

Public Navigator Program

Presentation for Volunteer Navigators

Legal Information Society of Nova Scotia



PRESENTERS

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What is the Public Navigator Project?

- The Public Navigator Project seeks to help people better navigate the court system by being provided with legal information from trained volunteers.
- Volunteers will help individuals with their legal needs by giving people general legal information and may even assist people with reviewing basic court documents.
Volunteers will not give legal advice, only legal information.

The reasons behind the conversation

- Family Courts have more people appearing without a lawyer than people with lawyers
- 30% of people who appeal do so without a lawyer
- 25% of callers to legal info line are self-represented
- WHY?
- Cost, Minimal Legal Aid Services, slow change within the legal profession and justice system

When People Cannot Receive the Help they need with a Legal Conflict

- Impact on family, mental health and financial resources on the self-represented person
- People cannot resolve their problems
- Lengthier court processes
- Creates vulnerability and undermines the Judicial system.
 - “Litigation has become the sport of Kings” – Justice Binnie, SCC

Navigation Programs

- Began in the medical community to assist lower income individuals
- Link between patients and doctors: streamline process
- Develop efficiency
- New York City Housing Courts recently began the implementation of Court Navigators

LISNS and the Public Navigator Program

- Review of the literature to identify areas of need
- Consultation with other stakeholders

The Problems:

1. FEW FINANCIAL RESOURCES
2. LACK OF “MEANINGFUL LEGAL INFORMATION” FOR Self-represented people

LISNS and the Public Navigator Program

- **Solution**

Public Navigator:

- Provide quality information services
- Triage
- Help people understand the health, economic, and emotional implications of going to court.
- Hub for legal information materials.
- Public Navigators will help self-represented people access existing legal information.

LISNS and the Public Navigator Program

Key Goals include self-represented people who:

- Understand their issues and options
- Gain confidence with making a decision
- Are satisfied with the process
- Less frequently use formal court processes
- Have proper document where proceed to court

Limits of Public Navigators

- Understanding the limits of what Navigators can do is important.
- Today we will be exploring your understanding of the limits of what Public Court Navigators can do
- The difference between Legal Information vs. Legal Advice will help us illustrate and explore these limits.

What is Legal Information?

- Legal information consists of answering general questions about the law, providing some options that may be available to someone and information about the court process.
- Examples of information that can be useful are:
 - How to act/dress in court;
 - How to find laws, regulations, court rules and court cases;
 - Where to find court forms; and
 - General referrals to other community or government resources.

What is Legal Information?

- Answer **general** questions about the law
- **Refer** to appropriate resources/tools
- **Outline** how to do something already decided
- Explain how the legal system **generally** works
- Outline **possible** options
- Outline **basic** court processes and procedures
- **Define** common legal terminology

What is Legal Advice?

- **Advise** a person how to apply the law to her situation
- **Recommend** a particular option or course of action
- **Interpret** a legal document
- **Research** a point of law in-depth
- **Prepare** legal documents
- **Act** as an advocate

Legal info vs. Legal advice HINTS

- Don't give PERMISSION: *"Yes, that is legal ..."*
- Don't give an OPINION: *"I think you should..."*
- Don't INTERPRET: *"That contract clause means..."*
- Imagine the other side is listening in - be fair and impartial in giving information.
- Caution is better than over-confidence:
 - If you don't know, say so!
 - If you aren't sure, assume it is legal advice

Legal info vs. Legal advice – examples

Examples of legal advice are:

- Giving an opinion about how the law will apply to a person's specific problem or fact scenario;
- Giving an opinion about what is the likely outcome if a case goes before the court;
- Giving an opinion about whether or not a person should go to court; and
- Telling a person what option they should take or whether they should accept an offer.

Desirability of alternative processes

- Overcrowded courts
- Backlogged files
- Desire for finality

Considerations before going to Court

Some factors to consider include:

- The cost involved – for example, the filing fee for Small Claims Court for a claim less than \$5000 is \$99.70. *Some* fees can be waived if a person qualifies for a waiver of fees from the court.
- The time involved in getting a decision or a judgment.
- The ability to get witnesses to testify in a particular case.
- The risk of paying for the opposing party's fees if the claimant loses their case.

Do Nothing

If the other party has no money or assets, you might not get the compensation you want

Costs: dispute resolution and lawsuit costs can be high. Weigh what you will gain against what you may lose

Consider your emotional wellbeing. The process may be long and the result uncertain.

Try to work out the dispute

Negotiation

Mediation

Arbitration

Go to Small Claims Court

For claims up to \$25,000, excluding costs and interest.
Faster, flexible, easier, less formal process

You can't go to Small Claims Court about:

- land ownership
- malicious prosecution
- wrongful conviction
- wills and estates
- defamation (libel, slander)
- a pain & suffering claim over \$100 (general damages)

For more information see
www.courts.ns.ca
under Small Claims Court.

Go to Supreme Court of Nova Scotia ("SCNS")

Application

Action

The following diagrams look at Applications & Actions step-by-step.

Alternatives to Going to Court -Mediation-

- a VOLUNTARY process
- a third party works with the parties in conflict
- to help them explore and discuss issues and possibilities for resolution
- Goal – to reach a mutually agreeable outcome

Why Mediate: Most Cases Settle

- “In fact, less than one percent of all civil cases actually proceed to trial.”
 - Based on ABA statistics
- In Canada only about only 3% of civil cases proceed to trial.
- The issue is not whether to settle but how to settle?

The Promise of Mediation



Mediation relies on the power of understanding rather than coercion



The parties are responsible for deciding whether and how the dispute will be resolved



Judith sensed that the mediation would take more time than the half-day that it had been scheduled for.

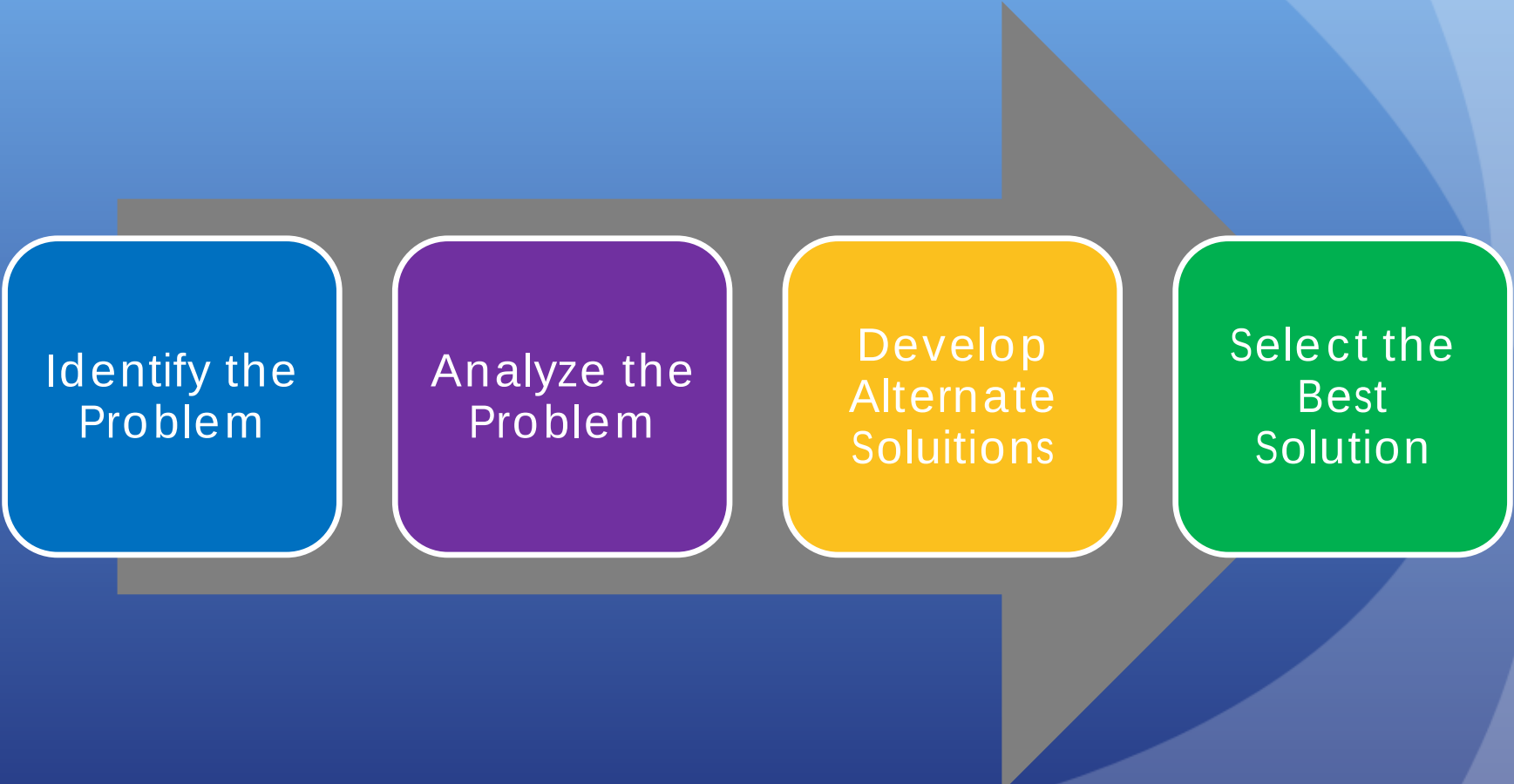
The Parties are best served by working together and making decisions together



Conflicts are best resolved by uncovering what lies underneath the dispute



Simplified Decision Making Process



Identify the Problem

Analyze the Problem

Develop Alternate Solutions

Select the Best Solution

The Solution Fits the problem



Improve or Maintain Relationships



Cost Effective



Settlements are Private and Confidential



Resources for Public Navigators

- LISNS Legal Information Line – toll-free – speak to a qualified legal counsellor (1-800-665-9779)
- LISNS Lawyer Referral Service – through the legal information line you may be referred to a lawyer who will provide a half-hour consultation for a \$20 fee
- LISNS Mediator Referral Service – through the legal information line you can access a mediator who may provide a free consultation
- LISNS website – all areas of law – www.legalinfo.org
- Court staff – supporting public navigator program

Going to Small Claims Court and the Public Navigator

- Overview of Court System
- Starting/Defending an Action at Small Claims Court
- Look at the materials prepared for today
- Read them carefully; the goal today is for you to tell us if you find this guideline useful
- If you have any questions don't be shy
- Today you will be Public Navigators