




Secondary consultation

**A tool for sharing information and
transferring knowledge in
health justice partnership**

Discussion paper

June 2021



Health Justice Australia

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- Knowledge and its translation: developing evidence and translating that evidence into knowledge that is valued by practitioners, researchers, policy-makers and funders.
- Building capability: supporting practitioners to work collaboratively, including through brokering, mentoring and facilitating partnerships.
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Authors

Rachana Rajan, Morwynne Carlow, Suzie Forell, Marie Nagy

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Level 5, 175 Liverpool St
Sydney NSW 2000 Australia
Phone: +61 2 8599 2183
Email: healthjustice@healthjustice.org.au
Website: healthjustice.org.au

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Introduction

The last decade has seen a rise in the number of legal, health and other practitioners in Australia coming together in partnership to address the unmet legal needs that affect the health and wellbeing of shared patients and clients. One of the ways this occurs is through health justice partnership. Health justice partnerships (HJPs) are collaborations that embed legal help into healthcare settings to address the legal and social problems that can make or keep people unwell. This quiet revolution in collaborative service delivery is connecting people with the legal help they need in the places that they already turn to. Working in such health justice partnerships involves practitioners communicating and collaborating across multiple domains – including setting up processes, establishing mutual trust and ways of working, and sharing insights, expertise and information with each other.

This discussion paper explores secondary consultation as an activity that practitioners have identified as a valuable tool for working in health justice partnership. The term secondary consultation refers to communication and information sharing between partnering practitioners that helps them to support their patients and clients. In this paper we share what we have learned so far about the activity, exploring its definition, value and impact in practice. We seek to continue the conversation about ways to capture the extent and nature of secondary consultations in data, and the value of this data for articulating and beginning to measure impact.

The paper is broken into four parts:

- 1 Secondary consultation – what is it?
- 2 The benefits and challenges for practitioners and their patients and clients
- 3 Capturing data and measuring impact
- 4 Next steps – where to from here?

Our insights are based on a review of existing literature, our health justice census data,¹ informal discussions and a workshop with practitioners, and a survey of our health justice partnership practitioner network that Health Justice Australia conducted in October 2020.² To keep the discussion going, we always welcome comments, questions and feedback about what secondary consultation means in practice.

Key observations: what did we find out?

In our research we uncovered the following:

- Practitioners working in health justice partnership **consult and share expertise with each other in a variety of ways**, some of which are described as secondary consultation.
- Secondary consultation is seen to **enhance the capability of health and legal practitioners to support their clients**.
- There has, to date, been **no commonly held definition of secondary consultation** in health justice partnership.
- In the context of other partnership activities, it is seen as beneficial for practitioners to know what the **boundaries** of secondary consultation are; to know what fits within the **scope**, and what doesn't.

¹Forell, S and Nagy, M (2019) *Joining the dots: 2018 census of the Australian health justice landscape*, Sydney, Health Justice Australia.

² The HJA 2020 'secondary consultation' survey, n=28.

- Secondary consultation can help to **build trust** between practitioners. It can be good for helping to build strong relationships.
- The practice appears to have **maintained or increased its usefulness during the COVID19 pandemic**, even though for some practitioners it felt harder to do.
- Secondary consultations are **not always recorded** and, where they are, **they are not necessarily recorded consistently across different settings**.
- **Additional insights from practitioners may provide further clarity on the practice.** In the literature, secondary consultation is often discussed in relation to legal practitioners sharing their expertise with health practitioners. We aim also to elevate the voices of health practitioners in this context and learn more about secondary consultation where a non-legal partner shares expertise with a legal partner.

Part 1: What is secondary consultation?

Secondary consultation in the context of health justice partnership

At a high level, secondary consultation involves practitioners working in health justice partnership sharing their knowledge, skills, connections and experience with each other in support of their patients or clients. It is a method of building trust while sharing expertise.

Practitioners in health justice partnership are working together in myriad ways, and their interactions are often referred to as secondary consultation. There isn't a fixed, common definition, but our research revealed that secondary consultation generally involves partner services acting as something like intermediaries; communicating with each other about a client or patient – with that person's permission, but without their direct involvement in the conversation, or without sharing the person's name or personal details. It is practitioner-to-practitioner consultation about the legal and health needs of shared service users.

There is, however, little reference to what secondary consultation is not; in the literature, the boundaries of the practice are relatively unmarked. There is also a lack of evidence around how secondary consultation compares to other ways in which practitioners interact and share their knowledge. So this paper aims to open the conversation up: to understand more about the practice and how it fits in the broader partnership context.

Working towards a shared definition

To date, there has been no widely agreed formal definition or description of secondary consultation as a key element of working in health justice partnership. There are, however, several benefits to establishing such a definition. It would:

- allow us to discuss and analyse secondary consultation practice with more certainty and as an activity that both enables and is enabled by partnership
- assist us to better understand secondary consultation's boundaries and value, particularly as compared to other partnership activities
- help inform data capturing and contribute to the evidence base around how often secondary consultation is happening and its effect on outcomes
- help organisations to meet funding and acquittal requirements, by clearly describing the activity, reporting on instances, and articulating its merit.

A proposed definition from Health Justice Australia

In light of our research and ongoing consultation, we propose the following definition of secondary consultation in health justice partnership:

Secondary consultation is an information-sharing activity where a practitioner shares their professional expertise with a partnering practitioner for the purpose of directly supporting shared service users.

An important aspect of the definition is the underlying reason why the expertise is being shared, or who is obtaining the benefit or value from it. Not all descriptions of secondary consultation link the practice with a person-centred purpose. For instance, some would make no distinction between

partnering practitioners requesting information about an organisational governance issue and consulting with each other about a client or patient. We are proposing that the key purpose of secondary consultation in health justice partnership should be the benefit to a patient, client or community. Consulting on organisational issues may well be a valid and very valuable health justice partnership activity, but we wouldn't call that secondary consultation. We return to this later in the paper, under the section on scope.

Secondary consultation under the umbrella of information sharing

It is important to consider the relationship between secondary consultation and other partnership activities. While practitioners working in health justice partnership share expertise with each other in a range of valuable ways, not all of these will be secondary consultation. Some of these information-sharing activities may be more accurately described as partnership governance, community legal education, referral or warm referral, case conferencing, case work, or cross disciplinary training, to name just a few.

While secondary consultation may lead to a referral, practitioners generally do not consider the referral itself to be a secondary consultation. Rather, secondary consultation is a way of determining whether to make a referral, of obtaining expertise without having to refer, or of considering the steps that can be taken before a service user directly meets with a partner practitioner. It can also be a way of avoiding the potentially negative consequences of a patient waiting a long time for direct legal help, or of learning that their issue is not one that a lawyer can help with only after receiving a referral – for example if they are ineligible for the legal help provided by the partnership's legal service, or their matter lacks legal merit. If a health practitioner can 'check-in' by consulting with their legal partner, this might be enough to realise that a referral isn't the right pathway.

Secondary consultation requires a degree of understanding about the context in which a partner practitioner operates – for example, recognising obligations around mandatory reporting (in health services) and confidentiality/privilege (in legal services). Importantly, there are professional obligations in relation to when and how legal advice is given, and who it is given to. Legal practitioners manage this in distinguishing between secondary consultation as providing or involving 'legal information' rather than 'legal advice'. "Noting these professional obligations, lawyers may limit secondary consultation to the provision of 'information' about a mutual clients' legal issues rather than 'legal advice', which is provided only directly to a client (see Lewis, 2016)]."³

Community Legal Centres Australia (CLCs Australia) provides guidance about the distinction between legal information and legal advice. They also offer a [Risk Management Manual](#) for helping to distinguish between the two.⁴ CLCs Australia states that: "where the discussions between the (Community Legal) Centre and the other agency are held in such a way that the client is not and cannot be identified, and there is no disclosure of individual information that would breach client privilege or give rise to an inference (or actuality) of the Centre being regarded as acting for the client, then the exchange should be seen as information and not advice."

Part of what a lawyer would call information provided in a secondary consult might be colloquially referred to, in partner services, as 'advice' (in the general sense). It is helpful to keep this use of language in mind when thinking and talking about secondary consultation in health justice partnerships.

³ Forell, S and Boyd-Caine, T (2018) *Service models on the health justice landscape: a closer look at partnership*, Sydney, Health Justice Australia.

⁴ Community Legal Centres Australia. (2019) "Information Services." 2020, from <https://clcs.org.au/DataGuide/Information>.

Terminology

Other terms are sometimes used by practitioners to describe secondary consultation.

These can include:

- Information service
- Information sharing
- Sharing expertise
- Primary consult with extra details
- Case consultation
- Information, information task
- Task, task work
- Legal strategy
- Legal matter, legal issue
- Various kinds of meeting

Some activities that, by our definition, are distinct from secondary consultation include:

- Legal advice
- Case work
- Case conferencing
- Referral (including warm referral, although this could follow on from a secondary consultation)
- Joint case management
- Clinical handover
- Education
- Training
- Governance advice

Some respondents in our survey also talked about secondary consultation:

- in therapeutic terms, such as therapeutic need, therapeutic support and therapeutic scaffolding
- in reference to the community instead of individuals: community capacity, community legal understanding or education and community health issues
- by acknowledging where partners' roles might be different such as by saying 'your business and our business'.

Source: The Health Justice Australia 2020 'secondary consultation' survey

Secondary consultation to help service users: the scope

Practitioners identified the following reasons for conducting secondary consultation:

- to share information, or to seek guidance about a client or patient's legal or health situation, with appropriate permission from the client or patient or in anonymous or general terms
- to access general guidance for a patient or client without having to refer them to the partner organisation, e.g. if the service user isn't ready to see another practitioner
- to provide or seek information about a general legal or health issue i.e. information that may apply to one or more than one client or patient, immediately or in the future
- to give guidance to a partner practitioner about tasks that they could undertake in their role, e.g. writing reports, writing letters of support, giving evidence
- to discuss the intersecting needs of a client in a team or cross-team discussion.

Our secondary consultation survey identified that the term is sometimes used when a practitioner provides or is asked for information about a partner practitioner's own personal situation or about the governance of the partner organisation. While partnering organisations may agree to cover this sort of consultation, we would suggest that these activities should be called something else – because they do not link directly to helping service users with their legal or health needs. We do not include these activities within the scope of our proposed definition of secondary consultation.

If providing personal advice to a partner practitioner or offering guidance on organisational governance are identified as areas of need within the health justice partnership, there is great value in the partnering organisations identifying appropriate referral or support pathways from the outset; clearly explaining what should happen if this kind of help is required or requested. For example, this might involve referring to pro bono assistance, referring on to an appropriate health or legal service provider, peak body, commissioner or an ombudsman, or providing the requested services by agreement. Discussing such issues in the planning and development stages of health justice partnership can provide a useful way to identify the scope of a practitioner's role in consulting with their partners, as well as how to address issues that might arise beyond that scope.

Methods for conducting secondary consultation

Currently, the practical activities that are understood to constitute secondary consultation can vary between practitioners and services. This is partly why we are seeking to continue the conversation about what is and what is not secondary consultation – so that we can better understand the practice, support practitioners to do this work well, and begin to build the evidence base about what information-sharing activities are most effective in improving outcomes for clients and patients.

Often secondary consultation can be associated with a sense of immediacy, speed or informality. We have seen references to secondary consultation as being 'five-minute', 'on-the-spot', 'corridor', and 'water cooler' conversations. That said, secondary consultation does not have to be immediate, quick or informal. It is often a key activity within a health justice partnership and has also been referred to as 'comprehensive' and even 'time-consuming'.

Our secondary consultation survey identified that opportunistic methods of reaching out were generally more common, as opposed to more structured approaches. This meant that on-the-spot phone calls, emails, visiting offices or talking when paths happened to cross were more common than scheduled phone calls, office visits at set consultation times, dedicated hotlines, forms or letters. One exception to this was practitioners seeking secondary consultation when they saw each other at regular, scheduled meetings. Co-location and face-to-face contact between partners are repeatedly recognised as positive enablers of secondary consultation – the close relationships that can be forged in a health justice partnership provide such valuable opportunities for information sharing.

Part 2: Secondary consultation in practice: the benefits and challenges

What are the benefits of secondary consultation?

Secondary consultation is used by practitioners in health justice partnership to achieve or enhance outcomes for their clients and patients. As a result, outcomes for communities, practitioners, health justice partners and, in turn, government and funders can also be enhanced (see the [theory of change for health justice partnership](#)).⁵

In our secondary consultation survey, in a range of evaluation reports,⁶ and in our workshop, practitioners talked about time, trust, flexibility, established processes, shared language and relationships as being some of the biggest enablers of secondary consultation. (See our resource [Information Sharing in Health Justice Partnership](#)⁷ for more about enablers of information sharing).

Practitioners also talked about the many benefits of secondary consultation, describing them in the following ways.

Benefits for **clients**:

- Legal help, delivered through a trusted frontline worker, that can feel safer and more secure than direct legal assistance from an unknown practitioner
- Immediate, timely, context-specific and accurate assistance
- Better support from the service they are engaging with than if that service assisted them without consulting with their partner organisation
- A smoother, more supported referral – if one subsequently occurs.

Benefits for **practitioners**:

- Non-legal practitioners report having reduced anxiety when they are assisting patients who have legal matters that need attention
- Feeling they can provide a client or patient with more effective or more appropriate support than they could without the secondary consultation
- A broader knowledge base from which to assist clients or patients in the future
- Increased capacity to respond quickly to issues outside of their expertise.

Benefits for the **partnerships** as a whole:

- Stronger relationships and trust between services
- Streamlined communication between organisations and, in turn, smoother intake and referral processes
- Increased organisational capacity and capability to respond to communities' needs and the needs of partnering practitioners.

⁵ Health Justice Australia. (2020) "Theory of change for health justice partnership." Retrieved 12/02/2021, 2021, from <https://www.healthjustice.org.au/wp-content/uploads/2020/07/Health-justice-partnership-theory-of-change-June-2020-Health-Justice-Australia.pdf>.

⁶ Lewis, V (2016) *Working together: a health justice partnership to address elder abuse, first year report March 2016*, Melbourne, Justice Connect Seniors Law and cohealth, J. C. S. L. a. cohealth, Curran, L (2016) *A Research and Evaluation Report for the Bendigo Health–Justice Partnership: A partnership between Loddon Campaspe Community Legal Centre and Bendigo Community Health Services*, Canberra, Australian National University, A. N. University, Curran, L and Taylor-Barnett, P (2018) *Overcoming the Invisible Hurdles to justice for young people*, Canberra, Australian National University, A. N. University.

⁷ Health Justice Australia (2019) *Establishing Effective HJPs. Information sharing in health justice partnership: insights from practice*. Sydney, Health Justice Australia.

What are the challenges of secondary consultation?

There are many benefits to conducting effective secondary consultations, as well as recognised enablers of it, but there can also be obstacles for practitioners. Challenges can include:

- The (perceived or actual) risk of giving legal advice to a third party
- The risk that legal information will be passed on and applied to situations that are different to the circumstances for which it was originally given – one practitioner referred to this as “a risk of accidentally empowering a partner with too much information”
- A lack of opportunities to meet face-to-face, or a lack of relationship
- Real and perceived professional obligations and boundaries
- The expectations on practitioners to provide support outside of their expertise, level of comfort or scope of work
- The risk of breaching confidentiality
- Privacy considerations
- Staff turnover and loss of contextual knowledge
- Mandatory reporting obligations.

Without shared expectations and clear communication, these issues can all cause practitioners to be reluctant to share information with each other. In addition, while secondary consultation can be quick, the time constraints resulting from the day-to-day demands of practitioners’ roles have also been raised as a challenge. Our [Building blocks for health justice partnership development](#)⁸ resource gives some advice about working together, overcoming some of these challenges, and setting strong partnership foundations.

Impact of COVID19

Many of the people that health justice partnerships try to reach have been at particular risk of unmet legal need during COVID19,⁹ and the pandemic created many challenges for HJP practitioners. Practitioners who responded to our 2020 secondary consultation survey said that secondary consultation continued to be valuable during the pandemic, if not becoming even more so. On the other hand some practitioners reported that secondary consultation was harder to do.

Organisations had to reimagine service delivery due to restrictions for workplaces, transport and healthcare settings during the COVID19 pandemic. Health Justice Australia heard from several practitioners about the importance of strong relationships in maintaining partnership during COVID19. Where services had a strong existing relationship, inclusive of strong referral and communication pathways, they may have had more of a sense of business as usual in what have been extraordinary circumstances. In other cases, there have been few secondary consultations, fewer referrals, fewer team meetings and a sense that it has been hard to keep the partnership alive or thriving.

⁸ Turner, L (2021) *Building blocks for health justice partnership development*, Sydney, Health Justice Australia.

⁹ Boyd-Caine, T (2021) *Collaboration through the Covid19 crisis: Lessons for systemic change*, Sydney, Health Justice Australia. <https://www.healthjustice.org.au/covid19/covid19-legal-assistance-working-group/> COVID19 Legal Assistance Working Group (2020) Ensuring access to legal assistance for those most in need during COVID19. *COVID19 Legal Assistance Working Group, Communique 1 May 2020*. Sydney, Health Justice Australia,.

In our secondary consultation survey, one respondent said: “We are less able to rely on incidental contact with staff delivering services directly. This has necessitated a shift from the organic, ‘on the ground’ communication pathways to a more formalised pathway through team leaders and program managers. The impact of this has been that the legal service has had secondary consult enquiries from some staff who had not previously contacted us. However, overall, there has been a reduction in secondary consult activity. We believe this reduction is attributable to the less frequent incidental contact and the difficulty of just ‘dropping in’ on other staff.”

Other respondents commented that it has been sometimes easier to pick up the phone, because practitioners have been more able to respond quickly when working from home, and that Zoom or MS Teams meetings have been a good alternative to face-to-face contact. Practitioners noted that informal conversations were happening less frequently, and that online meetings don’t always allow for communicating in the same way as in-person, but that email consults sometimes made it easier to assess whether a matter needed to be a referral, and easier to convert it to a formal referral where needed.

One practitioner noted that, during the pandemic, “there has been more time allocated to sharing expertise between services, and increased professional development opportunities”.

Part 3: Capturing the data and measuring the impact of secondary consultation

Recording secondary consultation in systems

Through secondary consultation, practitioners are engaging in innovative work to provide holistic support to their clients and patients. However, insight into the nature and extent of this practice is limited by the scope and consistency of data collected by legal assistance services. This means much of this great work is less visible to those reviewing, planning, evaluating, and funding services.

We also have limited information about whether and how health partners record secondary consultations in health justice partnerships, and this is an area that we are keen to find out more about. From the legal services perspective, there are at least three elements that reduce our ability to identify the extent of secondary consultation in practice. To paint the picture of what we think is being missed, we will briefly discuss each of these three elements in turn.

(i) Secondary consultations not being recorded at all

Many practitioners in our secondary consultation survey reported that they do not record their *informal* secondary consultations, or that they rarely do so. From the responses of 28 practitioners who completed the survey, only two practitioners said that they always count these informal consultations and six said they record them most of the time.

The activities the most practitioners in the survey said that they do systematically count or keep track of were:

- information provided to a partner practitioner about a client/patient's legal situation
- advice provided to a partner practitioner about a patient's specific legal issue
- general legal information provided to a partner practitioner.

Activities less likely to be recorded include informal 'water cooler' or corridor conversations, and impromptu, on-the-spot phone calls.

(ii) Secondary consultations being recorded outside of organisations' data systems

When secondary consultations are recorded, they are being recorded in a variety of places. For example, some lawyers capture data in a spreadsheet, some as notes in a file, on an electronic system or in meeting minutes, as opposed to in the organisation's administrative data system. A reason for this could be that there is no such category or dedicated place to do so,¹⁰ and this might be influenced by the lack of an agreed definition.

(iii) Secondary consultation activities being named and recorded inconsistently within and across organisations

Another factor contributing to the problematic recording of secondary consultations is the understanding of the activity itself. Our secondary consultation survey indicated that practitioners differ in the range of activities they record as 'secondary consultation'. For instance, the same activity may be recorded by one partner or practitioner as a referral, but by another as information sharing and by a third as secondary consultation. Some may include legal education activities as secondary consultations, others not.

¹⁰ Health Justice Australia knows that CLASS (the CLC client information management system) now includes secondary consultation as a class of information service, but we would like to know more about other CIMS fields.

This situation would be improved by clearly defined categories for secondary consultation, which are consistent across different legal services databases, and clarification about terminology and how this activity may be differentiated from other types of legal assistance.

In this context we note that CLCs Australia released [guidelines](#) about how to record secondary consultations in the CLC database CLASS, referring to them as a type of information service.¹¹ This type of guidance helps practitioners to recognise and record secondary consultations when they happen, while consistency across systems allows us to understand the use and value of secondary consultations more broadly.

Collecting data for reporting: showing the value of practice

Much like a shared definition, standardised data collection practices will, in time, give us a more accurate picture of what secondary consultation in Australian health justice partnership looks like and how it helps services to support clients. These insights may also have benefit beyond health justice partnership, given the use of secondary consultation in other service models.

It may be that some of the activities currently deemed by some practitioners to be secondary consultations fall outside a shared definition. This is not to suggest these activities do not happen or do not matter. It may just be that they are differentiated from secondary consultation using different language – that we need new or different terminology. This opportunity to highlight some of the challenges in consistently collecting and recording data contributes to the conversation about evidence-informed practice, health justice partnership, impact and outcomes.

The pathway to more consistent, efficient and workable data collection about secondary consultation requires further exploration. Health Justice Australia is interested to get more insight into the appetite for improved data, what a common approach to data collection might look like, and how we can support this information being captured in an efficient and manageable way.

¹¹ Community Legal Centres Australia. (2019) "Information Services." 2020, from <https://clcs.org.au/DataGuide/Information>.

Part 4: Where to from here?

Secondary consultation is an exciting and effective way for practitioners to interact and share information that helps coordinate and improve services for their clients. It appears to bring a range of benefits and helps practitioners to respond efficiently to complexity in their work.

Health Justice Australia would like to better understand the challenges and enablers for practitioners in health justice partnership in using secondary consultation as a tool. This will inform our role in supporting practitioners and partnerships; the more we understand the obstacles and opportunities, the better placed we will be to develop tools and resources that can enable the implementation of secondary consultation in practice and the collection of data to understand it.

As secondary consultation is a joint activity between health, legal and other practitioners, it will be important for future research to understand secondary consultation from all perspectives. We have heard anecdotally that there is more familiarity and acceptance of the term secondary consultation within the health sector than the legal sector. We are aware that our research has involved more voices from the legal sector than the health sector. Creating the opportunity to engage health practitioners and services is a continuing priority for this work.

Research on information sharing is particularly relevant at this time. The COVID19 pandemic has created challenges to service delivery and to the nature of partnership relationships, while at the same time sparking great creativity. Discussions about information sharing, innovating, building strong partnerships and maintaining meaningful, collaborative relationships will continue to be key as we navigate the next steps.

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P +61 2 8599 2183
E healthjustice@healthjustice.org.au
W www.healthjustice.org.au

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