

The
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DIGITAL DELIVERY OF LEGAL SERVICES TO PEOPLE ON LOW INCOMES

QUARTERLY UPDATE

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Roger Smith

4. The Netherlands

Three contributions follow on the Dutch *Rechtwijzer*. The first two relate to research undertaken on the first version (*Rechtwijzer 1.0*) which had the prime function of signposting users towards resolution of their problems. The third is a report on the more ambitious latest version of the programme (*Rechtwijzer 2.0*)

4.1. A review of ‘Online Legal Advice and Conflict Support: a Dutch Experience’ (E Bickel, M van Dijk, E Giebels)

Roger Smith

The Dutch *Rechtwijzer* website has taken the world of digital legal advice by storm. We now have the first report of a Dutch research project evaluating the effectiveness of the *Rechtwijzer* in its original form (Version 1.0). This is *Online Legal Advice and Conflict Support: a Dutch Experience* by Bickel, van Dijk and Giebels, published by the University of Twente in March 2015 (available on the website of the Hague Institute for the Internationalisation of Law, hiil.org, or of the University of Twente). It takes the form of a longitudinal survey of the usefulness of the website over time by measuring how users begin in terms of skills, stress and competence. Then after a short period (1-5 weeks) and again later - in further work to be undertaken - the position in the longer term, 3-6 months later. The research looked at both family and consumer problems.

The report happily quotes *Face to face legal services and their alternatives: Global lessons from the digital revolution* in its introduction as naming the *Rechtwijzer* ‘as one of the frontrunners in the digital delivery of legal aid.’¹⁴ And, the *Rechtwijzer* is surely a game changer. Its user-orientation and accompanying interactivity sets a new standard for websites delivering legal advice and information. At the moment, it stands head and shoulders above any comparator website around the world. Sustaining such a judgement on an empirical basis would take a rather different methodology than this study - which is no criticism of its approach - just an indication that there are different ways of undertaking an evaluation.

¹⁴ p4

At some stage, the *Rechtwijzer* is going to have to be tested against the criteria of the more sceptical in its audience notably:

1. What proportion of the population (particularly that historically eligible for publicly funded legal aid) can be shown to derive benefit from website-based provision (ie how many are excluded by reasons of lack of access and adequate skills such as literacy?)
2. Does *Rechtwijzer 1.0* meet its objective of adequately signposting users to effective (and preferably conflict reducing) solutions to their problems?
3. Does it do this better than traditional individualised assistance?
4. Does it adequately 'red flag' out those cases (notably involving domestic violence in the family) for which legal representation is available (in most jurisdictions) and desirable (in all)?
5. To what extent does website-based provision depend for its greatest effect on integration with some measure of individualised assistance and what form of such assistance works best and provides most value for its cost?
6. How good is the advice and information provided and, in particular, does the *Rechtwijzer* adequately protect the rights of weaker parties - traditionally women in family disputes?
7. *Rechtwijzer 2.0* does inherently a different job than the first version: it is designed to go beyond signposting and provide a means of resolution itself. Given that, are there lessons from the study of *Rechtwijzer 1.0*?
8. For those like myself who assert the *Rechtwijzer's* superiority over traditional non-interactive websites, is there any empirical evidence to sustain this argument? For the moment, this study provides us with user evaluations of *Rechtwijzer 1.0* as compared with a control group of non-users.

The core nature of *Rechtwijzer 1.0* is well summarised by the report:

The Legal Aid Board developed *Rechtwijzer* to improve access to justice and legal information. Its primary goal is to encourage self-reliance by improving control over the conflict process and understanding of your own and the other party's positions and motivations in the conflict. It is designed to assist conflict parties in solving legal conflicts on their own where possible, and finding the right kind of help where needed ... *Rechtwijzer.nl* also asks questions that aim to incite self-reflection and reflection on the conflict process. It asks whether visitors generally feel capable of resolving problems themselves or whether they prefer help. In divorce conflicts, visitors are asked to reflect on their and their (ex-) partner's cooperative stances and possible consequences of the divorce. In consumer conflicts, visitors are presented with questions that help them to do a cost benefit analysis of the conflict and possible steps towards claiming their rights. They are asked to reflect on how much the conflict issue is worth financially as well as how important it is to them, how much they have already spent in trying to reach a solution to the conflict, and how much more they are willing to spend. This is then compared to the costs of possible steps they can take towards conflict resolution or claiming their consumer rights.¹⁵

The study does not incorporate any objective or comparative assessment of the *Rechtwijzer* content. It follows users through the process and is concerned with their assessment of their progress - largely through self-produced answers on a seven (sometimes 10) point scale - ranging from 'not at all' (1) to 'to a large extent' (7). To cut to the chase, the study found that the *Rechtwijzer* seemed moderately useful for user orientation to a problem; helpful in complex conflicts (though without objective or external verification) and to have a short term effect on 'self-efficacy'.

¹⁵ para 1.1

The average degree of satisfaction by users of the *Rechtwijzer* was 7.51 out of 10 which does not seem that high - particularly given clients traditional inability adequately to rate the quality of the assistance that they are given. In a way, the most impressive statistic might be the one for the average number of user visits to the website at 3.92: that suggests that people are following it through the process. On quality (out of 7), users rated the attainability of advice they had been given at 4.53 and their likelihood of following it at 4.56. They reported their faith in the advice with pretty well the same statistical number: 4.52. These figures might suggest that there are perhaps questions to be asked as to whether the efficacy of the advice provided could be improved (but see also the following article). More worryingly, users reported no significant difference in their ability to handle their own case after consulting the website or, indeed, in comparison with the rating given by those who did not use the website:

In the first post-test, the *Rechtwijzer* group responded with an average answer of 4.15. This was not significantly different from the pre-test, and thus indicates that their perceived self-efficacy in relation to their divorce had not changed during the time between the pre-test and the first post-test. There were no significant differences between the *Rechtwijzer* group and the control group, meaning neither the *Rechtwijzer* group nor the control group experienced changing levels of self-efficacy between both tests.¹⁶

The website is clearly most used - entirely appropriately because that is what it was designed for - as a first port of call. About a third of those using it had not gone elsewhere before using it. However, there was evidence that users wanted reassurance from elsewhere about its advice:

¹⁶ p25

the data suggests that users were tentative about relying solely on it as a source of advice. On a scale from 1 (not at all) to 7 (to a large extent), the *Rechtwijzer* group reported a preference for a third party checking their agreements made with an average answer of 5.16. ... the most frequent answer was 'to a large extent' (30.0%). This means that the *Rechtwijzer* group found it important that agreements made were reviewed by a legal third party. The same can be said for the control group. They gave an average answer of 5.50, which is not significantly different from the *Rechtwijzer* group.¹⁷

The majority of the users were female and in a weaker position than their ex-partners which makes the need for support particularly necessary:

In ... divorce ..., most respondents were married and had children under the age of 21. This made them more dependent on their (ex-) partner, increasing the need to end the relationship on good terms. Moreover, participants going through a divorce experienced a high level of dependence asymmetry, meaning they felt more dependent on their (ex-) partner than vice versa. Women were more likely to be disadvantaged in terms of dependence than men. The high conflict stakes were also reflected in the relatively high percentage of respondents who reported additional concerns besides their divorce, mostly financial concerns such as an impending decline in income or serious debts.

Economic asymmetry between the parties places an imperative not only on them to end on good terms, of course, but also on the *Rechtwijzer* to provide a just result that minimises the impact of relative poverty and dependence.

¹⁷ p31

The final conclusion of the researchers was that:

Taken together, these results indicate that particularly people dealing with serious conflicts, which are characterized by high levels of escalation and stress, seem to find their way to *Rechtwijzer*. In addition, respondents evaluated *Rechtwijzer* very positively. First results suggest modest effects of *Rechtwijzer* on self-efficacy beliefs. This indicates that *Rechtwijzer* is a source of legal aid and support, especially at the outset of conflicts and for low income groups.

So, we can summarise thus. People are using the *Rechtwijzer* and for serious cases. They evaluate the process positively. We cannot yet correlate *Rechtwijzer* assistance with improved capacity for users to help themselves but it seems useful as a way of scoping the issues at the beginning of disputes. It is not quite clear from the research why it should be a source of legal aid support for those on low incomes - save for the logical fact that nothing else may exist.

The findings of the research are not perhaps quite as positive as might have been anticipated. They may suggest that more work may need to be done on content of *Rechtwijzer 1.0* and that there would be a role for an objective qualitative assessment of the advice provided. They are not immediately suggestive that the next step should be *Rechtwijzer 2.0* - although, in some ways, the new version is such a new product that it raises new issues to be explored, because it is intended to incorporate levels of assistance and resolution within it. As the University of Twente progresses with its research (this is but the first phase), it would be really helpful to develop an approach which would address the eight key questions posed earlier in this review. Examples of the objective testing of advice provision exist from before the days of the internet. Duncan Forbes, for example, co-authored a study entitled *Citizens Advice Bureau and Housing Advice*, which was published by the National Association of CAB in 1990. Something is not quite in synch: the research is not showing up the level of achievement of the *Rechtwijzer* that its supporters would intuit. Why is that?

4.2. Rechtwijzer 1.0 Research: A comment on Roger Smith's Review

Marian van Dijk

PhD student at the University of Twente

I have read Roger's review of our research. In general, I welcome it but there are a number of issues which I think should be highlighted. Fundamentally, the nature of the report should be understood. First, it was only ever intended as interim. As such, we have focused on two data points in time; user's experience directly before and after using *Rechtwijzer*. The full study design also incorporates a third data measurement point, tapping into the long-term effects of *Rechtwijzer*. Secondly, this initial report is mostly descriptive. In the final version, we will run more powerful statistical analyses. Those will allow us to better examine effects over time. It will also allow us to control for factors such as personal characteristics, types of third parties used and relationships between the conflict parties. We hope to match respondents from the control group to *Rechtwijzer* visitors in similar situations, in order to study the effect of *Rechtwijzer* under various circumstances. Thirdly, this study is part of my doctoral thesis, which takes a primarily psychological perspective. This is one of the primary reasons why it looks at the (subjective) experiences of conflict parties and use self-report data. In the final version we will also include behavioral data based on website use.

This context means that the current report covers certain aspects of evaluating *Rechtwijzer*, and does not cover others. Clarification regarding these choices might be helpful.

1. We have focused our inquiry on the aim of *Rechtwijzer*: to increase access to justice and legal information (sometimes by referral), and to increase self-reliance in the constructive resolution of conflicts. It does so by:
 - Promoting reflection on the conflict, and offering the tools for reflection online, rather than in a face to face conversation with a (legal) professional
 - Offering procedural information, with a focus on self-reliance. This information is offered in the form of 'routes' which are adapted to consumer conflict or/ marriage or other cohabitation form with or without children and include extra information or referrals for other procedural factors such as owning a business in a divorce.
 - Offering online tools or links to online tools, which conflict parties can use to prepare themselves for the conflict.
 - Presenting all of the above in an accessible and clear format.

As such, the goals of *Rechtwijzer* are ambitious and the intervention is innovative in design and approach. The data shows that people come back to visit *Rechtwijzer*, which suggests an important role for the step by step format of procedural information, and/or the tools. The improvement in access to justice is thereby articulated mostly in the structuring of information. The improvement in self-reliance is articulated in the greater sense of control over the procedure (because of the structured nature of the information, the grasp of the process might be greater as well) in addition to the tools with which individuals can prepare themselves.

We believe that the user experience of *Rechtwijzer* is important to its evaluation, as self-reported data generally has a high correlation to actual behaviour. We find that people indeed report a higher ability to cope with the conflict due to *Rechtwijzer*. We also find that people evaluate *Rechtwijzer* positively. Related to this point, we should state that in the Dutch system, a grade of 7.5 out of 10 is quite high, because the grades of 9 and 10 are very rarely awarded. The recommended conversion of a 7.5 grade to the UK system would be an A-¹⁸. However, Roger rightly points out that we find relatively few effects. We can offer a few possible explanations:

- As said, this first report is mostly focused on descriptive information. We might find more effects in the next report, when we hope to zoom in on the data and control for circumstances of the conflict, the conflict process, or characteristics of the conflict parties. This might be especially important in divorce cases, as a divorce in the Netherlands always requires involvement of professionals who will also have a significant impact on the same outcome variables as *Rechtwijzer* will have.
- *Rechtwijzer* focuses on procedural information and refers to other websites for further information on legislation and possible solutions. Although many of these websites are also managed by the Legal Aid Council, the focus groups and individual qualitative tests of *Rechtwijzer* suggested that this may sometimes dampen the enthusiasm of users, who expect a comprehensive package of all information on one website.
- Effects of *Rechtwijzer* might particularly become visible in the long term, when the preparation and reflection, and increased self-reliance and focus on constructive problem solving, have steered conflict parties to outcomes and conflict processes they evaluate more positively, possibly with less escalation.

¹⁸ www.studyinholland.nl/documentation/grading-systems-in-the-netherlands-the-united-states-and-the-united-kingdom.pdf

2. Roger suggests a review of the content of *Rechtwijzer*. This could indeed be an important step in the evaluation process. First of all, an expert evaluation would give an indication of the quality of the information presented. To the best of my knowledge, the content of *Rechtwijzer* was not only prepared by legal professionals but also checked by other legal professionals.

Secondly, a qualitative review by users or possible users would give a more detailed user evaluation of the content. In the last development stages of *Rechtwijzer*, both individuals who had gone through a divorce and those who had not, were invited for focus groups and individual qualitative (think aloud protocol) tests. A description of this iterative process is available in the Monitor publications of the Legal Aid Council.

3. For comparison and an evaluation of access to those legal aid products that the Legal Aid Council offers, we refer to the work done by the Monitor team of the Legal Aid Council. Our report only looks at conflict parties at the start of the process. In the follow-up research we will be able to offer a better description of the use of third parties by the control group versus *Rechtwijzer* visitors.

4. Roger points to two vulnerable groups that deserve specific attention. We fully agree that in evaluating any tool which aims to increase access to justice, these groups deserve attention. *Rechtwijzer* promotes reflection on one's power position vis a vis the other party in the conflict. The information offered to visitors does not differ depending on this position, but visitors do receive tools, and referrals to professionals who can help, to better prepare themselves. Whether this is enough to impact the power balance between parties is an interesting question. In the follow-up research we will look at how asymmetries affect evaluations of process and outcome. By matching with the control group, we can examine more powerfully whether the use of *Rechtwijzer* interacts with asymmetries to affect these evaluations of process and outcome.

Secondly, victims of domestic violence should be flagged by the system. In *Rechtwijzer*, they receive information pertaining to the available additional help in situations of domestic violence. As a relatively high proportion of visitors reported domestic violence, the final questionnaire includes a question that will measure domestic violence more precisely by asking about the intensity and type of violence. Through this question, we will be able to determine whether the question originally posed in *Rechtwijzer* adequately discriminates between high and low risk cases.

5. Roger rightly asks for a more explicit elaboration on lessons learned for the future, based on this evaluation of *Rechtwijzer*. First of all, we believe insight into the types of conflicts visitors to *Rechtwijzer* deal with, and their experiences of these conflicts, offer important lessons for future designers. For example, the large range in the amount of money involved in consumer conflicts suggests that the cost benefit tool that is incorporated in *Rechtwijzer* for consumer conflicts, is important and could be developed further. The relatively large proportion of visitors who report domestic violence in divorce cases first needs further analysis, but perhaps calls for a separate routing for those cases through the *Rechtwijzer* portal.

Additionally, the self-reported higher self-efficacy beliefs in combination with the repeat visits to *Rechtwijzer*, in our view, underscore the importance of the clear and structured format which offers procedural information in a step by step plan and the tools with the help of which people can prepare themselves for the process. In the final study we will try to narrow this down by looking at user clicks of *Rechtwijzer* visitors and see if there is a relation between which parts of the website were visited and for how long, and effects and evaluations of *Rechtwijzer*.

6. Finally, we want to address an important lack of clarity on our part: The question pertaining to the need for a third party check, on page 31 of the report, referred to the need for a professional third party, such as a lawyer or judge, to evaluate final divorce agreements as drafted by the (ex-) partners. This particular question was included as an indicator for the popularity of the 'review' feature of *Rechtwijzer 2.0* and is not related to the evaluation of *Rechtwijzer 1.0*, as the older version of the divorce - and parenting plan was not a feature of *Rechtwijzer 1.0* but a separate website.

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