2022 Community Legal Centres Queensland

Disaster Legal Assistance – What to expect in response and recovery phases
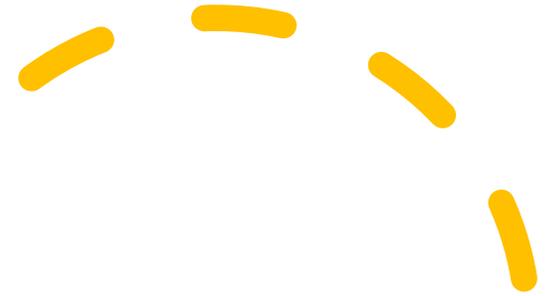
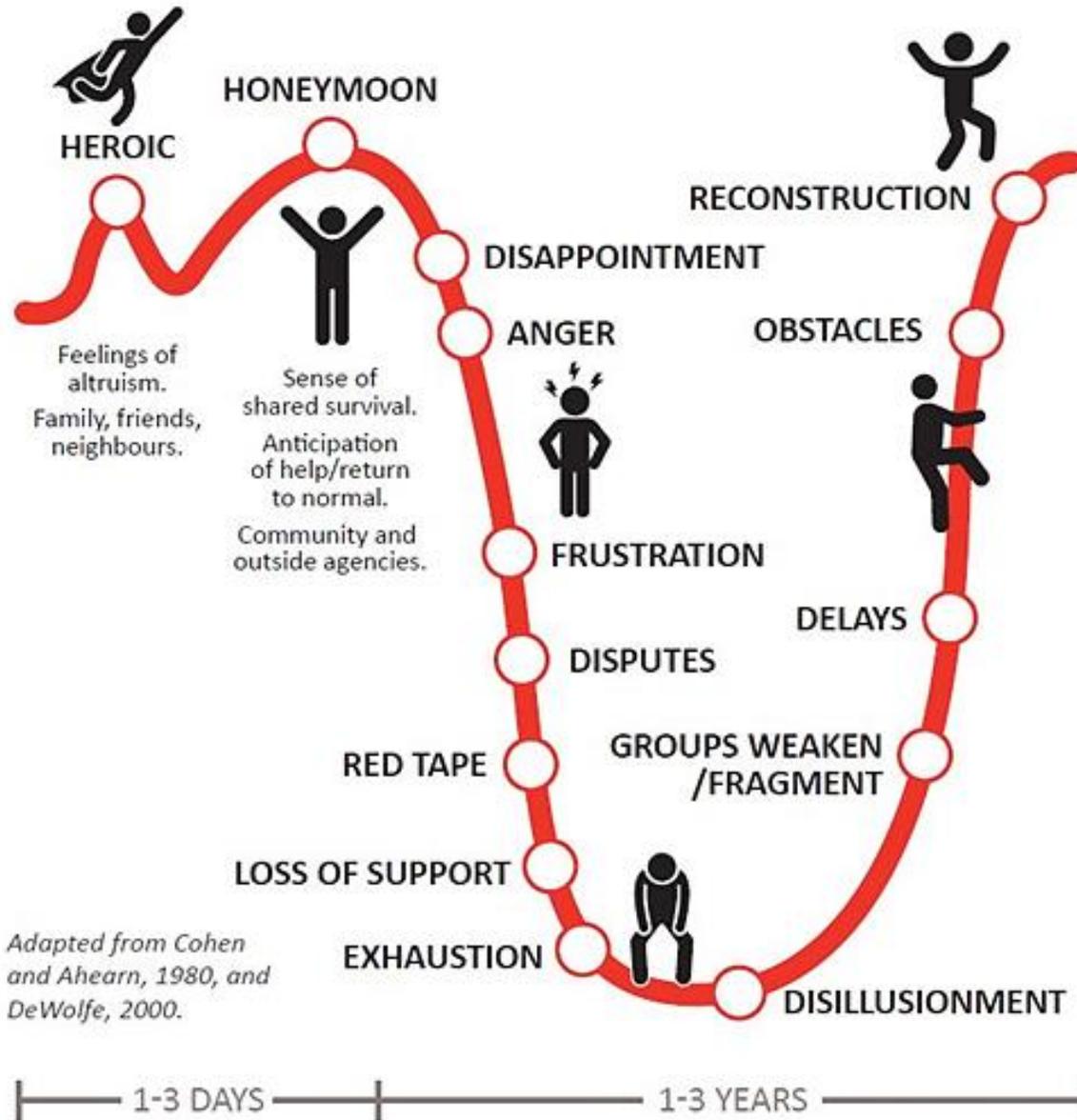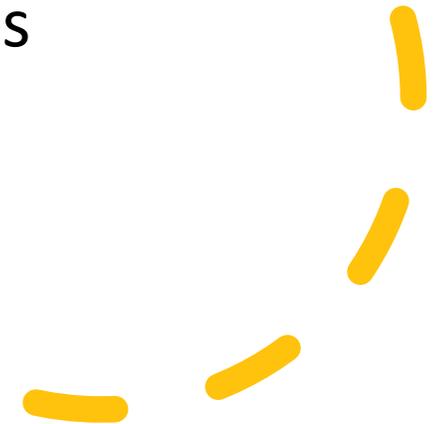TOWNSVILLE
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The Big Picture

Discussion points:

- Disaster cycle and phases
- Equity of response
- A human rights approach
- Systemic remedies
- Surge capacity
- The recovery centre model
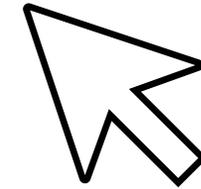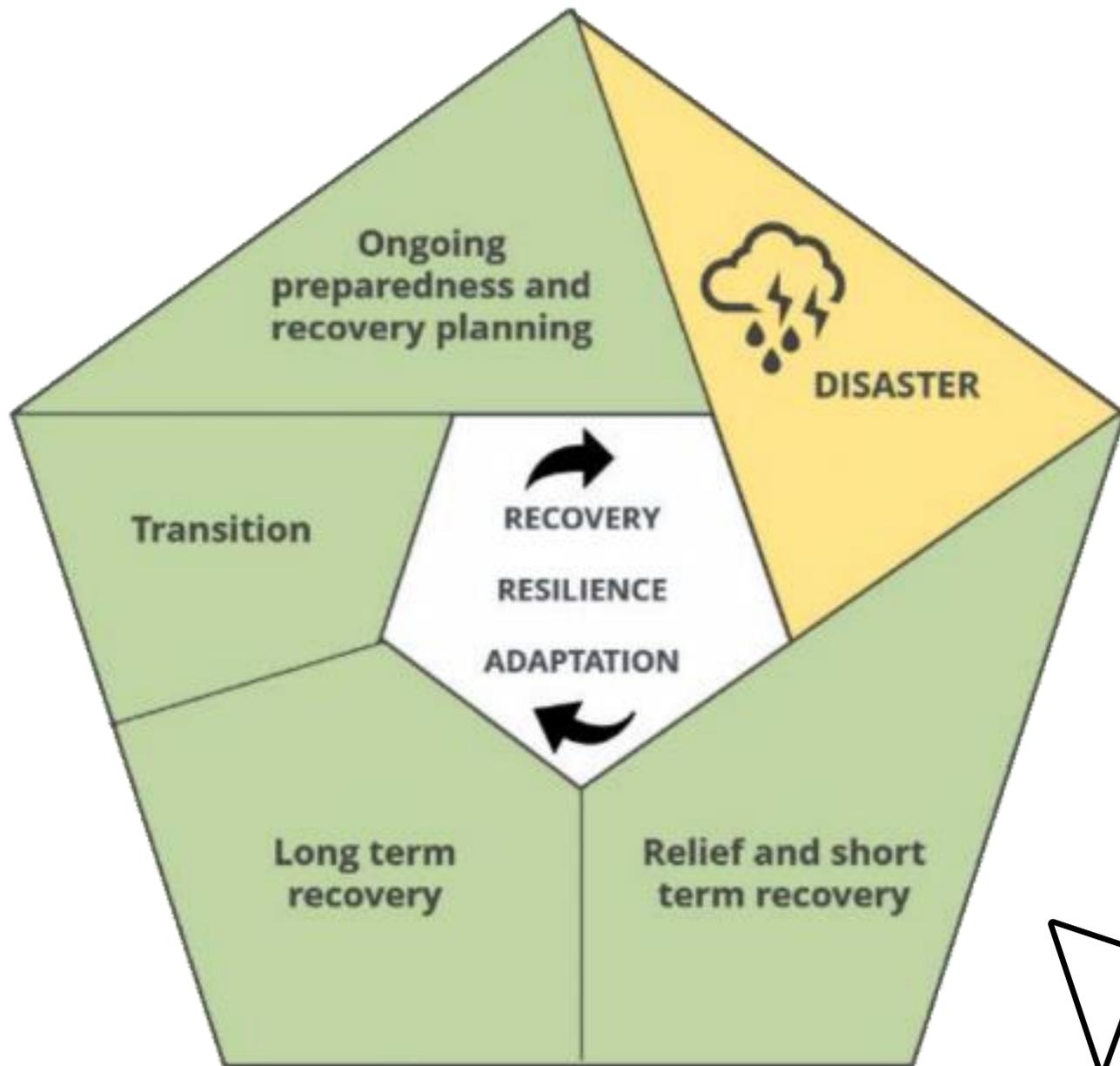
The recovery trajectory for communities

Response Phase
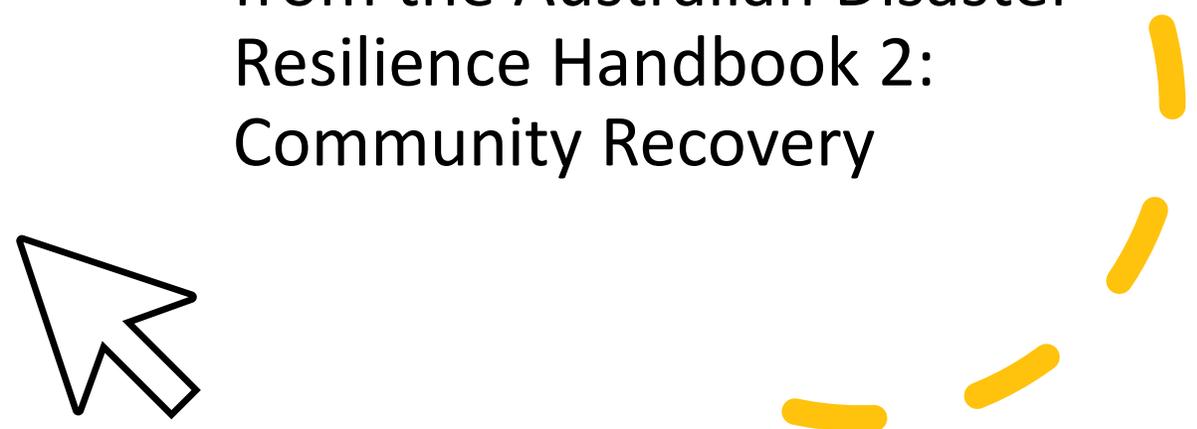
Response really occurs across two phases:

- Immediate post-disaster response
- Short term response leading to recovery phase – some communities are still here

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Four domains of community recovery

Built environment

considers the impacts of an event on essential physical infrastructure

Social environment

considers impacts on health and wellbeing including safety, security shelter and physical and psychological wellbeing

Community

Natural environment

considers impacts to the environment including damage or loss of flora and fauna, air and water quality, land degradation and heritage listed locations

Economic environment

includes both direct and indirect impacts usually given a monetary value such as loss of tourism, employment or cash flow

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The recovery cycle, adapted from the Australian Disaster Resilience Handbook 2: Community Recovery
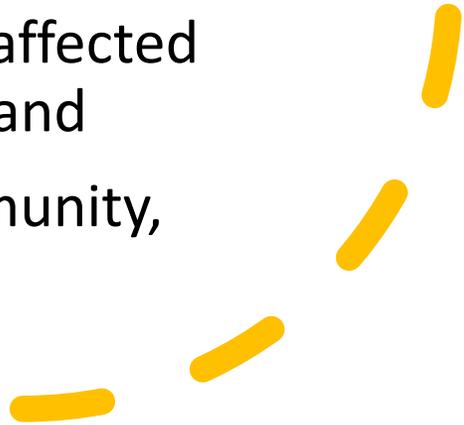
Recovery Phase

21.10 Recovery is complex and personal. It not only deals with the financial impacts of a disaster, but also multilayered social and developmental processes. The concept of recovery seeks to address the diverse needs of individuals and communities.

It can also provide hope, support and a sense of future – an invaluable opportunity to prepare for, and build resilience to, future disasters.

Bushfire Royal Commission Final Report

Recovery Process

- Understand the context of the community

- Recognise the complex and dynamic nature of natural disasters and the communities that they have impacted

- Use community-led approaches that are responsive and flexible, and that engage communities and empower them to move forward

- Ensure a planned, coordinated and adaptive approach is used, based on continuing assessment of impacts and needs

- Ensure effective communication with affected communities and other stakeholders, and

- Recognise, support and build on community, individual and organisational capacity.

Equity of response

Resilience raises issues of equity and scale of disaster legal assistance services. The effects of natural disasters are greater on people living in poverty, who are more vulnerable to such events.

Accordingly, any offering of professional services must be equity-oriented.

Biased recovery service allocation (for example to high-income people due to their ability to negotiate with the system) is a post-disaster recovery barrier

Draft Articles on the Protection of Persons in the Event of Disasters 2016

Article 6

Humanitarian principles

Response to disasters shall take place in accordance with the principles of humanity, neutrality and impartiality, and on the basis of non-discrimination, while taking into account the needs of the particularly vulnerable.

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A human rights lens

The *Brookings-Berns Project* identified four key areas of human rights protection arising in disasters:

- Protection of life, security, and physical, mental and moral integrity.

- Protection of rights related to basic necessities of life.

- Protection of other economic, social and cultural rights.

- Protection of other civil and political rights.

A successful disaster response is one that places the rights of humans at the centre.

Systemic Remedies

Increasingly, international jurisprudence reveals that individuals and communities will seek remedies under a range of human rights norms after disaster:
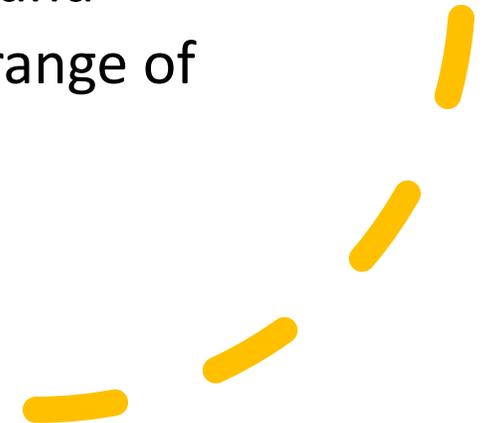
See *Öneryildiz v Turkey* App no 48939/99 (ECtHR, 30 November 2004) and later cases.

This might have consequences for Queensland's *Human Rights Act 2019* and its application to disasters (Sec 48(3)).
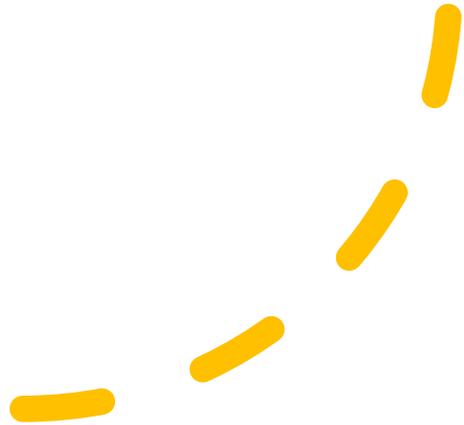
Surge Capacity

- Flexible surge capacity: can you do it?

- Internal opportunities for surge capacity
  - Dedicate existing staff to disaster recovery work
  - volunteers, interns, secondees, students

- External opportunities for surge capacity
  - Funding such as the contingency fund
  - Surge capacity for clients (a wide range of financial assistance)

The recovery centre model

The recovery centre model assumes that those who need assistance will come and seek it. However, this could exclude large groups of disaster affected individuals. Following a disaster, individuals may be reluctant or unable to travel to the location in which a recovery centre has been established. This could be for a range of reasons: the impact of trauma, a lack of financial resources to travel or pay for fuel, loss of vehicles and telecommunications, and social isolation.

Bushfire Royal Commission Final Report

The Local Picture

Discussion points:

- What works on the ground
- Legal needs and legal issues
- Timing of client interactions
- Service delivery
- Barriers
- Social media

What works on the ground

- Accessible locations, mobile units and extended operating hours
- Self-mobilised community responses
- Accessible information and communications
- A single point of contact or one front door
- Early adoption of case management services

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Legal Needs & Legal Issues

Legal *needs* will vary by location, demography and themes. Use local data to assess priorities, e.g. local members, NDIS providers, women's' services

In respect of legal *issues,* various kinds will manifest:

- Legal issues directly linked to the event

- Legal issues that are indirectly linked, exacerbated, revealed or amplified by the event

- Legal issues that need attention for future events (resilience)

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Some Good Advice

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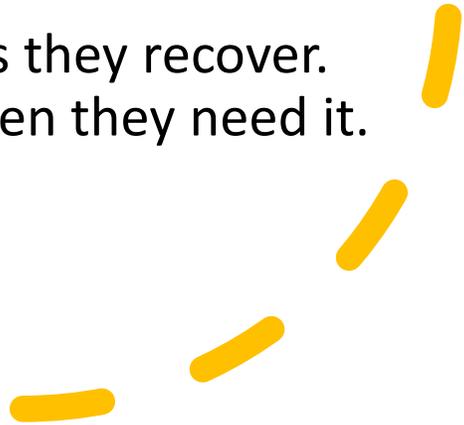
An important thing to remember as the recovery from the flooding and rain event is that no two people have had the same experience of the floods and no two people will have the same experience as they recover.

- People have suffered different levels of trauma.

- They are ready to seek help at different times.

- Some people are not yet ready to seek help and may not be ready for some time.

- Help may be accessible at different times.

- People could still be on their recovery journey in 2 years or longer time.

People will not fit a pre-determined mold as they recover. Adapt your supports to what they need, when they need it.
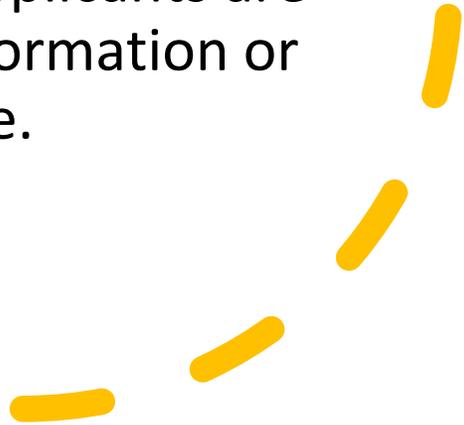
Paul Holmes, LAQ on Linkedin

Service delivery

- Address existing vulnerable client need first, you already have a relationship

- Be accessible, scalable, equitable, client-centred and trauma-informed

- Timing is everything: the issues arising, the work to be done

- Specialisation is important but not critical, engagement is critical

- Refer, refer, refer: e.g specialist mental health services

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Barriers

- repeating information to multiple agencies can be traumatising and tiring

- engagement fatigue – navigating the various support programs can be confusing, overwhelming and impact the mental health of applicants at a time of particular vulnerability

- eligibility assumptions – individuals might self-assess that they may not be eligible for available supports, so do not attempt to access them, and

- documentary requirements – many applicants are often not in a position to meet the information or evidentiary requirements of assistance.

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Social Media

- This is how people affected by disaster seek help and information
- Very useful for location-based data, trends and issues
- Useful Evidence is available e.g. flood decisions, local impacts