talk, and occasionally asks the other person to clarify something that is confusing, or do add details to something that would otherwise be sketchy.

Body language is also an important factor in active listening: listening with your eyes, facial expression, or body position.

You can listen more effectively if you ask yourself these questions while the other person is talking:

- What words-exactly – am I hearing, and what do those words mean?
- What do the speaker's tone of voice and body language (facial expression, posture, etc.) imply?
- What do the speaker's words imply (hint at)?
- Why is the speaker saying or implying these things?
- What is the speaker not saying or implying that other people in her/his situation might often communicate? Why?

Consider the difference between passive listening and active listening in the same interview.

Legal Aid Provider Listens Passively

Person Requesting Legal Assistance: My husband and I bought a piece of land. The land area is 200m². On the left side of the land there is a stream flowing through. The seller showed me and my husband this land. The land is very beautiful and fits with my family's plans in the future. We have made a deposit for the seller. The amount we have deposited is 500,000,000 VND. However, it was not until the seller obtained the land use right certificate that we knew that we had bought a completely different.

Legal Aid Provider: (*shaking his head with a surprised and frustrated face*): You must have been pretty upset.

Person Requesting Legal Assistance: Absolutely. I don't want this land.

Legal Aid Provider: (*sympathetic face*). Yes, I've also encountered a case like this, I was unlucky to meet a bad person. Have you signed a contract when you transferred the deposit to them?

Person Requesting Legal Assistance: We only made a receipt.

Legal Aid Provider: *(Shakes their head with sympathy and encouragement)*
Please tell me how did you sign the papers to register for the transfer of land use rights?

Person Requesting Legal Assistance: We signed the papers they asked me to sign.

Legal Aid Provider Listens Actively

Client: My husband and I bought a piece of land. The land area is 200m². On the left side of the land there is a stream flowing through. The seller showed me and my husband this land. The land is very beautiful and fits with my family's plans in the future. We have made a deposit for the seller. The amount we have deposited is 500,000,000 VND. However, it was not until the seller obtained the land use right certificate that we knew that we had bought a completely different piece of land. It was not in the position of the land we were seeing. I don't want to buy this land, the seller cheated on me.

Legal Aid Provider: Yes, we will help you to initiate a civil action or report to the police about their deception.

In the above 2 interviews, the second interview demonstrates the use of questions and body language of the Legal Aid Provider, and provides a more positive method of communication.

b. Passive Listening

Passive Listening is the opposite of Active Listening. This occurs where the interviewer sits still and just listens without interacting with the interviewee. This approach should generally be avoided; passive listening will not allow an interviewer to collect the necessary information.

1.2.2. Empathy

Empathy is the skill of feeling what another person feels. It is important to distinguish between empathy and sympathy. Sympathy is more common and less valuable than empathy. "If you are sympathetic to others, your heart goes out to them, and you feel compassion, but they are your feelings. You don't know what they are feeling... If you are empathetic to others, you are not merely feeling sorry for them but are projecting yourself into their hearts, as though you are sensing what it's like to be in their shoes".

Empathy is invaluable in working with legal aid related persons requesting legal assistance. Empathy helps you find out who your persons requesting legal assistance really are and what they are really feeling, and once they sense true empathy from you, they will tell you more and trust you. At the same time, empathy from a Legal Aid Provider often helps a person requesting legal assistance feel stronger and more capable of dealing with problems the person requesting legal assistance has brought to the Legal Aid Provider.

However, empathy has to be authentic. If you try to pretend to be empathic, people will sense that it is not genuine and feel uncomfortable.

1.2.3. Being Patient

It is very important for Legal Aid Providers to be patient with persons requesting legal assistance. Being patient means the art of waiting. Often, when someone does not get an instantaneous answer to a question, they ask another one immediately. The other person may have been thinking about the first question and about to give an interesting and useful answer, but the second question can cut that off. Because of impatience, the Legal Aid Provider may never learn the answer to the first questions. In addition, if you are not patient you can cause your person requesting legal assistance great stress, and not build trust with your person requesting legal assistance.

Let silence help you. If you ask a question and hear nothing in response at first, this is ok. Actually, you do hear something. You hear the silence of the other person deciding how to answer. Listen to the silence, and wait. If you dislike silence, your person requesting legal assistance may too. And your person requesting legal assistance's dislike of silence might cause your person requesting legal assistance to produce the information you are looking for. So remember to be patient.

1.2.4. Voice and body Language

When communicating with persons requesting legal assistance, some things are not communicated very clearly or naturally in words. Suppose that a person requesting legal assistance is a charming and witty person whose presence you enjoy. If you say that to the person requesting legal assistance, both of you may feel uncomfortable. If you smile and speak in a friendly tone whenever you see the person requesting legal assistance, the message gets across much more naturally. Tone of voice and body language can be used to imply messages where explicitly saying something would cause additional problems. Non-verbal communication skills are very important, especially when working with vulnerable persons requesting legal assistance, such as women who suffer from violence, children, people with disabilities, trafficking victims, HIV infected people and others. This is because nonverbal communication creates a sense of friendliness, trust, encouragement and empathy with the person requesting legal

assistance. It helps to alleviate the person requesting legal assistance's sadness, anger and stress.

1.2.5. Multicultural Awareness and Sensitivity, Customs and Local Traditions

A Legal Aid Provider can be effective only if the Legal Aid Provider understands control differences and know how to recognize and deal with them. It is very important to both understand and respect different cultures and customs. In doing so there are many different things to consider including:

- ethnicity or race
- gender
- local ideography
- religion
- Nationality or immigrant status
- disability
- sexual orientation
- income, education, or both
- occupation, or the organization in which one works

Obviously, many people have sensibilities shaped by more than one culture. If you ignore the differences among cultures - or if you think in terms of cultural stereotypes - it will alienate persons requesting legal assistance, witnesses, and other persons. You will also cut yourself off from a great deal of information, simply because different cultures communicate in different ways. Working with people of diverse backgrounds is a skill - actually a cluster of the skills.

2. Person Requesting Legal Assistance Information Gathering and Interviewing

Interviewing and collecting information is one of the most important activities of Legal Aid Providers. Legal Aid Providers can only offer the best solution to the matter if they fully grasp the matter information, specific evidence, and expectations of persons requesting legal assistance.

Interviewing and information gathering are done in many different ways, such as interviewing persons requesting legal assistance, reading documents related to the legal matter and meeting and exchanging with others. person requesting legal assistance interviews are one of the most important methods of effective information gathering. Through person requesting legal assistance interviews, Legal Aid Providers can grasp the details of the matter and thoughts and aspirations of the persons requesting legal assistance. This then helps them to assist in the development of the most effective solutions to the legal matter.

2.1. The Definition of Interview



An interview is a method of gathering information through conversation that allows the interviewer to ask questions in order to collect information and understand the interviewee's goals. It is an opportunity for Legal Aid Providers to engage with their person requesting legal assistance, to ask questions and get the necessary information before giving legal advice. The accuracy of the information obtained at this stage is necessary to properly advise the person requesting legal assistance. In order to gather accurate information, the interview must be done effectively. A skilful Legal Aid Provider will ask the right questions but will also allow the person requesting legal assistance to speak and will listen to anything the person requesting legal assistance thinks is relevant to the matter.

The overall goal of any interview is to gather all the relevant facts about a person requesting legal assistance's situation in order to provide the best possible foundation for the Legal Aid Provider-person requesting legal assistance relationship. This helps lead to a better possible outcome for the person requesting legal assistance.

The interview process must involve mutual respect, and the priority must be the establishment of a relationship based on trust. This will allow the person requesting legal assistance to tell their story accurately and fully and help ensure the most accurate and fair legal outcomes.

2.2. Purpose in Interviewing Persons Requesting Legal Assistance

One of the key types of communications between a Legal Aid Provider and a person requesting legal assistance is called the person requesting legal assistance interview. Person requesting legal assistance representation usually starts with an interview. A person who wants legal advice or advocacy often calls to make an appointment or may just come into a Legal Aid Center. If they call to make an interview then it is important that you, or others working in your Legal Aid Center find a convenient time to meet with the person requesting legal assistance.

Often, even in this initial phone call, you or others in the Legal Aid Center may begin the initial interview process by asking what kind of matter the potential person requesting legal assistance needs assistance with. For instance, the person calling may say "My landlord is trying to force me out of my apartment, even though I have a lease" or "I have a labour dispute with my employer who will not pay me what is owed."

Once this initial information is taken, if this is something your Legal Aid Center may be able to assist with, an appointment is set for the potential person requesting legal assistance to come in and meet with you to sit down and talk.

During the conversation the Legal Aid Provider focuses on learning what issues and problems the person requesting legal assistance has and what are the person requesting legal assistance's goals. This also includes getting to know the person requesting legal assistance as a human being, and giving the person requesting legal assistance a reciprocal opportunity to get to know the Legal Aid Provider.

During the interview process there are a number of things which occur, including:

- a. **To form a Legal Aid Provider-person requesting legal assistance relationship.** Depending on whether the person requesting legal assistance is someone you already know, or is a close friend, or you do not know, you and the person requesting legal assistance will have a certain relationship after you accept this consultation. Whatever the matter, you should maintain this relationship as best you can.
- b. **To learn the person requesting legal assistance's goal:** If you do not know what your persons requesting legal assistance want, you cannot determine how to help them. What does persons requesting legal assistance want or need to have done is one of the most important questions that you have to answer after your conversation with persons requesting legal assistance.

- c. **To learn much of the information that the person requesting legal assistance knows about the facts of matter:** This usually takes up most of the interview.
- d. **To reduce the person requesting legal assistance's anxiety without being unrealistic.** On a rational level, persons requesting legal assistance come to Legal Aid Providers because they want problems solved. But on an emotional level, they come to get relief from anxiety. Even the person requesting legal assistance who is not in a dispute with anybody and wants something positive done, such as drafting a Will, feels a reduction in anxiety when you are able to say: "I think I can draft a Will so that your children do not have to argue, or spend a lot of time with legal proceedings in the future".

Many times, you cannot offer very clear assurances to a person requesting legal assistance during the initial interview. This is because there are too many variables at the time of interview, and too many unknown things. When first meeting a person requesting legal assistance, you are almost never in a position to say, "if we sue your employer, I think we will win". You need to do an exhaustive factual investigation before you can say something like that responsibly.

Most of the time, persons requesting legal assistance in initial interviews experience a significant degree of relief from anxiety simply from the knowledge that a capable, concerned, and likeable Legal Aid Provider is committed to doing whatever it is possible to solve the problem. When you help a person requesting legal assistance gain that feeling, you are reducing anxiety without being unrealistic.

2.3. Interviewing Dynamics

There are many dynamics which occur during a person requesting legal assistance interview. It is important to remember that when considering these dynamics, the most important goal is that "the person requesting legal assistance wants more than anything is to be understood, both for who they are and what they have suffered".

What is really going on in a person requesting legal assistance interview? Here are the otherwise hidden dynamics:

- a. **Inhibitor.** What might inhibit a person requesting legal assistance from telling you everything the person requesting legal assistance thinks and remembers?

The interview itself might be traumatic for the person requesting legal assistance. It can be embarrassing to confess that a problem is out of

control. And the details of the person requesting legal assistance's problem are often very personal and may make the person requesting legal assistance look inadequate or reprehensible, even when the person requesting legal assistance might in the end be legally in the right.

The person requesting legal assistance might be afraid of telling you things that she thinks may undermined her matter. Most inexperienced persons requesting legal assistance do not realize that you can help the person requesting legal assistance only if you know the bad as well as the good. In addition, the person requesting legal assistance might feel inhibited by culture, social, age, or dialect barriers.

- b. **The office arrangement.** Consider the furniture arrangement that should help you open up to a Legal Aid Provider if you were a person requesting legal assistance. Some people are perfectly willing to talk over a desk to Legal Aid Provider. Other people would want something less formal, perhaps two chairs with small table to the side (all of which can be in the same room as the desk).
- c. **Your office should also communicate professionalism.** An office that is a mess, with papers piled everywhere, suggests that the Legal Aid Provider work is out of control. Some Legal Aid Providers say that they know where everything is, but persons requesting legal assistance instinctively doubt that.
- d. **Take notes.** You need to keep a record of important information in the process of collecting information from persons requesting legal assistance. It is important to clearly state the purpose of the recording, to avoid the person requesting legal assistance worry about being recorded. This could lead to the person requesting legal assistance providing incorrect information about the nature of the matter. You may want to use a type of shorthand note taking to ensure that you spend time communicating with persons requesting legal assistance. You should avoid just looking at paper and recording without communicating with the person requesting legal assistance, instead you should maintain eye contact. While taking notes, you can keep recording while looking at the person requesting legal assistance and show empathy, encouragement (friendly eyes) so that the person requesting legal assistance is more motivated to speak about the problem.

There are many ways to ask for permission to take notes, in order to suit each type of person requesting legal assistance, it's important to be very natural and appropriate. Usually you would say, "Would you mind if I took notes?" However, the questions for children are different from the elderly, highly educated adults are different from ethnic minorities ..., for

example “I ask for permission / can write down the main contents to avoid confusion and help you to be better”.

persons requesting legal assistance are often not bothered by your note-taking, although some persons requesting legal assistance may appreciate if you were to ask, “do you mind if I take notes”. It often helps to explain to the person requesting legal assistance how note taking helps you do your job better. It though is important to not get too wrapped up it note taking because it could be hard to listen, and even harder to maintain important eye contact.

A good Legal Aid Provider learns how to take minimum notes while the person requesting legal assistance is telling the story, perhaps writing down all the topics the Legal Aid Provider wants to go back to discuss later.

2.4. Organizing the Interview

To be most effective during an interview it is very important to prepare before the interview begins. Generally, an interview can be broken down into five parts:

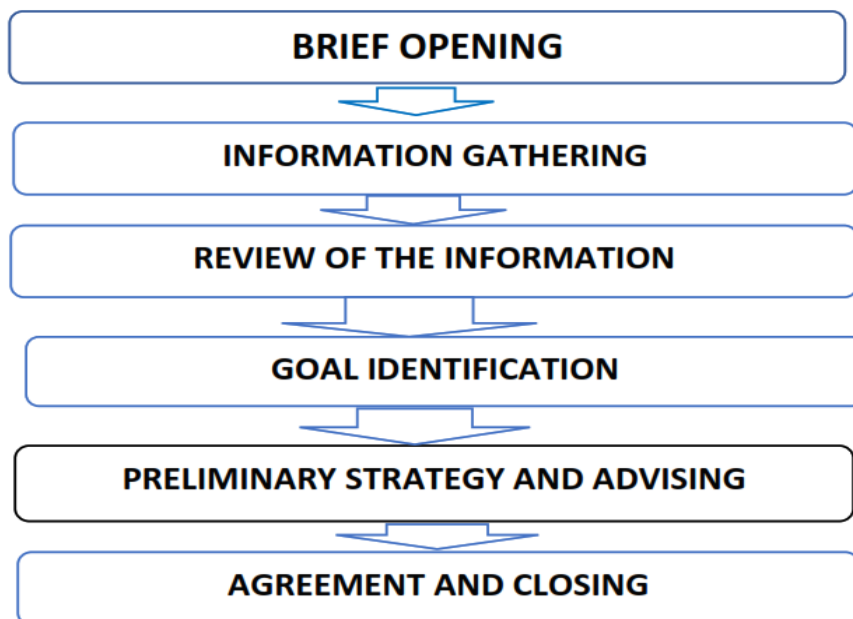
1. **A brief opening part.** This part allows the Legal Aid Provider and person requesting legal assistance to become acquainted.
2. **An information gathering part.** This part is usually the longest part of the interview. This is the part where you will learn as much as you can from the person requesting legal assistance about the facts; if you are using cognitive interviewing techniques, this process of interview is subdivided into:
 - a. an open-ended narration stage (the person requesting legal assistance tells the story);
 - b. a probing stage (you ask detailed questions);
 - c. a review stage (you describe the story as you understand it and person requesting legal assistance makes correction an additions).
3. **A review of the information.** This part helps to ensure that the information gathered from the person requesting legal assistance is correct and helps to reassure the person requesting legal assistance that the Legal Aid Provider is listening and understands the person requesting legal assistance.
4. **A goal identification** This is the part where the Legal Aid Provider specifically comes to understand what the person requesting legal assistance wants to accomplish in resolving the problem at hand.

5. **Preliminary strategy and advising part.** This is the part where the Legal Aid Provider discusses preliminary thoughts with the person requesting legal assistance, and may be able to come up with an initial strategy for the matter, as well as providing preliminary advice. It though is very important that during this initial stage the Legal Aid Provider limit the advice given, due to not often having had sufficient time to fully research the matter.
6. **Agreement and closing part (including providing the person requesting legal assistance Intake Form).** This is the part where the Legal Aid Provider and the person requesting legal assistance agree on what would happen after the interview. This is an important step in which you repeat the person requesting legal assistance's story and confirm the process so far. It allows your person requesting legal assistance to think about whether there is anything else they would like to add, and it is a good opportunity to see if any relevant details have been missed. Many Legal Aid Providers often provide the person requesting legal assistance the Legal Aid Center person requesting legal assistance Intake Form at this time, although some choose to do this prior to meeting the person requesting legal assistance (when the person requesting legal assistance is in the waiting room before the interview) or during the information gathering part of the interview.

At the end of this section, the Legal Aid Provider may give preliminary advice or gives preliminary options for the next steps (depending on the characteristics of the matter). With the principle that persons requesting legal assistance are the focus, so it should be emphasized that persons requesting legal assistance will choose and decide their own Plans on the basis of considering the analysis and advice of Legal Aid Provider, or they can come up with a completely different option on their own.

In practice, the above parts often overlap. For example, review of the information (part 3) may happen during information gathering (part 2). Or the person requesting legal assistance my volunteer clearly stated goals (part 4) in the first moments of the interview (part 1).

STEPS IN THE INTERVIEW PROCESS:



The above process can be even more simplified into the following *Steps in the Interview Process*:

1. Introduction

- Introduce yourself
- Small talk (make the person requesting legal assistance feel comfortable)
- Build trust with the person requesting legal assistance

2. Information Gathering

- Take clear and detailed notes
- Ask the person requesting legal assistance to tell their story
- Question and Answer
 - Begin with broad/general questions
 - Move on to specific/detailed questions once the person requesting legal assistance is more comfortable
- Provide person requesting legal assistance Intake Form (although some Legal Aid Providers may do this during Step 6)

3. Review

- Interviewer describes the story as they understand it, and the person requesting legal assistance makes corrections or additions

4. Goal Identification

- Identify theories, goals, interests, and objectives

5. Advising

- Strategize how you can help the person requesting legal assistance
- Discuss what you can and cannot do for the person requesting legal assistance

6. Agreement and Adjourning (including the providing of the person requesting legal assistance Intake Form if this was not done earlier see the Sample of Form at the end of the Lesson)

- Discuss the next steps including whether the person requesting legal assistance needs to return or be referred on to another service.
- Provide the person requesting legal assistance the person requesting legal assistance Intake Form (although many Legal Aid Providers often do this in Step 1 or Step 2)



2.5. Questioning during an interview.

One of the marks of an effective person – in law and in almost any part of life – is the ability to ask the right question in the most productive way.

Questioning allows Legal Aid Providers to draw out the information necessary for the legal process. Asking the right questions will allow the Legal Aid Provider to get the best information from the person requesting legal assistance, while avoiding emotional and complicated responses, which tend to take an interview off topic. The role of the Legal Aid Provider is to obtain the relevant information in a reasonable period of time. Asking the right questions will allow you to stay focused.

Your task in the interview stage is to capture the entire content of the matter, which is to capture as much information as possible. Use closed questions, open questions, direct questions, narrow questions, to gather information in the person requesting legal assistance interview process. In the interview, the following questions should be asked:

- a. Ask for the real facts and the person requesting legal assistance's source of knowledge.
- b. Ask about the papers and documents related to the matter.
- c. Ask questions that help you find the story in facts.
- d. Ask whether the person requesting legal assistance has talked about this problem with another Legal Aid Provider.



2.5.1. Basic concepts for asking a question

- **Ask for all important information.** Good questions seek things of value, things that really do need to be known. Some people can fill an hour with marginal questions, but others can learn everything in five minutes.
- **When asking the question, use the words that are most likely to produce valuable information.** Some words help find information and encourage answers, while other words confuse, cloud memory, or provoke resistance.
- **Ask at the right time and in the right context.** Sometime other questions have to be asked first, and often the person being asked has to be put into a mood to be helpful.
- **Know when to ask narrow questions and when to ask open questions.** First, as in the 'active listening' section described above, you use 'open' questions (e.g. 'What brings you here today?', 'Tell me what happened', 'What can we do for you?') to get a general overview of the person requesting legal assistance's problem. After that, narrow your

questions to get the who/what/when/where/why/how of the person requesting legal assistance's story in chronological order.

- Closed questions are used to confirm information and are often used at the end of the interview, for example: "Do you confirm receiving notice of termination on February 1, 2019?"
 - An open question asks for general information and often invites the person answering the question to decide what to emphasize (How was your flight?).
 - A closed question confirms the information and has 2 options for an answer: "Correct" or "Wrong"; "Yes" or "No".
- **Know when to ask narrow questions.** After using open questions to gather information, narrow your questions, using narrow questions to get answers from the person requesting legal assistance: who / what / when / where / why / how, in chronological order.
 - A narrow question asks for specific information: (*What time did your plane arrive?*)

If you need to know something specific, you can ask a narrow question to find out fastest. If you not sure what is important, an open question can produce a lot of information, which you can then begin to sort out. Often, it is more effective to start with broad questions and then work toward narrow ones.

- **Know when to ask a leading question and when to ask a non-leading question.**

A leading question not only suggests the answer; it also creates pressure to provide that answer.

 - You just returned from Ha Noi, haven't you? This is a **leading question**. You can expect the questioner to be surprised and may be unhappy if you answer no.
 - "Have you been in Ha Noi lately" is a **narrow non-leading question**. Is it narrow because it asks for specific information? It is non-leading because the wording implies that the questioner would be happy with either yes or no, as long as it is truthful.

"Tell me about any trip you may have taken recently" is a **broad question**. When you start exploring various aspects of the problem in detail, try to organize your topics separately. Too much skipping around confuses persons requesting legal assistance and likely yourself.

On each topic start with open questions (“Tell us how you got fired”) and gradually work your way toward narrow ones (“Did your employer give you 30 days notice before letting you leave”). Open questions usually produce the largest amount of information, especially information that you have not anticipated. Narrow questions produce detail to fill in gaps left after the open questions have been asked. Move gradually from open questions to narrow ones. If you jump too quickly to narrow ones you will miss a lot of information because it is open question that show you what to explore.

Ask open question until you are not getting useful information anymore. Then go back and ask narrow question about the facts the person requesting legal assistance did not cover. While the person requesting legal assistance is answering the open questions, you should try to note on a pad the topics you would explore later by means of narrows questions.

2.5.2. Organize the questions

As you explore the different aspects of the problem in detail, try to organize them in detail. Ignoring too many details will confuse the person requesting legal assistance and yourself.

On each topic, start with open-ended questions (“Tell us how you got fired”) and gradually move into narrow questions (“Did your company notify you? you 30 days before giving you no leave”). Open-ended questions often generate the largest amount of information, especially information that you have yet to anticipate. The focus questions create details to fill in the gaps left after the open-ended questions were asked. Gradually from open to narrow question. If you move too quickly to narrow questions, you'll miss out on a lot of information because it's an open question that shows you what to explore.

Ask open-ended questions until you get no more helpful information. Then go back and ask narrow questions about events that the person requesting legal assistance did not present. While the person requesting legal assistance is answering open-ended questions, you should try to take note of the issues you will ask later on in the form of more focused questions.

2.5.3. Asking the question

Phrase your questions carefully. Remember that how you say something has an enormous effect on how people respond. A good question does not confuse, does not provoke resistance, and does not help distort memory.

At times, you can probe for information without using questions at all. For example, as discussed above, active listening or body language indicating that you are particularly interested in what a person requesting legal assistance is

saying can encourage a person requesting legal assistance to go into the facts in greater detail.

Note on a pad the topics you would explore later by means of narrow questions.

2.6. Find out the facts and content of the incident and build a legal story.

Good Legal Aid Providers need to know two groups of skills to build the legal story of the person requesting legal assistance. The first skill is the skill of finding the details of the matter. After interviewing the person requesting legal assistance, you have found documents and other evidence. Thanks to that, you have identified the correct information. Then in the forest of these facts, you must reconstruct the legal story of the person requesting legal assistance. What truths are disclosed? What is your person requesting legal assistance requesting? What information shows what are the other characters in the matter? What facts show how the damage was done? You don't make up the story. Doing this would be a lie. You find the legal story through the exact data you have.

The second skill involves the skills of reconstructing the legal story content of the person requesting legal assistance. If you tell the story yourself, what words will convey the story most convincingly. For example, if you tell the story by providing evidence in the courtroom, you would ask the witnesses how to get them to tell the story in the most compelling way. Legal Aid Providers who reconstruct the legal story of the person requesting legal assistance should do this based on the method of mapping the matter: The Legal Aid Provider maps the relationship between the facts and the law with the disputing parties, actual events that took place in chronological order, arguments and points of view of each party and the provisions of law that have been and may be applied. Mapping should follow the rules of mind-mapping implementation so that the brain can easily grasp and remember key issues and relationships between elements in the matter.

3. Professional Responsibility, Ethics and Interviewing Skills

Having the skills to conduct an interview is essential for ethical practice. When interviewing persons requesting legal assistance, a Legal Aid Provider has the duty to act with honesty, integrity, diligence, competence, frankness and trustworthiness. An important part of a Legal Aid Provider's duty of competence and diligence is to communicate effectively with persons requesting legal assistance. In order for the person requesting legal assistance to make an

informed choice about what to do about their legal matter, Legal Aid Providers must be able to determine the relevant legal issues, understand their person requesting legal assistance's instructions, and in turn provide them with full and proper advice.

Legal Aid Providers owe their persons requesting legal assistance a fiduciary duty, a duty of confidentiality, and a duty to act without conflict of interest. They also have duties to the court and to the profession for the proper administration of justice. Conducting person requesting legal assistance interviews consistent with these principles helps the Legal Aid Provider best represent the person requesting legal assistance's interests whilst protecting their professional integrity, and prevents the profession being brought into disrepute.

Some of the most common ethical issues owed to persons requesting legal assistance, and what Legal Aid Providers must consider during the interview process, include:

- Duty of confidentiality
- Duty to avoid conflict of interest
- Duty to act in your person requesting legal assistance's best interest
- Duty to act honestly, fairly and with candour
- Duty to zealously represent your person requesting legal assistance in an ethical manner
- Duty to act with skill and competence
- Duty to communicate effectively and promptly

It is important to pay special attention to a Legal Aid Provider's ethical responsibility requirements related to the person requesting legal assistance communications, especially during the interview. For example, during the interview the Legal Aid Provider should be respectful, polite, friendly, enthusiastic, avoid having a bossy attitude, avoid acts of belittling persons requesting legal assistance; use simple, easy to understand and concise language and symbols suitable for persons requesting legal assistance. They also should avoid inciting persons and definitely avoid requests from persons requesting legal assistance to commit illegal acts, or acts that are socially unethical.

4. Working with Vulnerable Persons Requesting Legal Assistance

4.1. Working with Vulnerable Persons Requesting Legal Assistance in General

As a Legal Aid Provider, you will need to interview and advise vulnerable persons requesting legal assistance. Vulnerable persons requesting legal assistance can include:

- People living with disabilities (both physical and mental);
- Migrant workers, from rural areas of Vietnam (and accompanying family members);
- people who have low incomes;
- the urban poor;
- People living with HIV/AIDS;
- Sex workers;
- Human Trafficking victims;
- People who have low literacy;
- People who are otherwise marginalised and discriminated against.

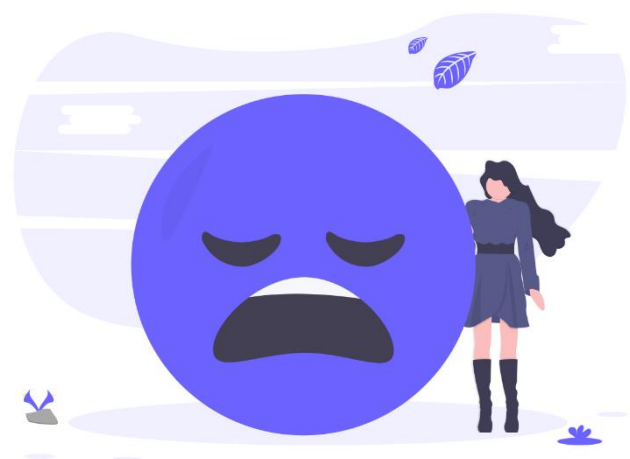
The key skill when working with vulnerable persons requesting legal assistance is empathy. Empathy, which was discussed above, is the ability to understand and share the feelings of another person. It is essential to building a strong, trusting relationship with your person requesting legal assistance.

Legal Aid Providers need to adapt their communication and interview style when working with vulnerable persons requesting legal assistance. This can include:

- ✓ Meeting in an appropriate location
- ✓ Changing the setup of an interview room
- ✓ Arranging a support person, or inviting the person requesting legal assistance to bring their own support person to attend the interview
- ✓ Actively listening to your person requesting legal assistance's concerns and confirming the person requesting legal assistance has been understood
- ✓ Explaining exhaustively; pausing; and repeating important information

4.2. **Vulnerable Persons Requesting Legal Assistance and Trauma**

Often Legal Aid Providers work with vulnerable persons requesting legal assistance who are in trauma. Trauma is an emotional response, often to a terrible event in a person's life. Often this emotion response can be mental, emotion, physical and it may impact memory and behavior.



For Legal Aid Providers that work with vulnerable persons requesting legal assistance in trauma, it is very important for them to understand how trauma affects a person.

What are examples of events that might cause trauma

Trauma can be caused by many different types of events, including:

- Being involved in the criminal justice system (this may include a person who commits an improper act that causes damage to another, and causes torment to the person who committed the improper act) or it may be a victim of sex crimes, violence, trafficking...
- Natural disasters (e.g. floods, earthquakes, hurricanes, tsunamis)
- Life events (e.g. death of a family member)
- Serious accidents (e.g. car crash, fire)
- Community violence (e.g. war, genocide, terrorist attack)
- Interpersonal violence (e.g. sexual violence, domestic violence, child abuse, witnessing violence)

Trauma is Unique and Individualized

It is important to understand that trauma is unique and very individualized. Two people can go through the same event and one person will experience trauma, while the other may not. Sometimes a person requesting legal assistance may not even recognize that the person requesting legal assistance had an experience which has caused a traumatic impact on the person requesting legal assistance.

Signs of Trauma in Persons Requesting Legal Assistance

Trauma can affect persons requesting legal assistance in different ways, and there are many different signs of trauma in persons requesting legal assistance. Some of them include:

- ✓ Shock, denial, or disbelief
- ✓ Anger, irritability, argumentative
- ✓ Mood swings
- ✓ Impatient
- ✓ Guilt, shame, self-blame
- ✓ Sad or hopeless
- ✓ Forgetful
- ✓ Powerless

Powerlessness: Key Component of Trauma

One of the key components of trauma in a person requesting legal assistance is a constant feeling of powerlessness, which can affect a person in many different

ways. His or her powerlessness comes from the experience of having many things change outside of a person requesting legal assistance's control.

4.3. **Strategies for Working with Persons Requesting Legal Assistance in Trauma**

There are a number of different strategies when working with persons requesting legal assistance who are experiencing trauma. Many of these have already been discussed above. They include:

Active Listening

Empathetic Engagement

- Help the person requesting legal assistance feel emotionally secure. That may involve engaging with the person requesting legal assistance's feelings in an empathetic manner.
- Do not ignore fear, anxiety, sadness, denial, or any other psychological states of mind that the person requesting legal assistance is having.
- Recognize and validate the existence of the person requesting legal assistance's feelings.



Be Empowering

- Recognize your person requesting legal assistance's strength and respect her right to self-determination.
- While she may look to you for advice, remind her that only she knows what is best for herself.

- Give him information, options, and referrals, but encourage him to make his own decisions.

Be Open-Minded

- Be aware that many people may not have believed your person requesting legal assistance before, or may have been unwilling to help him.
- Your role is to listen and offer support, not to blame, judge, or assume.

Be Patient

- Give your person requesting legal assistance time to respond to each question, and allow her to take breaks throughout the conversation.
- Remind him that, due to the nature of trauma, it is normal not to remember all of the details of the traumatic incident(s) right away.

Be Clear

- Explain your role and the services that you provide, and give her an overview of what will happen during your interview and counselling with her.
- Communicate any next steps and allow him to ask questions about the process.

Provide Words of Encouragement and Empowerment

- ✓ It's not your fault.
- ✓ You are not alone.
- ✓ Nobody deserves to be treated this way.
- ✓ I believe you.
- ✓ You can trust me.
- ✓ Thank you for sharing this with me.
- ✓ You are brave and strong.
- ✓ Let's make a Plan together.



Avoid Re-Traumatization

- Be aware that retelling the events of a traumatic experience may cause re-traumatization in a person requesting legal assistance.

- The goal of this strategy is to allow persons requesting legal assistance to recount the traumatic event under circumstances in which they have person control.
- It is important to note that when working with person requesting legal assistance's accused of committing crimes, retelling the event of committing the crime may be as equally traumatizing for offenders as for victims.

Strategies to Avoid Re-Traumatization

- Give the person requesting legal assistance power to make some decisions in the representation.
- Tell your person requesting legal assistance you are going to talk about this matter and you know how difficult it is.
- Ask your person requesting legal assistance *when your person requesting legal assistance* would like to talk about it.
- Offer breaks during the discussion to give your person requesting legal assistance the opportunity to decide how your person requesting legal assistance tells you about it, and how long the sessions are.
- Listen deeply, use your person requesting legal assistance's own words back, try to really understand your person requesting legal assistance's story.

4.4. Impact of Person Requesting Legal Assistance Trauma on the Legal Aid Provider. Understanding Secondary Trauma

It is important for Legal Aid Providers to understand that they too can be traumatized when continuously working with persons requesting legal assistance in trauma. This is called Secondary Trauma. It is therefore very important, when working with persons requesting legal assistance in trauma that the Legal Aid Provider has a positive work/life balance which includes work, home, family, friends, health, and for many a meditative and spiritual life.

5. Appendix 1: Person Requesting Legal Assistance Intake Form

To assist you in the interview process, and to help ensure you obtain important contact and other information from the person requesting legal assistance, a Legal Aid Provider should use a standardized person requesting legal assistance Intake Form. If possible, this form should be used throughout the interview process and completed at the end of the process. Below is a sample.

CLIENT INTAKE FORM

I. CLIENT INFORMATION

Full name:

Age: Male / Female:

ID number:

Language: Nationality:

Permanent residence:

Permanent Address:

Educational level: Job:

Home phone number:

Cellphone number:

Email:

Monthly income:

Members of family

	Full name	Relationship with client	Age	Job	Notes
1.					
2.					
3.					

II. BASIC CONTENTS OF CASE:

.....

The issue:

The area of law :

.....

Clients have legal issues related to Mr. (Mrs.) or company:

Full name:

Address :

Function:

Other people involved in the case (writing full name and function):

.....

Related documents:

.....

Lesson 2: Client-Centered Lawyering, Counselling and Decision-Making Skills



Goals of Session:

To introduce the concept of Client-Centered Lawyering, and how to use this approach when working with persons requesting legal assistance.

To introduce steps in the counselling and person requesting legal assistance decision making process to enable Participants to counsel current and future persons requesting legal assistance, using a client-centered approach, and empower persons requesting legal assistance to make decisions.



Learning Outcomes:

After this lesson, Participants should be able to:

Knowledge

- Understand the definition, principles and concepts of client-centered lawyering.
- Understand the steps in the counselling process.

Skills

- Compare client-centered lawyering with traditional lawyering.
- Establishing a rapport with persons requesting legal assistance.
- Show appropriate empathy when working with persons requesting legal assistance.
- Counsel their persons requesting legal assistance in the future, using a person requesting legal assistance-centered approach.
- Apply the principles of client-centered lawyering to specific cases and legal matters.
- Improve person requesting legal assistance communication, problem-solving, evaluation, presentation and counselling skills.

Values

- Appreciate the importance of person requesting legal assistance-centered counselling and understand how it empowers persons requesting legal assistance to make

decisions.

- Understand and appreciate the need for Legal Aid Providers to use a person requesting legal assistance-centered approach, especially when working with vulnerable persons requesting legal assistance.

Part 1: Preparation Materials for Participants

Introduction

The lesson introduces Participants to the concept, content and analysis of Client-Centered Lawyering skills in legal practice. The lesson allows Legal Aid Providers to effectively use, and apply these methods by practicing handling the matter for the client who requests legal advice, through legal consulting simulation practice activities.

1. Define Client-Centered Lawyering

2. The Basic Principles of Client-Centered Lawyering

3. Counselling and Person Requesting Legal Assistance Decision-Making Skills

4. Things to Consider Regarding a Person Requesting Legal Assistance's Options

5. Potential Outcomes

6. Ethical Conduct During Counselling

Content

1. Defining Client-Centered Lawyering

Client-Centered Lawyering focuses on a big picture approach to solving a person requesting legal assistance's legal and non-legal problems. This happens by looking at all of the issues together. Client-Centered Lawyering is the opposite of 'directive' or traditional lawyering, where the Legal Aid Provider's focus is often on strict legal solutions determined by the Legal Aid Provider, and that these legal solutions are always the best way to solve a person requesting legal assistance's problem.

In Client-Centered Lawyering, the Legal Aid Provider puts the entire needs of the person requesting legal assistance first. To do this, the Legal Aid Provider needs to focus on both legal and non-legal issues.

Role of Persons Requesting Legal Assistance

Persons requesting legal assistance who receive Client-Centered Lawyering will usually have a more supportive experience. They are generally in a better position to understand the possible risks of the options presented by the Legal Aid Provider because:

- 1) Persons requesting legal assistance have a better understanding about their problems.
- 2) Persons requesting legal assistance are the ones who need to make financial arrangements.
- 3) The result of the decision will directly affect the persons requesting legal assistance.

2. The Basic Principles of Client-Centered Lawyering

2.1. Person Requesting Legal Assistance Participation

The Legal Aid Provider has a duty to encourage the person requesting legal assistance to participate in the process and encourage their ownership of the solution. This means the Legal Aid Provider should ask persons requesting legal assistance exactly what they want, instead of guessing what they want. Person requesting legal assistance participation requires both the Legal Aid Provider and the person requesting legal assistance to have an honest discussion.

2.2. Person Requesting Legal Assistance Empowerment

The Legal Aid Provider should give persons requesting legal assistance the knowledge and skill, so that persons requesting legal assistance know their legal rights, and how to use both formal and informal processes to solve their problems. Similarly, after receiving the Legal Aid Provider's assistance, a person requesting legal assistance should have the confidence to face both legal and non-legal problems.

2.3. Holistic Problem-Solving

The Legal Aid Provider should examine the 'whole' of the person requesting legal assistance's problem, rather than focusing on only one element. Traditionally, Legal Aid Providers are trained to focus only on the legal aspects of their person requesting legal assistance's matter. Client-Centered Lawyering encourages Legal Aid Providers to think about the person requesting legal assistance's legal issues along with any other non-legal problems that person requesting legal assistance might have. The non-legal problems may include: family, employment, nationality, ethnicity, financial stability, religion and/or education. Also, if the persons requesting legal assistance look at all their legal and non-legal problems, this most often will help them find a better solution.

2.4. Legal Aid Provider Self-Awareness

Client-Centered Lawyering is based on the Legal Aid Provider understanding, and responding appropriately to, their persons requesting legal assistance. The Legal Aid Provider should therefore understand their own skills, and how the person requesting legal assistance and others see them. Where a Legal Aid Provider is trained in counselling skills, a person requesting legal assistance is likely to engage in the process more fully. Legal Aid Providers must also be aware of their persons requesting legal assistance' vulnerability. It is the Legal Aid Provider's duty not to heighten this vulnerability. Instead, the Legal Aid Provider should make sure that their behaviour and skills help the person requesting legal assistance to make the best decision without causing the person requesting legal assistance undue harm.

2.5. Partisan Advocacy

Legal Aid Providers should be the champion of the person requesting legal assistance's matter. They have a duty to represent the person requesting legal assistance zealously (eagerly). The Legal Aid Provider should be the voice that the person requesting legal assistance does not otherwise have-- acting carefully (with due diligence) and in the best interests of their person requesting legal assistance. Client-Centered Lawyering skills do not change this, but add an extra step. The Legal Aid Provider should also think about the non-legal aspects of their matter. This is sometimes called neutral partisanship. The Legal Aid Provider remains as objective and professional as possible, while also being clearly on the person requesting legal assistance's side.

2.6. Conclusion

Client-Centered Lawyering is a personal approach to the law. It puts a high value on the person requesting legal assistance's opinions, emotions and values, as well as focusing on the legal aspects of the person requesting legal assistance's situation.

To give the best service to the person requesting legal assistance, it is important that the Legal Aid Provider understands the person's background and situation. 'Personalising' a solution so that it fits the person requesting legal assistance's own situation will ensure a more effective and longer-lasting result. It also provides persons requesting legal assistance with a more therapeutic experience and an increased sense of empowerment.

3. Counselling and Person Requesting Legal Assistance Decision-Making Skills

'Counselling' refers to the process of offering advice to a person requesting legal assistance.

The word 'counsel' also means to give therapeutic and positive benefits and is an important part of the Legal Aid Provider's role to aid their persons requesting legal assistance in solving their legal problems. For this reason, we use the term 'problem-solving' as part of the counselling process. The problem-solving process and the counselling process are very closely linked.

3.1. The Problem-Solving Process

A Legal Aid Provider's role is to help solve legal problems for their person requesting legal assistance. To be effective, Legal Aid Providers must apply their legal skills to their person requesting legal assistance's situation. They also need good person requesting legal assistance interaction skills. This is because the person requesting legal assistance and the Legal Aid Provider must work together to resolve the person requesting legal assistance's problem.

An important part of this process is giving the person requesting legal assistance the best possible information so that the person requesting legal assistance can make a decision. In some counselling models, the person requesting legal assistance simply provides the background facts to the Legal Aid Provider, and the Legal Aid Provider then makes the decision. However, when counselling is 'client-centered', all relevant decisions are made by the person requesting legal assistance. Legal Aid Providers and persons requesting legal assistance work together to come up with a list of options and outcomes, and the person requesting legal assistance chooses which one to take. This allows Legal Aid Providers to meet their duty to act in their persons requesting legal assistance' best interests with diligence and competence.

This method does not replace the Legal Aid Provider's obligation as a qualified legal professional to provide competent legal advice. Instead, it requires Legal Aid Providers to provide legal information and assist their persons requesting legal assistance in making a final decision.

3.2. **Counselling Process**

There are 3 main stages of the Counselling Process:

- 1) The description/information stage
- 2) The discussion stage
- 3) The decision stage

In the **description/information stage**, a Legal Aid Provider asks the person requesting legal assistance the right questions. This stage is focused on the Legal Aid Provider understanding their person requesting legal assistance's background, and all relevant information regarding the legal problem. The process relies on the accuracy of the information the Legal Aid Provider gets from the person requesting legal assistance. At this stage information gathering must be done carefully. The Legal Aid Provider's ability to 'actively listen' to the person requesting legal assistance is very important for this step. The aim of active listening is to get an accurate, complete and objective description of the facts. This includes the person requesting legal assistance's story, a general understanding of the relevant area of law, the person requesting legal assistance's goals and a preliminary list of available options.

In the **discussion stage**, the Legal Aid Provider must discuss with the person requesting legal assistance all the legal rights and available options and outcomes. This includes all legal options--and non-legal options--and the consequences. The Legal Aid Provider must provide the person requesting legal assistance with all the relevant information needed to provide a foundation for the **decision stage**.

In the **decision stage**, the person requesting legal assistance, with help and guidance of the Legal Aid Provider, comes to a final decision on how to handle their matter.

In all stages, the Legal Aid Provider must be careful not to unduly influence the person requesting legal assistance's decision. It is very important that in the final decision stage, Legal Aid Providers support the person requesting legal assistance's right to make decisions.

4. Things to Consider Regarding a Person Requesting Legal Assistance's Options

Before giving persons requesting legal assistance their options, the Legal Aid Provider should consider how best to present them. The Legal Aid Provider should consider the person requesting legal assistance's emotional strength, the importance and complexity of the legal problem and the potential consequences for the person requesting legal assistance in exercising a particular option. It is important that the Legal Aid Provider present the person requesting legal assistance's options as flexible, rather than rigid.

A useful framework to consider when developing the person requesting legal assistance's options includes:

- **Consequences:** What may happen to the person requesting legal assistance (and others) if this option is chosen?
- **Pros and cons:** What are the positive and negative outcomes of choosing this particular option? Think about how this option will meet the person requesting legal assistance's needs.
- **Relevant time frames:** Each option will have a relevant time in which the option can be exercised. Timeframes should consider the person requesting legal assistance's personal circumstances as well as legal constraints.

Sometimes, one option will affect another, and the best solution may not be one option on its own, but a mixture of options. Therefore, the Legal Aid Provider must explain how options may overlap, and how this combination will affect the person requesting legal assistance.

It is also important to note that potential consequences, positive and negative, are not guaranteed. Legal Aid Providers should also be careful to present options and their consequences as flexible.

At the start of the discussion stage, the Legal Aid Provider and person requesting legal assistance must first agree on the criteria that will be used to evaluate the options. Then they must apply these criteria in a systematic and thorough way. The Legal Aid Provider could make a chart to help explain the options to the person requesting legal assistance. The discussion stage should be considered a 'workshop' in which the Legal Aid Provider and person requesting legal assistance together discuss available options.

For Example:

Option	Advantages	Disadvantages	Criteria		
			Maintain Friendships	Receive Compensation	Confidentially for Persons Requesting Legal Assistance
Option 1					
Option 2					
Option 3					
Option 4					

One attribute of a good Legal Aid Provider is the ability to provide your person requesting legal assistance with enough information to make a choice that is in their best interests. A good Legal Aid Provider will also give the person requesting legal assistance enough freedom to make his or her own decision. Part of this process is asking persons requesting legal assistance to suggest potential solutions.

The following are the important elements of counselling:

- **Information:** Provide persons requesting legal assistance with information about the law or the legal system.
- **Advice:** Advise persons requesting legal assistance about the available ways to accomplish their objectives.
- **Questioning:** Ask persons requesting legal assistance questions designed to clarify important facts about their objectives.
- **Discussion:** Discuss the various options with persons requesting legal assistance and help them decide which option(s) best meet their goals.

To effectively assess and advise, the Legal Aid Provider must be able to describe the consequences of all potential options. Often overlooked in counselling are 'non-legal' options, and almost every decision a person requesting legal assistance makes will have potential non-legal consequences. Good Legal Aid Providers not only advise what they think the person requesting legal assistance should do to according to the law, but they also seek to understand the particular non-legal objectives of the person requesting legal assistance.

An effective Legal Aid Provider-person requesting legal assistance relationship is a collaborative partnership in which the person requesting legal assistance feels a sense of ownership of their decision and one in which she or he is empowered and supported by the Legal Aid Provider. Once the counselling sessions have taken place, the assessment of potential options should include:

- A description of the person requesting legal assistance's story, any additional facts, and the applicable law.
- A list of the person requesting legal assistance's goals for the matter.
- Recognition of the importance of the person requesting legal assistance's decision.

Notes for making problem-solving options:

- For simple matters, the Legal Aid Provider can receive information, based on the law and the Legal Aid Provider's knowledge to advise immediately.
- For complicated matters, the Legal Aid Provider receives information, studies records, documents, verifies or collects more information and evidence (if necessary), discusses with the person requesting legal assistance or other persons related to the matter, looks up the provisions of law to be able to come up with suitable options.
- Counselling can be made orally or in writing. If giving oral advice, it is important to note down the important points or ask the person requesting legal assistance to write down the important points. If counselling is done in writing, it is necessary to fully write the following contents in the consultation sheet: 1) Summary of the matter; 2) person requesting legal assistance's request; 3) Legal basis; 4) Potential options; 5) The legal advantages, disadvantages and consequences of each option as analyzed in section 5 below.

5. Potential Outcomes

It is important for Legal Aid Providers to advise persons requesting legal assistance of both positive and negative outcomes. 'Bad news' outcomes, such as a possible jail sentence, financial costs or other impacts, are part of the legal process. The Legal Aid Provider has a duty to tell the person requesting legal assistance about these negative outcomes, in a compassionate and considerate way. Without knowing this information, the person requesting legal assistance will not be able to make an informed decision.

How to give 'bad news':

- Thoroughly describe the factual and legal circumstances that give rise to bad news.
- Discuss the person requesting legal assistance's situation and options with care and compassion.
- Assist the person requesting legal assistance in making the best decision possible under the circumstances.

The following are some basic steps to follow to ensure a Legal Aid Provider has equipped the person requesting legal assistance to make an effective decision:

- Thoroughly explore a wide range of options;
- Understand all the goals and objectives;
- Understand the values that each goal affects;
- Carefully weigh the positive and negative consequences of each option;
- Search for new information;
- Take into account new information or the opinions of experts;
- Re-examine the positive and negative consequences in light of new information;
- Make Plans to implement the chosen option;
- Make contingency (alternative) Plans in the event the first option is not possible.

During the decision-making process, the Legal Aid Provider and the person requesting legal assistance must work together to find the most appropriate and beneficial outcome.

Decision Checklist

- ✓ Which option looks best?
- ✓ Is this option good enough?
- ✓ Does this choice satisfy all or most of your goals?
- ✓ Does this choice feel right?
- ✓ If not, what is missing?
- ✓ What additional information do you need?
- ✓ Which would be the fairest option?
- ✓ Who else should you talk to about this decision?
- ✓ Will this decision affect other people?
- ✓ Are you ready to implement this decision?
- ✓ What contingency Plans should be made?

6. Ethical Conduct During Counselling

There is an often a high degree of emotional energy invested by persons requesting legal assistance during the counselling process. Legal Aid Providers must remain aware of this and guide and support the person requesting legal assistance in making a decision. Legal Aid Providers remain bound by professional rules of (ethical) conduct. They must:

- perform their work with honesty, integrity, competence and diligence;

- maintain the person requesting legal assistance confidentiality;
- consider the person requesting legal assistance's best interests; and
- ensure no conflict of interest arises.

Some examples of where a Legal Aid Provider may fail to uphold their ethical duties include:

- giving a person requesting legal assistance poorly thought-out advice;
- telling the person requesting legal assistance gossip about their situation;
- encouraging the person requesting legal assistance to accept a resolution that doesn't serve their best interests;
- failing to collect all relevant information during the interview;
- failing to foresee the reasonable consequences of the Legal Aid Provider's advice;
- failing to give complete advice that includes negative aspects; or
- advising on an area of the law which the Legal Aid Provider doesn't understand or on which they are not trained to give advice.

Lesson 3: Legal Matter Planning



Goals of Session:

To introduce the concept of Legal Matter Planning, and how to apply this approach when working with Legal Matters.

To introduce steps in the Legal Matter Planning process to enable Participants to apply this method in the process of giving advice to persons requesting legal assistance and empowering persons requesting legal assistance to make decisions.

Help Participants understand and implement the development of a legal matter planning in legal advice.



Learning Outcomes:

After this lesson, Participants should be able to:

<i>Knowledge</i>	<ul style="list-style-type: none">• Understand the steps in Legal Matter Planning.• Understand the basic components and element of Legal Matter Planning.• Understand how to Plan a Legal Matter.• Define Legal Matter Planning and its importance in working with Legal Matters.
<i>Skills</i>	<ul style="list-style-type: none">• Apply the steps of Legal Matter Planning into Legal Matter's analysis process.• Logically analyse and structure the elements and core issues related to a Legal Matter.• Manage and filter a large number of facts in a Legal Matter.
<i>Values</i>	<ul style="list-style-type: none">• Appreciate the importance of establishing a clear timeline of events.• Understand the importance of ensuring that documentary and facts can be offered to support the Legal Matter Planning.• Understanding and appreciating how Legal Matter Planning enables a Legal Aid Provider to assist in working and empowering their person requesting legal assistance's using a client-centered lawyering approach

Part 1: Preparation Materials for Participants

Introduction

This lesson introduces to the Participant the concepts, the basic elements and processes of Legal Matter planning. The lesson provides the opportunity for the Participant to experience Legal Matter Planning through simulation practice.

1. What is Legal Matter Planning?

2. The Elements Common to All Legal Matter Planning Models

3. The Major Steps to Legal Matter Planning

Content

1. What is Legal Matter Planning?

Legal Matter Planning is a specific kind of problem-solving skill. It involves (i) defining the person requesting legal assistance's problem; (ii) identifying the person seeking legal assistance's needs; and (iii) identifying possible solutions and selecting courses of action. It means constructing a complete picture of the person requesting legal assistance's situation from the facts, the applicable law, and the way in which the facts and law fit in the larger context in which they occur.



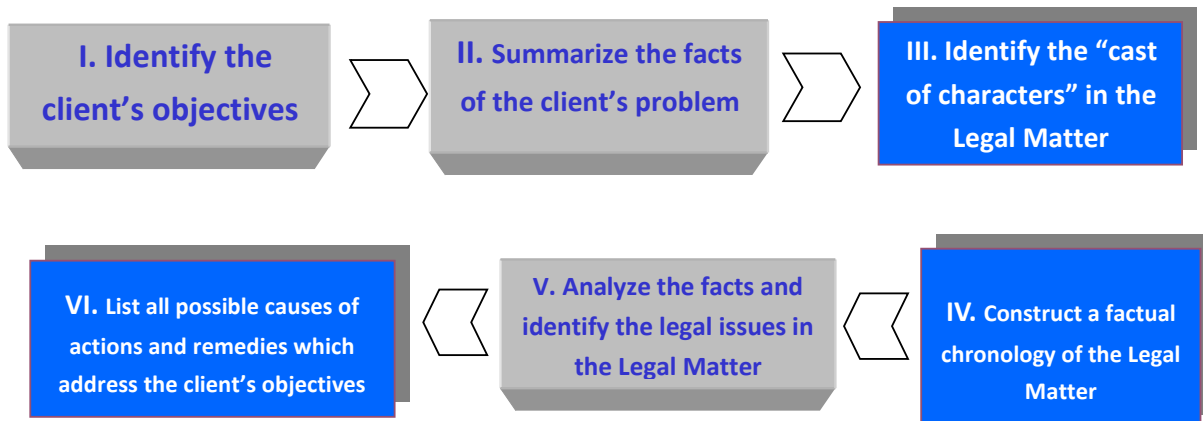
2. The Elements Common to all Legal Matter Planning Models

Basic elements of Legal Matter Planning include:

- 1) Identify the problem
- 2) Look for and consider alternatives
- 3) Locating facts
- 4) Select, evaluate facts and select applicable law, and
- 5) Develop a Plan for the legal issue / matter that is most beneficial to the person requesting legal assistance

3. The Major Steps to Legal Matter Planning

Model of Steps of the Process for Developing a Legal Matter Resolution Plan



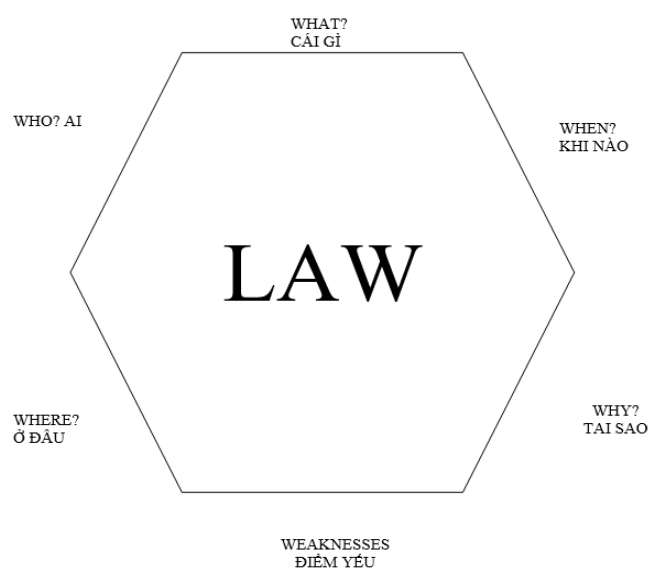
Step 1: Identify the Person Requesting Legal Assistance's Objectives

From the initial interview, identify what does the person requesting legal assistance want? Sometimes identifying the person requesting legal assistance's objectives requires probing beyond how the person requesting legal assistance first expresses what she wants. Sometimes the person requesting legal assistance needs help in articulating and framing exactly what she wants. It's every Legal Aid Provider's duty to find out at the initial interview what the person requesting legal assistance wants to achieve.

Step 2: Summarize the Facts of the Person Requesting Legal Assistance's Problem

What happened? Who said, and did what? Who are the key players? What is their relationship to the person requesting legal assistance? Create a statement that summarizes the facts, but is specific enough so that someone unfamiliar with the problem could grasp it from reading this summary.

Method of determining the facts and problem of the incident with the model of 6W



By applying the 6W's hexagonal model, Legal Aid Providers can find a guide to all the questions they need to ask. The 6W's are used to clarify the content of the legal story of the person requesting legal assistance. The questions surrounding the hexagon "6 W" are:

- What/What happened? What is their relationship to the person requesting legal assistance?
- Who/ Who said and did what? Who are the key players?
- When/When will that happen?
- Where/Where did that happen?
- Why/Why did that happen?
- What Weaknesses are there? Is there any unknown, weak place, or information gaps, in this matter?

Step 3: Identify the “cast of characters” in the Legal Matter

For each person or institution, list their strengths and weaknesses and any additional information you need about them.

- Character
- Strengths
- Weaknesses
- Information

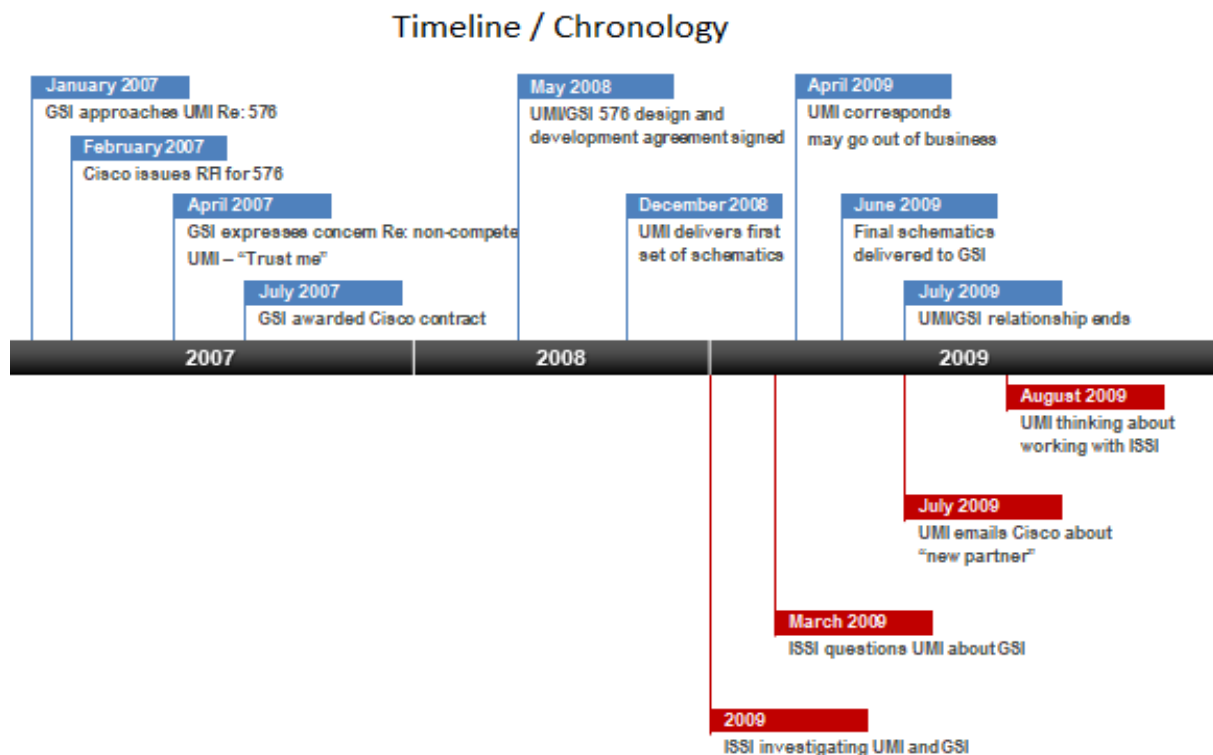
Step 4: Construct a factual chronology of the Legal Matter

Once you have gathered the facts and “cast of characters” it is helpful to put together a detailed factual chronology of what happened when. You should begin as far back as needed to give a full background of the Legal Matter. Doing the chronology will give you a good grasp on the Legal Matter and make apparent factual gaps. To first construct a factual chronology of a Legal Matter it is helpful to use the below template table which includes creating a listing of facts, times, location, and source.

Facts	When	Where	Sources	Notes

Once you have completed the above table, you can then create a more specific Timeline/Chronology.

Below is an example of a Factual Timeline/Chronology:



Step 5: Analyze the facts and identify the legal issues in the matter

When looking at the facts, and the person requesting legal assistance's objectives, what do you initially recognize as the issues in the Legal Matter? For example, is one parent continually absent from the home? Are the premises habitable? This issue statement will be modified once further legal research and fact gathering are completed. As you become familiar with particular areas of the law, initial issue identification becomes easier. Checklists of the types of issues presented by various factual situations can be helpful in areas with which you are unfamiliar, or which are not in your area of expertise.

Step 6: Determining, analyzing and evaluating relevant provisions of the law. List all possible causes of actions and/or remedies exist which address the person requesting legal assistance's objectives

In this section, Legal Aid provider identify and search the provisions of the law related to the client's case. The search includes searching for legal documents and relevant documents, instructions ...). Deciding Cases are also the basis are also the source applying for solving the case. After searching for the provisions of law, the Legal Aid Provider is obliged to review the basis for applying these provisions to a specific case of the person requesting for Legal assistance to consider the case.

Next step involves brainstorming any and all possible causes of actions and solutions to the person requesting legal assistance's problem. The point is to

generate as many possibilities as you can think of, no matter how crazy or far out. Quantity breeds quality. Include non-litigation strategies such as legislative, administrative, economic development and community education strategies. This step also forces you to adopt a larger view of the person requesting legal assistance's problems. The larger implications of a Legal Matter may relate to the person requesting legal assistance's community as a whole, thereby dictating other strategies. In doing this, it is very important to make sure you address the person requesting legal assistance's objectives, and also re-check to see if these objectives have changed, due to your analyzing of the facts, legal issues, causes of actions and potential remedies.

In developing out a proper Legal Matter Plan it is necessary to ensure that this is consistent with:

- The information collected from the person requesting legal assistance and other persons involved in the matter
- The information obtained from collected documents
- The evidence of the witnesses of fact
- The evidence of the experts (if any)

Legal Matter Plan Implementation Procedure can be performed as follows:

1) Develop a Legal Matter Plan

The development of the Plan (first) must be based on the consideration of the matter, the person requesting legal assistance's goals, the provisions of law or practice of resolving the matter, and identifying the following issues:

- How much does this Plan meet the % of the person requesting legal assistance's goals? What to gain, lose what?
- This Plan requires the person requesting legal assistance to have more evidence and documents?
- This Plan requires the person requesting legal assistance to take additional actions?
- What are the risks of this Plan for the person requesting legal assistance? What solutions exist to limit the risks?

After giving the first option Legal Matter Plan, is it necessary to determine if this is the only option? Can a second and third optimal Plan be set up as a back-up? The way of constructing the second, the third ... is similar to the way of building the first.

2) Explain to the person requesting legal assistance to choose the Legal Matter Plan

- Explain to the person requesting legal assistance to consider and decide which Plan to use (based upon the options). Every effort should be made to offer persons requesting legal assistance the ability to choose, even in matters where there is only one Plan.
- Assist the person requesting legal assistance in understanding why it is the most optimal Plan, which optimizes benefits and minimize losses.
- Assist the person requesting legal assistance in understanding what actions they will have to take next, and how will the Plan have to be adjusted if there is any change in the situation.
- The Legal Aid Provider should consider using words to ensure confidence.
- The Legal Aid Provider should not provide suggestive Plans that are against the law.

Legal Aid Providers should finalize the Legal Matter Planning process with discussing with the person requesting legal assistance conditions of the Plan that ensure the success of the Plan. This includes the Legal Aid Provider to continue to communicate with the person requesting legal assistance as a means to answers person requesting legal assistance questions and guide the person requesting legal assistance in the implementation process of the Plan.