

PROFESSIONAL DEVELOPMENT

Identification of Development and Training Needs

1. What are development and training needs?
2. What are actual needs as opposed to perceived needs?
3. What is the purpose for identifying actual needs?
4. What is the process for identifying actual needs?

Basic Steps in carrying out a Training Needs Analysis (TNA)

1. List categories of target groups - in the lower courts of your particular country
2. Conduct general TNA to identify the target group for priority training
3. List roles, duties and obligations of the chosen target group
4. Conduct specific TNA to identify training needs of chosen target group – methods
5. Prioritise training needs – interpreting data
6. Organise training needs – knowledge, skills & values
7. Select subjects and topics for training program – based on available time to conduct training

What is Training Needs Analysis?

A training needs analysis (TNA) is simply what it says; an analysis of the training needs of a particular individual or group of individuals who occupy the same or very similar roles. The key word is analysis, which implies an objective examination of the actual training needs as opposed to the perceived learning needs which may be quite different.

The aim is to conduct research to produce an exhaustive description of what a person employed in the role ought to do and the standard to which he ought to perform (desired performance). The research goes further to examine what role holders are actually doing and the standard to which they are actually performing. Where the actual performance falls short of the desired performance there is a training gap. In other words a TNA tells how far you have to travel by identifying where you are, and where you want to be.

Why do a TNA?

The design of appropriate and co-ordinated training is central to the fulfilment of our objectives. Yet all too often the decision on '**what to teach?**' is based on no more than the perceptions of the trainers and/or sponsors or the wishes of the trainee. It is worth taking a little time to consider why those perceptions and wishes might be wrong, or at least fail to identify the needs that are to be addressed.

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A question of perspective.

There are two aspects to this, firstly the competing needs of personnel in different roles. Secondly the perspective from which you view the training needs of those personnel sharing the same job title.

Firstly, the brief of the National Judicial Education Committee covers the provision of training for a range of personnel within the judicial service. The roles which fall within the committee's purview include senior judges, subordinate court judges and/or magistrates, land justices, lay magistrates as well as court clerks and other support staff. How is the NJEC to decide on relative priorities for training without some objective information upon which to base its decision? A new lay magistrate describing his or her personal training needs cannot tell you how their needs compare to those of an experienced judge. It is only with an overview that the NJEC can identify where an investment of resources in training will be most effective.

Secondly: when it comes to analysing the training needs of personnel in any particular role it is important to bear in mind the overall training objective. The individual occupying that role may have very different objectives and therefore identify different priorities.

Role holders may not attribute the same importance to certain aspects of their performance, as do the people with whom they inter-relate in the execution of their duties. It is difficult to be objective about your own skills and attributes; for instance, comparatively few people will admit to poor communication skills. Similarly it is difficult to estimate your want of knowledge in respect of things you don't know?

Put another way; there are all kinds of reasons why we are not always the best person to judge our own training needs. Therefore in performing a TNA it is essential to look for independent evidence to corroborate, or refute, the trainee's own view of his needs.

A TNA aims to examine the role in question to find out exactly what the role holders should know and be doing and to what standard they should perform.

Finding what the role comprises

If you have a comprehensive and recently updated job description that would provide an ideal starting point, if not, you will have to resort to other sources of evidence. The elements of a judge's job may well be set out in statutes, the constitution and rules of procedure, however these will not give you the complete picture you will have to use your judgement in deciding what other sources might be useful. The role holders themselves will be an important source of information but there may well be other valuable sources. The term currently used to describe all the people with an interest in something is "stake-holder". The stake-holders in relation to a judge or magistrate might include, court users, (counsel, parties, even the general public) as well as those more closely involved such as court clerks, other judges and appeal judges.

In defining the role you will be collecting a mass of circumstantial evidence, which you will need to weigh and sift in formulating a 'job description'.

For training purposes you may find it useful to identify tasks in terms of knowledge, skills and attitudes. 'Attitudes' is used to describe general approach or application of guiding principles such as equality.

Setting the standard of performance

Different educators have set different standard descriptors. It is suggest that you use the following simple three level descriptions:

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Level 1: Must know thoroughly with out need to look up, can perform without help. i.e Things so rated must be second nature

Level 2: Basic knowledge but may need to check details, can perform with help (appropriate for less common tasks and skills)

Level 3: Has an awareness of – can identify and would know where forward matter.

Measuring the actual standard of performance

Some care is needed here so as to make sure that individuals are not made to feel exposed or threatened. It is suggested that you focus on the group of role holders as a whole rather than individuals. Careful thought as to the questions asked is needed to ensure you elicit answers which relate to the group in general and not to individuals.

You may not want to ask all the stakeholders about all the elements of the role. For example court users; counsel, parties and public might well have valid contributions to make about the levels of communication in the court. (e.g.: Could you hear? Could you understand? Was it explained?) But it would clearly be inappropriate to seek their views as to the judges' knowledge and understanding of law or procedure. The records of appeal and the judges who hear appeals may be one appropriate source of that information.

Noted below is an imaginary and very much simplified TNA for a magistrate in a generalised Pacific island country. It is intended only as an example. Some of the people or things referred to may not be relevant in your jurisdiction and there may be things which are relevant but which have been left out.

Example of training needs analysis

The steps identified below are only one way of doing this; you should be prepared to modify them to suit your purposes and the particular circumstances you are working in.

Step 1) Inform the subject group.

Make sure that your magistrates know what you are doing and why. Identify the range of people from whom you will seek information and reassure magistrates that no individual's performance is under scrutiny, and that the aim is to provide support for them as a group through appropriate training. You should ask your magistrates for their help and support, if they are amongst those interviewed or invited to contribute by questionnaire.

Step 2) Compile a first draft

Working from any appropriate documentation compile a list of what magistrates do and break it down into knowledge, skills and attitudes. Use that as the basis of an interview with one or two experienced magistrates.

Revise the list in light of their input. You might end up with something like this:

PACIFIC JUDICIAL DEVELOPMENT PROGRAM

| Role Analysis – Magistrate | | |
|---|------------------|-----------------|
| | Desired standard | actual standard |
| Courtroom Knowledge | | |
| Principles of natural Justice | 1 | |
| Principles re Independence of the Judiciary | 1 | |
| Code of Conduct/ethics | 1 | |
| Jurisdiction - extent and limits | 1 | |
| Sources of law | 1 | |
| Basic concepts of civil, criminal, public law | 1 | |
| Special cases: mental disability, juveniles | 2 | |
| Pre trial procedure | 1 - 2 | |
| Trial procedure | 1 - 2 | |
| Procedure for making of orders | 1 - 2 | |
| Contempt in the face of the court | 1 | |
| Contempt refusal to obey orders etc | 2 | |
| Rules of evidence | 1 - 2 | |
| Range of Support services/NGOs | 2 | |
| Probation service | 2 | |
| Counselling service | 2 | |
| Women's Centre/rape crisis | 2 | |
| Basics of criminal law | 1 | |
| Criminal- Common Offences | 1 | |
| Less common criminal offences | 2 | |
| Principles of Sentencing | 1 | |
| Available sentence for common offences | 1 | |
| Alternatives to punishment | 1 | |
| Family | 2 | |

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| | | | |
|--|---------------------------------------|---|--|
| | Basics of obligations - Contract tort | 2 | |
| | Remedies | 1 | |
| | | | |

| | | | |
|-------------------------|--|---|--|
| Courtroom Skills | | | |
| | Interpersonal - dealing with people and difficult situations | 1 | |
| | Communication – listening, eliciting story | 1 | |
| | Communication – explaining, directing | 1 | |
| | Taking and keeping control | 1 | |
| | Ensuring efficient conduct of hearing | 1 | |
| | Ensuring fair hearing | 1 | |
| | Dealing with unrepresented parties | 1 | |
| | Imparting gravitas (dignity) to proceedings | 1 | |
| | Ability to work well with other court staff | 1 | |
| | Analytical skills - information gathering | 1 | |
| | Analytical skills - information management | 1 | |
| | Analytical skills - note taking | 1 | |
| | Decision making | 1 | |
| | Explaining decisions | 1 | |
| | Drafting orders | 2 | |
| | Record keeping | 1 | |

| | | | |
|----------------------------|----------|------------------|-----------------|
| Courtroom attitudes | | Desired standard | actual standard |
| | Race | 1 | |
| | Religion | 1 | |

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| | | | |
|--|----------------|---|--|
| | Gender | 1 | |
| | Age | 1 | |
| | Drugs | 1 | |
| | Rehabilitation | 1 | |
| | | | |

| | | | |
|--|---|-------------------------|------------------------|
| Out of court | | | |
| Including office and personal matters | | | |
| Knowledge | | Desired standard | Actual standard |
| | Strategies for dealing with stress/pressure | 1 | |
| | Code of conduct as it applies to private life and out of court dealings | 1 | |
| | Security systems | 2 | |
| | Principles of confidentiality | 1 | |
| | Roles of different staff/offices | 2 | |
| | Location of offices | 1 | |
| | | | |
| Skills | | | |
| | Media management | 2 | |
| | Managing 'threats' to independence and other conduct issues without causing offence | 2 | |
| | | | |
| | | | |
| Attitudes | | | |
| | Role in the community | 1 | |
| | Judicial education | 2 | |
| | Personal professional development and continued learning | 1 | |

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Standards 1, 2 and 3 represent:

Level 1: Must know thoroughly with out need to look up, can perform without help. i.e Things so rated must be second nature

Level 2: Basic knowledge may need to check details, can perform with help (appropriate for less common tasks and skills)

Level 3: Has an awareness of.

Step 3) More and independent evidence of what magistrates ought to do

AND evidence as to actual standard of performance

The list can now be used as a basis of questionnaires or as the basis of interviews or discussion sessions. The mode of information gathering will depend to a large extent on the number of people involved, your resources and their geographical distribution. The important point at this stage is to make it clear that you are seeking information about magistrates in general and NOT about any individual magistrate.

More information ...

You might chose to circulate the role analysis to all magistrates asking them to identify any additions or amendments and also to rate their current level of performance. **This group would need to be able to give their answers anonymously.**

Independent evidence...

Judges who deal with review or appeals from the magistrates would be able to give you a very good indication of performance in relation to knowledge. The sections of the role analysis dealing with court room knowledge; skills and attitudes might form the basis of a questionnaire or interview.

Superior court judges may not be able to say much about the communication skills of magistrates. But regular court users may be able to help. In formulating questions for them you will need to avoid inviting comment on other aspects of the magistrate's competence.

But you could learn a lot from simple questions, such as those set out below, put to parties and accused persons:

- 1) Did you feel that proceedings in court were conducted with care and gravity (dignity)?
- 2) Did you feel that your case/claim was taken seriously?
- 3) Could you understand what the magistrate said to you?
- 4) Were the proceedings explained in a way that you could understand?
- 5) Were you given time and opportunity to put your side of the case/ put your story/explain your defence?
- 6) Did you feel the court listened to you?
- 7) Were you given an opportunity to ask questions?
- 8) Did you feel the proceedings were fair?

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9) Did the magistrate explain his/her decision to you?

Other regular court users such as counsel who appear regularly (The peoples Lawyer/ Public defender/ DPP) may be able to comment on aspects of the analysis such as courtroom skills and attitudes

Court clerks will be able to comment on aspects relating to courtroom management

When it comes to Out of Court knowledge, skills and attitudes, independent evidence will be hard to get but you might find help from senior and experienced judges.

Step 4) Sort and Sift

Once you have gathered your information all that is left to do is to sort it; the training gaps will show up where the actual performance is lower than the desired

If you have gathered a number of answers from the same group of people you might simply take the average. i.e. Where does the preponderance of opinion lie?

Where you have information from different groups you will have to decide on the appropriate weight to give it; you may have to ask yourself which groups' evidence is more credible. For example the opinion of an appeals judge as to the standard of legal or procedural knowledge might well be more accurate than that of the magistrates themselves. The opinion of parties to trials as to magistrates' communication skills may be more reliable than that of senior judges, who do not actually see what goes on!

We would encourage you to involve other members of your NJEC in the TNA.

In conclusion

The process described here is only one way you might conduct a TNA. The procedure is not important so long as it produces an objective measure of training needs and that necessitates gathering information from sources other than the potential trainees. It is generally accepted that: *"Self assessment of training needs and delivery methods will not always provide suitable data, particularly where the respondents have not had training in a specific field or area."* In other words: I cannot tell you about those needs I do not know I have because I know nothing about them..... If you ask me about my needs I will tell you what I want to learn and not necessarily what I ought to learn!

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