

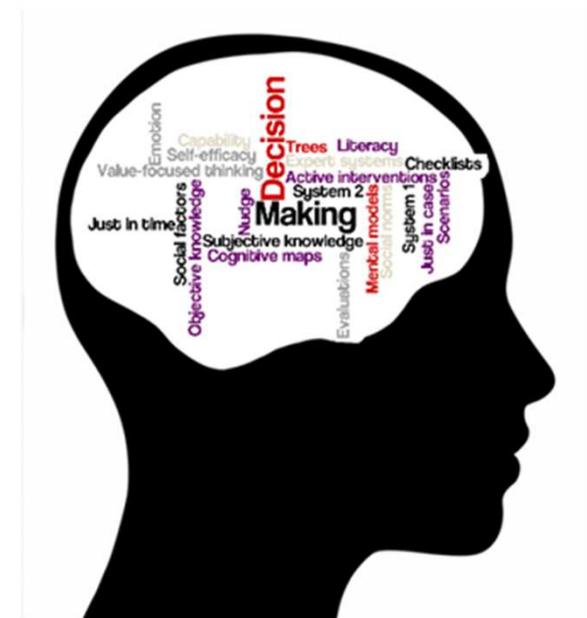


LEGAL SERVICES
BOARD

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Helping Legal Services Consumers Make Better Decisions: Methods to Identify and Respond to Legal Problems

Professor John Maule, 23 May 2014



About Us

Professor John Maule
Centre for Decision Research
University of Leeds

Linstock Communications
www.linstockcommunications.com



Purpose of the Report

How to support decisions of legal services consumers:

- Regulators' remit to support legal services consumers
- New context for legal services decision making
- Low Commission
- Research on psychology of decision making
- Distinction between two systems of thinking

Addition Problems

$$2 + 2$$

$$34,986 + 57,848$$

Two Systems of Thinking

SYSTEM 1

- Relatively simple
- Quick
- Intuitive
- Requires little mental effort
- Often based on affect - how options make people feel

SYSTEM 2

- Reason
- Analysis
- Relatively slow
- Involves conscious deliberation

Legal Consumer Choice

- Likely to be dominated by System 1 thinking
- Prone to error and bias
- Examples and implications in our previous report
- Less likely to be corrected by legal experts
- Need to find ways of supporting
- ‘Just in Time’ and ‘Just in Case’ interventions
- Academic review and practitioner interviews

Just In Time Interventions

- Support at the point of choice
- Decision Analysis based on rational model (System 2)
- Techniques designed to help people think 'rationally'
- Support different aspects of decision making process
- Success in medical and consumer domains
- Considerable promise for legal situations

Just In Time Interventions

Techniques supporting different aspects of process:

- Making sense of the problem
- Taking account of the relevant information
- Evaluating and choosing between options
- Will present a few examples from report

Just In Time Interventions

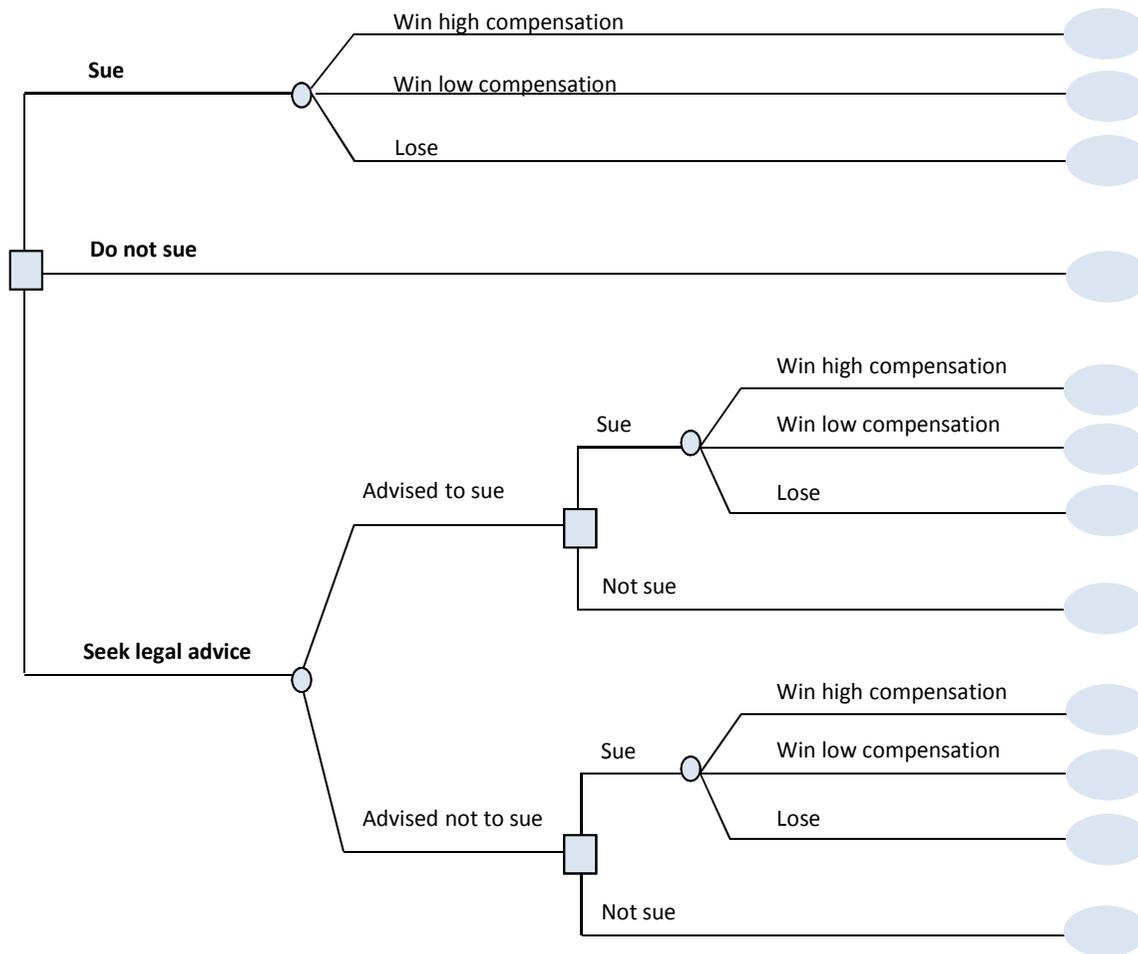
Problem Formulation - Making sense of the problem:

- Thinking limitations so System 1 dominant
- Hard to conceptualise and evaluate at same time
- Need to:
 - Identify legal aspects
 - Identify actions, outcomes and uncertainties
 - Identify and take account of relevant information

Just In Time Interventions

Problem formulation - Making sense of the problem:

- Techniques for doing this include:
 - Checklists to ensure relevant information considered (SWOT)
 - Decision Trees
 - Cognitive Maps



Decision tree for 'suing the employer' problem

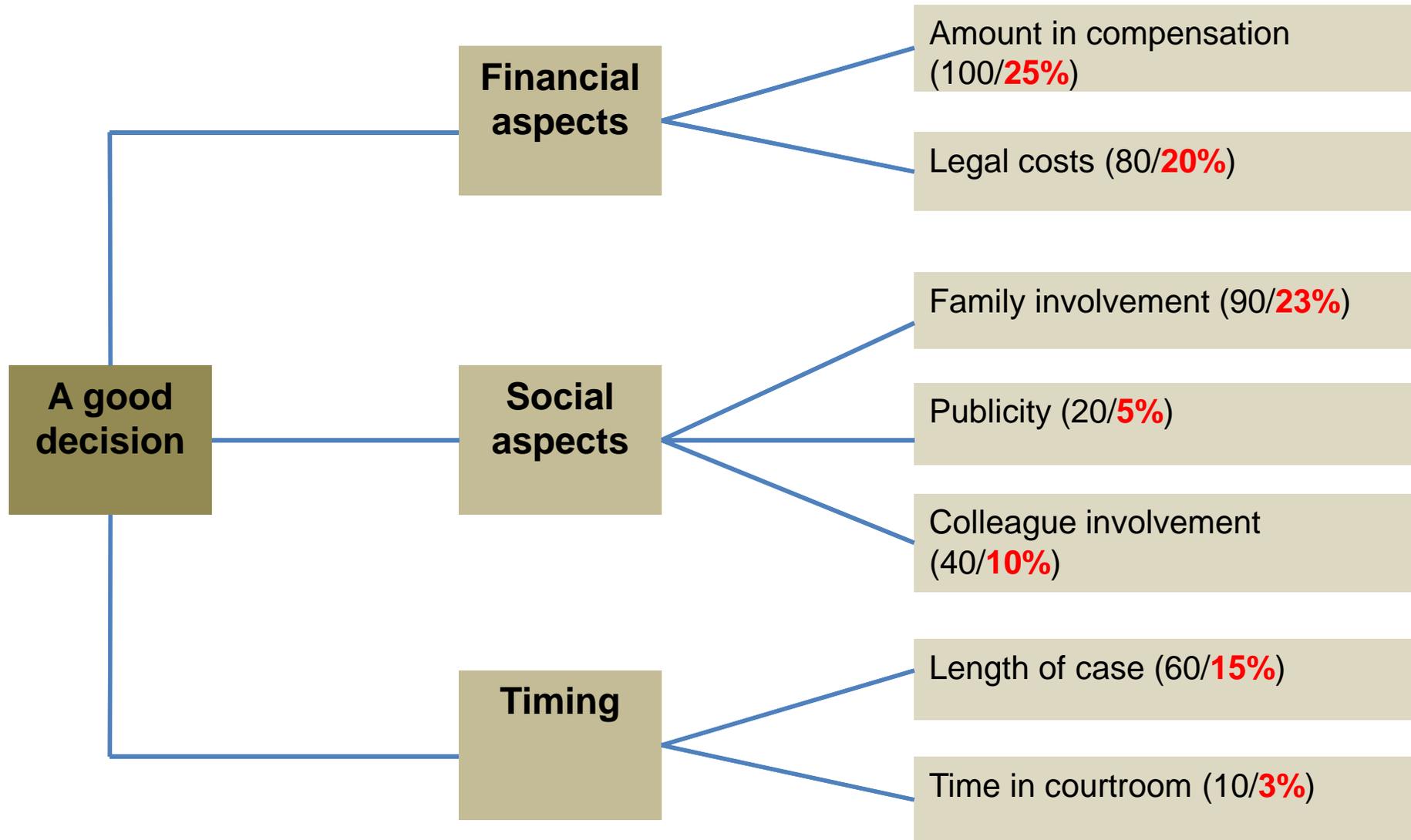
Just In Time Interventions

- Provided vs. consumer drawn maps
- Helps develop a more elaborated understanding
- Overcome undue optimism by including negatives
- Helps people anticipate future decisions
- Frees up thinking capacity for evaluation
- Research shows people remember more information, feel more informed and confident when using trees

Just In Time Interventions

Assessing options – value of outcomes

- Importance of ‘value-focused thinking’
- People value outcomes differently
- Difficult – values not fully formed / trade-offs
- Differences between people and professionals
- Need to let what’s important to drive decision
- Value trees

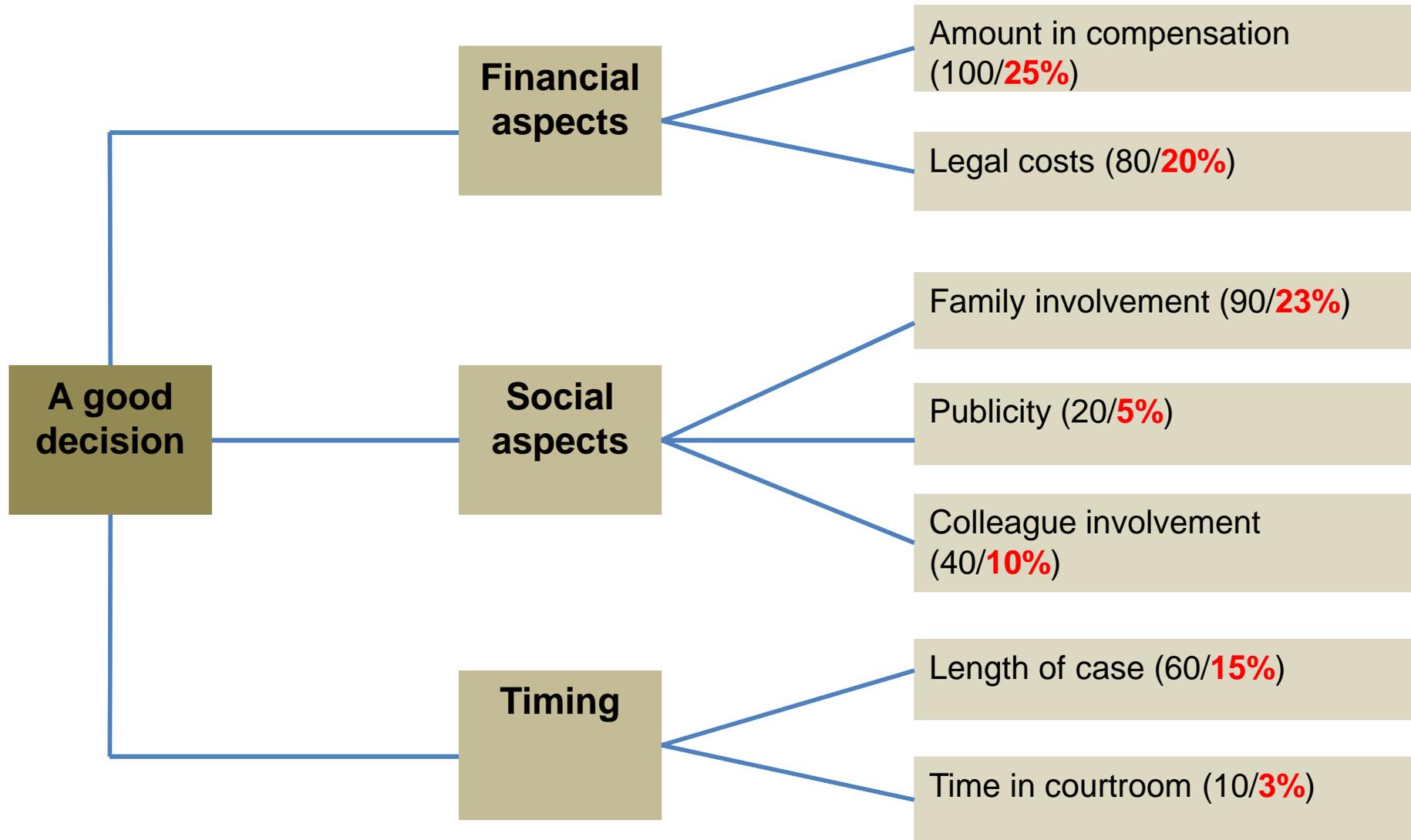


Value Tree for 'suing employer' problem

Just In Time Interventions

Assessing options – value of outcomes

- How to develop a value tree
 - Brainstorm factors that are important
 - Sift items and develop tree
 - Rate importance and then calculate relative importance
 - Evaluate outcomes in these terms



Value Tree for 'suing employer' problem

Just In Time Interventions

Assessing options – Value Trees

- Drawing tree helps clarify values and objectives
- Helps trading–off good and bad aspects
- Provide generic tree for people to select & rate items
- What is important drive decision
- Recognises differences between people

Just In Time Interventions

Assessing options – Likelihood of outcomes

- Must take account of how likely an outcome is
- People bad at assessing uncertainty
- All kinds of self-serving and cognitive biases
- Decision Analysis techniques too complicated
- Two possible solutions

Just In Time Interventions

Expert judgement included on decision trees

- Assessments based on past cases/ expert judgement
- Include and use factors that cause variability

Scenario based approach

- Describe a broad range of possible outcomes
- Assess how well each action does with each outcome
- Modify actions as appropriate

Just In Time Interventions

- Research shows techniques successful in health, medical and consumer settings.
- People remember more information, feel more informed, more confident, better at assessing risk, more involved in decision, more satisfied with outcome, choose according to their own values, more active in choice process.
- Suggests strong potential for legal settings

Just In Time Interventions

Need for further work to:

- Match techniques to specific legal consumer needs
- Develop a suite of techniques that provide structured process for legal services consumers to follow
- Evaluate different ways of presenting the suite e.g. on-line, DVDs, pamphlets, just in case
- Evaluate the efficacy of techniques

Just In Case Interventions

- Educating people about events that they may encounter in future so more prepared to make an informed decision if and when these events occur
- Much work in health, finance and legal situations
- Used a very broad range of interventions
- Financial literacy seen as a major goal for improving otherwise poor financial decision making

Just In Case Interventions

Findings

- Intervention end: increased knowledge, greater confidence
- Little evidence for change in future decision making
- Disappointing given time and effort expended
- Suggests increasing legal literacy may be difficult

Just In Case Interventions

Research indicates the need to take account of

- Individual and Social Factors to:
 - Overcome perceived barriers to action
 - Build up feelings of self efficacy
 - Take account of social influences and norms

Just In Case Interventions

Research indicates the need to take account of:

- Psychological factors at point of choice:
 - Types of thinking it induces at point of choice
 - Whether information framed appropriately
 - Any unintended nudges

Just In Case Interventions

Research indicates the need to take account of:

- Content of interventions:
 - Not based on what experts think
 - Based on what consumers actually need
 - Need to address misconceptions and deficits
 - Mental models approach

Just In Case Interventions

Research indicates the need to take account of:

- Objective and subjective knowledge differences:
 - Distinction between what people actually know and what they think they know
 - Both impact on the effectiveness of an intervention so need to be assessed and managed.

Just In Case Interventions

Need for further work to:

- To find ways of incorporating these factors in to legal services interventions
- To evaluate programmes on later decision making not simply at end of intervention
- To draw on experiences from other domains

Evaluating Interventions

- A major weakness for both types of intervention
- Either not done at all or inadequate
- Following rational model, knowing more, reduced decision conflict, feeling more informed all limited
- Need to include consumers' perspectives
- Need to justify in context of decision situation

Conclusions

- Just in time has considerable potential and worthy of development for legal services consumers
- Just in case more difficult and as yet unproven
- Urgent need for evaluation framework

Links & Contacts

Report links

- <https://research.legalservicesboard.org.uk/wp-content/media/PLE-assessment-final.pdf>
- <https://research.legalservicesboard.org.uk/wp-content/media/Behavioural-Economics-Final.pdf>

Contacts:

- jmaule@linstockcommunications.com
- Simon@linstockcommunications.com

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