

Navigating financial legal problems in Victoria

Understanding help-seeking
behaviour to enhance early
intervention

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Acknowledgements

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Executive summary

Why Justice Connect completed this research

Since this research began, debt enforcement and personal insolvency have persisted as common; year by year, and amidst a cost-of-living crisis, we see financial legal problems and demand for legal and financial community services continue to rise. **In 2023, 3,116 people in Victoria entered a new personal insolvency arrangement and joined over 50,000 Australians currently navigating personal insolvency arrangements yet to be discharged.** These figures do not capture the full extent of legal need related to debt enforcement, and it can be expected that many more Victorians may lose their homes to alternative enforcement methods. We can also expect that many more Victorians are currently experiencing a journey to creditor enforcement; the national average of personal debt is outgrowing the national average of personal income, and the gap is widening the most for lower income earners.

This work emerged from Justice Connect's service provision to self-represented litigants in the Victorian County and Supreme Courts, and the Federal Court of Australia. Justice Connect's lawyers identified that **by the time matters reached the courts they were often entrenched, more complex, and already impacting the wellbeing of debtors and their families.** Once at court, self-represented litigants experience challenges navigating the process, and the legal options available to them are limited. Justice Connect's lawyers also identified, however, that **the legal problems they were seeing could have been resolved at a much earlier stage.**

Accordingly, **the following report explores what happens to a person living in Victoria and what does not happen with respect to timely intervention of community services,** such that a person experiences involuntary bankruptcy and its' other associated debt enforcement measures.

The purpose of this report

This comprehensive human-centred report outlines the context, rationale, methodology, and findings of this 18 month-long research project, completed by researchers embedded in Justice Connect's Access Program. It reviews the knowledge held by service providers, academics, government bodies, and others held across Victoria about the state of financial legal problems, and explains how this knowledge influenced the strategy, tactics, and participant selection of the research design. It goes on to identify what was learnt, in the form of survey response findings and debtor archetypes developed from qualitative study of Victorians with lived experience of financial legal problems. It provides recommendations for the sector, which detail how services can expand access to early intervention support to Victorian debtors.

The research centred on the experience of its participants and adopted a strength-based approach to making recommendations. This is demonstrated through participant stories and the synthesis of their experiences into archetypes to show the need for all services to be reflexive to the range of people in need of help.

While some of this research's findings confirm those from similar research, service evaluations, and public datasets, the conclusions of this report also differ from existing research and assumptions. In particular, this research found that there is widespread debtor demand for early intervention for financial legal problems. It identifies that help is being accessed too late, not because debtors do not wish to resolve their problems with help from experts, but because services are not sufficiently responsive to the needs, capabilities, and problems of debtors across Victoria.

Whilst it is not the focus of this report, researchers acknowledge the work done by others, including colleagues at Justice Connect, who are working hard to drive important change at the legislative and regulatory level to address bankruptcy in Victoria. This report focuses on debtor behaviour when faced with financial adversity and financial legal problems. It aims to inform service design across the legal and financial services sector and the development of better policy so that, together, services can better address common financial legal problems before they escalate to court.

An overview of this report

Part One of the report introduces the context and approach of the research. It appraises existing literature, available personal insolvency statistics, and service provider feedback to provide a rationale for the research focus on certain priority groups and legal problems, and an overview of debt enforcement across Victoria.

Part Two of the report introduces the research participants and describes the research design, that is, the methods and resources researchers used to better understand how Victorians navigate financial legal problems, including how they search for help and what barriers they face that stop them accessing it in time.

Part Three of the report analyses survey responses provided by participants, with an emphasis on what survey participants told researchers about their legal problem experience and help-seeking journey. It reviews key insights arising from the survey and introduces thematic analysis. Key insights include:

- **Debtors search for help at the beginning of their legal problem.**
- **Debtors recognise a need for expertise to assist them to resolve their legal problem, but they're not sure what different kinds of professionals can do.**
- **Community is important to debtors, who utilise peer-to-peer navigation support when looking for help.**
- **Debtors that experience 'life events' before and during their legal problem are overrepresented in the cohort facing creditor enforcement.**
- **Debtors use many channels to find help, but overwhelmingly rely on online search engines.**

Part Four of the report considers what researchers learned about debtor behaviour over the course of a financial legal problem, with an emphasis on when and how debtors search for help. It introduces debtor archetypes and compares archetypical help-seeking behaviour with current-state service availability. Debtor archetypes represent the diversity in financial legal problem experience, debtor legal capabilities, and help-seeking experience.



- **A Model Debtor** is an imagined debtor for whom the current free legal help system works. They know when to look for help and they know how to find it. They are capable of acting on their own after receiving discrete, unbundled services, and are not discouraged when their applications for more assistance are declined.



- **The Surprise Respondent** is a debtor who realises they have a legal problem after they have accumulated an unmanageable arrears balance. This might be because they did not know they were liable for a debt, or because of poor legal and/or financial capability. This debtor exhibits a short window of help-seeking motivation and is quickly overwhelmed if they cannot find appropriate assistance. Their legal problem escalates quickly. Surprise Respondents sometimes access help via court referral processes but are at risk of passing under the radar of services, leading to poor outcomes.



- **The Repeat Player** is a debtor with more legal capability than most. They might have business experience, been before the courts before, or work in professional industries. They prioritise their personal networks, including their creditor, friends, family, or professional associates. They try to navigate the system by themselves, but the stress of their financial issue impacts their ability to resolve their legal problem alone. When contacting services, they are often ineligible despite their inability to afford paid services.



- **The Dogged Debtor** is highly motivated but lacks essential skills which support navigating the legal system and finding help. Their legal problem escalates while they search for help. This debtor is ineligible for most services they apply to, and so are referred on. They are likely to experience the 'revolving door' of referrals between services. This debtor generally receives discrete assistance at some stage in their journey.



- **The Accidental Client** is generally referred for help with their financial legal problem after accessing a service for a different life event. The non-legal service is proactive at recognising the debtor's financial legal problem and makes an appropriate referral given the strength of their organisation's relationships. The Accidental Client is generally eligible for help and receives it in time.

Part Five of the report contains recommendations for improving early intervention support for financial legal problems and strengthening the provision of existing financial legal services. These recommendations are based on the findings of this research project and behavioural archetypes described in Part Four. They are aimed at creating a legal system which contributes to improved outcomes for Victorian debtors by leveraging their existing capabilities. Recommendations are designed to address the following themes identified as barriers to implementing early intervention for financial legal problems:

- **Reducing the referral roundabout.**
- **Responding to express demand by improving service visibility.**
- **Addressing latent demand by increasing awareness of financial legal problems and avenues to find help.**
- **Being client centric by adapting to client's legal capabilities.**
- **Reframing need to address pervasive service gaps.**
- **Increased resourcing for early intervention.**

Part Six concludes the report, summarising key findings, recommendation themes, and what the researchers hope readers take away and incorporate into their own work designing and providing services to Victorians with financial legal problems.