

AUGUST 2023

Addressing and Preventing LEGAL NEED

Relating to Credit, Debt and
Consumer Law Issues



consumer
action
law centre

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ABOUT

Consumer Action Law Centre is an independent, not-for-profit consumer organisation based in Melbourne. We work to advance fairness in consumer markets, particularly for disadvantaged and vulnerable consumers, through financial counselling, legal advice and representation, and policy work and campaigns. Delivering assistance services to Victorian consumers, we have a national reach through our deep expertise in consumer law and policy and direct knowledge of the consumer experience of modern markets.



Consumer Action is located on the land of the Kulin Nations. We acknowledge all Traditional Owners of Country throughout Australia and recognise the continuing connection to lands, waters and communities. We pay our respect to cultures; and to Elders past, present and emerging.

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EXECUTIVE SUMMARY

About Consumer Action

Consumer Action Law Centre (“**Consumer Action**”) is a statewide, specialist community legal centre and financial counselling service that helps people in Victoria who have consumer, credit and debt problems. Our purpose is to make life easier for people experiencing vulnerability. We do this through a three-part model:

- ▶ Legal and financial counselling advice and casework for consumers;
- ▶ Engagement and sector development activities for community legal centre (CLC) lawyers, financial counsellors and community organisations;
- ▶ Policy, campaigning and advocacy work aimed at making systems fairer.

A legal needs analysis for our service

This legal needs analysis has been undertaken in four parts, aligning with Consumer Action’s service model and Impact Framework. This report and recommendations are informed by and complement the Service Evaluations we have

undertaken over the last five years.¹ All parts of the analysis inform our key findings and recommendations.

Part 1 shows why consumer, credit and debt issues matter. This section includes case studies that tell stories of real clients’ legal issues and their attempts to resolve them. It includes clients’ own words about how their legal issues affected them and the difference that our help made.

Part 2 compares our legal advice service data to data on legal need across Victoria. This analysis identifies possible gaps in our service provision and can inform our engagement and partnership strategies.

Part 3 provides an overview of our key partnerships with other community legal centre lawyers and the financial counselling sector. Our partnerships improve access to justice and amplify our policy and campaigns work.

Part 4 provides case studies of four successful law reform campaigns and their impact on legal need and service demand.

We have also provided suggestions for how to embed and progress legal needs analysis as a strategic tool into the future.

¹ Evaluations of the Consumer Advice Service, Worker Advice Service, Financial Counselling Service and Casework Service (undertaken in 2018 and 2021) are at Reports - Consumer Action Law Centre.

Key findings

1. Consumer Action’s Consumer Advice Service is accessed by people in areas of high disadvantage in outer metropolitan regions of Melbourne.
2. The Consumer Advice Service is not accessed by people in regional areas of high disadvantage at the rate we would expect.
3. Additional partnerships, particularly with local community legal centres and local financial counsellors, may assist with improved access to CALC services and resources in areas where reach is currently limited.
4. Our existing partnerships with Financial Counsellors, Aboriginal Legal Services and generalist Community Legal Centres are well targeted and high impact.
5. Casework-informed policy and advocacy work has a significant impact in addressing existing legal need and preventing new legal problems from arising.

This analysis validates Consumer Action’s model of service and Impact Framework. Our frontline legal and financial counselling work and our sector partnerships inform our policy and advocacy work to change systems. Our capacity-building work with other organisations increases access to justice for hard-to-reach communities.

Recommendations

1. Consumer Action should continue its integrated practice and partnerships to maximise impact, improve access to justice and reduce legal need.
2. Consumer Action should seek to undertake new capacity building partnerships with generalist CLCs in identified areas of high unmet legal need, particularly in Ballarat, Bendigo, Shepparton, Mildura and Whittlesea. Where possible, regional partnership building should include Victoria Legal Aid, Victorian Aboriginal Legal Service and Djirra. These partnership opportunities could also involve other statewide specialist services (e.g. Tenants Vic and Social Security Rights Victoria). An engagement strategy should be devised that will provide direction on areas and organisations to be targeted over the next two to three years.
3. Consumer Action should continue to undertake client-informed advocacy and seek further opportunities to partner with other organisations and sectors to support its advocacy.
4. Consumer Action should continue to explore ways of supporting self-advocacy to meet legal need, e.g. through online letter generating tools like Demand a Refund and the Digital Tools Project. Data from these tools can be valuable in our policy and advocacy work.
5. Consumer Action should further analyse service data to learn more about the people who are accessing our services. We should also use existing tools (the VLA data tool) to find out more about the extent to which local and generalist CLCs are meeting civil legal need (noting that ‘civil’ is broader than credit/debt/consumer).
6. Consumer Action should regularly (annually) compare our service statistics against data on legal need. Continuing to undertake legal needs analysis will help ensure that our service activities have an evidence base to meet legal need.
7. Consumer Action should continue to undertake regular evaluation of its work and projects. We should continue to build an organisational culture that values reflection and enables change to improve services and the organisation. In particular, Consumer Action should build reflection into every advocacy campaign to identify progress and impact. These reflections should include all teams and our closest partners.



INTRODUCTION

Consumer Action's model and services

Consumer Action Law Centre is a statewide, specialist community legal centre and financial counselling service. We provide a mix of client-facing legal and financial counselling services, capacity building and engagement work, and systemic advocacy and law reform on a range of consumer and financial issues currently affecting the community. **Attachment 1** provides more information about our work and our **Impact Framework**.

Why are we undertaking a Legal Needs Analysis?

We seek to be a reflective, impact-driven organisation that can adjust and refine our services to meet legal need. We have done significant work to conduct evaluations of our existing services and have taken steps to progress recommendations. This Legal Needs Analysis looks at the impact of our entire service model on addressing legal need through the alignment of client-facing services, engagement and training, and policy and advocacy work.

What is a Legal Need?

A person has a legal need when they have a legal problem. This is defined as a problem that can be resolved through a legal process.

The NSW Law and Justice Foundation has led the research into legal need in Australia for more than a decade. Its 2012 report, *Legal-Australia-Wide Survey: Legal need in Australia*,² ('**LAW Survey**') was based on phone interviews with more than 20,000 people across all states and territories. Researchers asked people about the legal problems they experience, the actions they take, where they go for advice and the outcomes they achieve. It measured not only how many people resolve their legal problems but also how many people fail to do so. Additionally, it provided evidence about the disadvantaged groups that are particularly vulnerable to legal problems.

The researchers described two types of legal need: **expressed legal need** and **latent legal need**. Expressed legal need refers to situations where a person identified they had a legal problem and received legal help. Latent legal need is a situation where a person has a legal problem but has not sought legal advice.

When someone has an expressed or latent legal need but is not able to resolve it satisfactorily, particularly if someone's vulnerability or disadvantage creates a barrier to seeking legal help, they have unmet legal need.

Research shows that people who have one legal issue are likely to experience multiple legal issues. The *LAW Survey* established that more than one-fifth of people in Australia experience three or more legal problems in a given year. People with a disability and single parents were twice as likely to experience legal problems. The unemployed and people living in disadvantaged housing also had heightened vulnerability. First Nations people were more likely to experience multiple legal problems including government, health and rights related problems.³ The most common legal problems reported in the *LAW Survey* were consumer law problems (21% of respondents), which often co-occurred with other legal problems.⁴

It is important to acknowledge from the outset that Consumer Action does not — and will never have — the resources to meet all of the expressed and latent consumer/credit/debt legal need in Victoria. This is why we focus on achieving outcomes and making strategic choices about how to manage our limited resources for maximum impact.

It is also worth noting that some consumer and credit problems do not neatly fit the definition of 'legal need' because they cannot be resolved through a legal process. For example, some credit products are not regulated, or may have been created in such a way as to avoid regulation. Some of our policy work is focussed on improving regulation and/or enforcement. When a policy campaign is successful and dubious financial products are regulated, this can mean that a problem that was once a non-legal debt problem becomes a 'legal need'.

² Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S 2012, *Legal Australia-Wide Survey: legal need in Australia*, Law and Justice Foundation of NSW, Sydney. A one page summary of the report's findings is at [LAW_Survey_Summary_FINAL.pdf \(lawfoundation.net.au\)](#).

³ See [LAW Survey Summary FINAL.pdf \(lawfoundation.net.au\)](#)

⁴ Consumer Action has the expertise to assist people with credit, debt and consumer issues. We refer clients who have other legal issues to generalist CLCs for help. For example, a client that we referred to Hume Riverina CLC received 11 legal services from their lawyers, including advice on divorce, fines, Centrelink debt, Victim's Compensation and credit and debt issues, and representation for a credit and debt issue." (Hume Riverina Community Legal Centre Annual Report 2021-22). The benefits of specialist and generalist legal services working together are discussed in more detail in Part 4.

Why do legal problems matter?

Legal problems have a significant impact on people's lives, including on health, recovery from family violence, housing and employment. Legal problems are associated with increased risk of physical or mental illness. A legal problem experienced by one person will often affect others, including partners, children, carers, extended family and whole communities.

Consumer and credit law problems are barriers to the success of other interventions. For example, financial abuse is a common feature of family violence. Victim/survivors may be personally liable for debts arising from joint loans, guarantor arrangements, or family law settlements. They may lose access to any savings held in joint accounts. A person may receive excellent support to exit family violence in the short term, but the consequences of financial abuse may continue for years. These issues were well documented by Women's Legal Service in 2015.⁵

If legal issues are not resolved, they can escalate. For example, if a person cannot pay back a joint loan, they may seek to borrow money from other sources (e.g. high cost payday loans) and find themselves in a situation where they borrow more to pay off other loans and daily expenses. Consumer Action calls this a 'debt trap' or 'debt spiral'. In a 2019 report, data showed that over a five-year period, around 15 percent of people who take out a payday loan fall into a debt trap. This data suggests that over five years, an additional estimated 324,000 Australian households have been allowed to enter a debt path that may result in an event such as bankruptcy.⁶

If one or more debts leads to bankruptcy a person may lose a family home, car and other assets. This can lead to unemployment, housing stress or homelessness, as well as a lifetime listing on the National Personal Insolvency Index, with ongoing consequences such as employment or lack of access to insurance. This, in turn, can affect a person's health, employment and family.

Why does access to a consumer advocate matter?

A person with consumer and credit law issues is likely to achieve better outcomes with some help from financial counselling and legal assistance services than they would get on their own. This is due to a number of unique factors in the consumer sector, including:

- ▶ The complexity of the work and laws protecting consumers.
- ▶ The substantial imbalance between consumers and businesses, such as large and well-resourced financial institutions or predatory businesses operating in the margins of the law.
- ▶ The knowledge of individual advocates and their organisations, including who to call to resolve hardship issues or disputes, and what to ask for when a client needs assistance.

The consumer advocacy sector is also unique in that consumer advocates have a seat at the table with industry and government. This ability to build relationships of trust and influence is the result of decades of work by the consumer advocacy sector in lobbying, challenging and collaborating across sectors for greater consumer outcomes and protections.



CONSUMER ACTION'S LEGAL NEEDS ANALYSIS

We have undertaken this analysis in four parts that directly mirror our Impact Framework. The analysis reflects the complexity and sophistication of our service. This work will continue to inform strategic decisions in our legal, financial counselling, policy and campaigns and engagement teams about how to focus our work for maximum impact.

PART 1 looks at client experiences, using clients' own words and stories from our Service Evaluations and policy reports. This shows what consumer, credit and debt problems look and feel like and how clients perceive our services.

PART 2 is a data and service analysis. This uses existing data from several sources to identify potential community need across the state and compares it to our service data. This analysis seeks to determine the extent to which our client-facing services are meeting the legal needs of people in Victoria with consumer, credit, debt and insurance issues and to identify where there may be gaps.

PART 3 is an overview and reflection on our engagement and training work. This shows how our partnerships with other lawyers and financial counsellors increase access to justice, particularly for vulnerable people. It also shows how our partners contribute to and support our policy and advocacy work.

PART 4 is an advocacy impact analysis. It explores the extent to which our policy and advocacy work is meeting legal need relating to consumer, credit and debt, and examines to what extent our advocacy may prevent legal need from arising. This analysis gives us an evidence base about the effectiveness of our current approach to policy and advocacy and can inform future decision making.

We also provide suggestions for how to embed and progress legal needs analysis as a strategic tool into the future.

⁵ Smallwood, E. (2015) Stepping Stones: Legal barriers to economic equality after family violence, Women's Legal Service Victoria, Melbourne.

⁶ Stop the Debt Trap Alliance, 'The debt trap: how payday lending is costing Australians (2019). See https://consumeraction.org.au/wp-content/uploads/2019/11/200217_PaydayLendingReport-1.pdf

Client Experiences

CLIENT STORIES:

How do consumer law problems affect people?

The client stories we use in our advocacy provides qualitative evidence of what legal need looks like for our clients. They show some common issues, the circumstances of clients, and the client outcomes.

CASE STUDY Michelle's Story

This case study is drawn from a 2021 report on the consumer, credit and debt issues experienced by First Nations people during 2020, the first year of COVID lockdowns.⁷

Michelle (name changed) is a woman who identifies as Aboriginal and/or Torres Strait Islander living in Victoria with her partner and young children. Michelle is a survivor of family violence from her ex-partner. Michelle contacted Consumer Action about several debts.

First, she had two debts to a bank. She told us that her account had gone into overdraft, despite never having applied for an overdraft or discussing it with the bank. Michelle's abusive partner at the time found out about the overdraft and pressured her to withdraw money for him, and so Michelle's outstanding balance kept increasing. After a few years, the bank sold the debt to a debt collector. Michelle told us that when the debts were with the debt collector, she was struggling to afford to pay anything, and she also did not know what the debts were about. When she asked the debt collector for documents about the debts, the debt collector delayed providing them and later told her they did not have to provide them.

Second, she had a credit card debt. This related to a card which was obtained after Michelle's ex-partner pressured her into applying for it for him. Michelle's ex stood over her and forced her to apply for a credit limit increase for the card over the phone, which was approved even though the card limit had previously been exceeded. Michelle never benefited from any of the funds that her ex-partner used on the credit card.

However, he did not make any repayments; she made all the repayments herself, including payments after she fled the relationship. This debt was sold to the same debt collector as the first debt.

The third debt was to a payday lender. When Michelle applied for the loan, she was in a position of financial hardship as a result of fleeing family violence. She told the lender her circumstances. Despite this, the payday lender provided Michelle with an unaffordable loan.

With Consumer Action's support, Michelle was able to achieve three positive outcomes:

- ▶ **The debt collector agreed to waive the outstanding amount that Michelle owed from the bank overdraft.**
- ▶ **The bank agreed to buy the credit debt back from the debt collector. The resolution process at the bank has been sluggish, with long delays and the bank incorrectly communicating with Michelle directly while she was represented.**
- ▶ **The dispute with the payday lender was resolved after we provided details of Michelle's circumstances and argued that the payday loan company failed to meet its responsible lending obligations.**

CASE STUDY Leo's Story

This case study is drawn from a 2020 report on issues that people experience with telecommunications companies.⁸

Leo (name changed) contacted the National Debt Helpline in early April 2020 because he was struggling to pay his phone bill under contract with a major telecommunications provider. He was also behind in rent. He had recently suffered a relationship breakdown and had lost his job earlier in the year. He was experiencing mental ill-health due to these events. Leo was receiving Newstart at the time of his call. He said he had also received a COVID-19-related stimulus payment, which he used to buy food, pay some rent and bills. Leo said he had already managed to organise affordable payment plans for his gas, water and electricity. He also had organised a payment arrangement with his real estate agent. Leo said he was more than \$750 in arrears on his phone bill, but that he had been informed that the

phone provider's hardship team was not contactable due to COVID-19 related-restrictions. He attempted to visit the provider's retail premises, but this was also closed.

In this matter, Leo received advice from Consumer Action and was then referred to a local community-based Financial Counsellor who was able to do casework on Leo's behalf. In circumstances like Leo's, a financial counsellor would seek to negotiate a waiver or repayment plan with the telecommunication provider, relying on the provider's own hardship policies and the Telecommunications Industry Code. This is a quasi-legal process.

KEY THEMES:

Multiple legal issues, attempts at self-help and damage to client wellbeing

These case studies illustrate some key themes that we see again and again in our work.

1. Both clients have a mix of legal problems, including tenancy issues, disputes with Centrelink and family violence.
2. To access our service, the client had to identify that they had a financial issue and find a service that could help them. Ideally, people can do this in a timely way, before their phone is disconnected or a debt is sold to debt collectors. But many people do not seek help until much later and do not act until they receive a call from a debt collector or a summons for bankruptcy.
3. Credit and debt issues are both financial issues and legal issues. Many people seek to deal with debt issues by borrowing more, as Michelle did by seeking a payday loan. Credit and debt issues can be resolved through a quasi-legal process (Internal Dispute Resolution) or by an Industry Ombudsman (e.g. the Telecommunications Industry Ombudsman); or through a judicial process, e.g. if a creditor seeks an order to enforce the debt in Court.
4. Both Leo and Michelle did work on their own to address their financial issues. Leo sought payment plans for his gas and electricity bills. Michelle had asked the debt collector to provide documents.
5. Both clients hit barriers in their attempts to address debt issues. If Leo and Michelle had not been able to seek timely assistance, their legal issues could have escalated.
6. If credit and debt issues are not resolved then they can contribute and lead to escalation of other issues, including security of housing and family violence. For example, if Telstra had cut off Leo's phone due to non-payment of debt, Leo would face additional barriers to employment.
7. The clients' financial stress and other legal issues were contributing to health issues.

⁷ Consumer Action Law Centre, "Consumer Issues Affecting Aboriginal Communities in 2020" (2021). See Consumer issues in Victorian Aboriginal communities during 2020 - Consumer Action Law Centre.

⁸ Consumer Action, [The Trouble with Telcos, Stories from 2020' \(2020\)](#). See Report: [The Trouble with Telcos Stories from 2020 - Consumer Action Law Centre](#)

PATHWAYS TO OUR SERVICE

These two stories also illustrate the different ways in which clients can access our services. Michelle contacted our service through the Koori Help Line. This number gives priority access to the Consumer Advice Service to people in Victoria who identify as Aboriginal and/or Torres Strait Islander. We undertake engagement work, led by the First Nations Engagement Lead, to build awareness of this service among First Nations communities and community workers. This work includes capacity-building partnerships with Aboriginal Community Controlled Organisations (ACCOs), for example, to train lawyers in consumer/credit legal work at the Victorian Aboriginal Legal Service (VALS). Our casework guidelines prioritise First Nations clients, and Aboriginal and Torres Strait Islander people are a priority cohort in [Consumer Action's 2021-25 strategic plan](#).

Leo was triaged and referred by a Financial Counsellor working as part of the National Debt Helpline at Consumer Action, not by a lawyer. The National Debt Helpline is a primary point of intake for anyone with a debt issue. It is a well-promoted national service and telephones are staffed all day, every business day and into the evening through the Live Chat service.

Financial Counsellors are skilled in addressing legal need, often through negotiation with creditors. That negotiation is informed by the law. All Victorian Financial Counsellors receive ongoing professional development and training (including by Consumer Action lawyers). At Consumer Action we have established an 'integrated practice' program through which our lawyers mentor and supervise our Financial Counsellors dealing with complex matters.

CLIENT VOICES: What clients tell us about their experiences

Our organisation has worked for more than five years to build our understanding of how our service makes a difference for the people who access our services. We have done this by undertaking regular evaluations of our core services — our Consumer Advice Service (CAS), Worker Advice Service (WAS), casework service and financial counselling service. These evaluations have given us invaluable insights into the experiences of our clients, the impact of financial stress and the difference our service makes.

Our Casework Service is the most intensive service, providing ongoing legal representation for people who have complex and high-stakes legal problems.⁹ The evaluation of this service in 2019 includes the following comments from clients about how their legal issue affected them:

"Let's say... I got to the stage where I was having seizures... I was thinking about those [debt collector] calls, and those people are so nasty... I know they've got a job to do... Between you and me, I could have taken my life over it."

"Oh, um, just horrific. I thought I was going to lose my house... [I was] coming from a domestic violence situation, where... the police were involved, children... I was on anti-depressants..."

"Oh, before... Yeah, it was horrible. I felt... It was so bad. I managed to trap myself in a cycle of debt with some payday loans... And I couldn't really find a way out."

Clients have told us about the difference it made to get legal help and the outcomes they were able to achieve.

"I was able to do a little more with my life. I wasn't so stuck in debt that my ex stuck me in."

"Everything. It was mainly... Cigno was the biggest detriment in my life... I've pretty much managed to turn my life around."

"In terms of changing, it changed my life totally. Like I said before, before the lawyers got involved in my case, I was in a terrible situation. I was in a place where I saw no future. I had a sense of hopelessness. But after the lawyers helped me, I could see there is a future; I could look forward to the future."

The Casework Service is the best option for clients with a legal problem. It is the 'Rolls Royce' service in which we represent the client and advocate on their behalf. However, providing casework assistance is resource intensive. Consumer and credit law matters are complex and sometimes a single case can take years to resolve. This means we have limited capacity to take on cases. Our casework guidelines have been developed to help us make decisions about which cases to take on. We prioritise matters where the case connects to a policy priority or the client is very vulnerable.

Our Consumer Advice Service is a self-help model of service. Our lawyers provide advice and support to callers and empower them to self-advocate, but we do not represent them. For example, we might send the caller a template letter that they can send to a trader but will not send it on our letterhead. We provide advice through the Consumer Advice Service to many callers who have the same kind of issue—for example, debts to a fringe lender (such as Cigno), payday loans or scams. While we can't help everyone with those problems, we can and do use data and information from the service to identify where laws and systems need changing to drive our systemic work.

In 2021 we undertook an evaluation of the service. As part of this, we interviewed 29 clients six months after they got help. The following statements from this evaluation show the positive impact of the service.

"...As a result of my contacting AFCA, at... [the lawyer's] suggestion, AFCA have ordered the mortgage company to put a hold on their legal action and are investigating my complaint. My original caseworker at AFCA notified me of this today. I'm grateful to CALC, especially... [the lawyers] for assisting..."

"Without knowing my legal rights I wouldn't have been able to proceed. I presented the exact same argument with the company but had a totally different response once I was able to state which consumer law was relevant."

"We sent them the letter and they sounded very shady at the start. But once they realised that I was going to pursue it they pretty much just dropped it and walked away."

Others said they had followed our advice but were met with avoidance or resistance. Most of them then gave up.

"I told the company that I would pursue VCAT but they were sending me blackmail back. After that I just had other things to do so I dropped it..."

"No, it was not resolved, they just took the money out of my account through direct debit. I ended up paying anyway and I moved away from Victoria ... for a fresh start."

These client experiences are consistent with research on legal need, which has found that many legal problems are not resolved through a legal process—for example, a person might pay a debt, even if they have a legal course of action open to them.

⁹ Our casework service is delivered by the lawyers in our legal practice and one senior financial counsellor. The service provides representation and casework assistance to individual clients selected through a formal case intake process. See [Consumer Action, 'Evaluation of our Casework Service 2018-2019 \(2020\) at 190801-CLEAN-Casework-Evaluation-Report-2018-19.pdf \(consumeraction.org.au\)](#)

Data and Service Analysis

This part of our legal needs analysis seeks to identify the extent to which our client facing legal and financial counselling services are meeting the legal needs of people in Victoria with consumer, credit, debt and insurance issues.

Existing data on legal need can tell us about the geographical locations where there is likely to be a high level of unmet legal need relating to consumer/credit/debt issues in Victoria. We can compare this to our service level data to identify gaps where we may not be meeting legal need. We can then use this knowledge to inform strategic decisions in our legal, financial counselling, policy and engagement teams about how to focus our work for maximum impact.

We have undertaken three steps in our analysis:

Step 1 Data Review

Review of external data that we can use as a proxy for legal need for credit/debt issues to identify locations where there is likely to be high legal need.

Step 2 Review of Consumer Action's Data

Review of Consumer Action service data to identify the location of people who are contacting our service, and whether clients identify as Aboriginal or Torres Strait Islander ('expressed legal need').

Step 3 Comparison of Data to Identify Gaps in Services

Identification of gaps between the expressed legal need — that is, people calling us — and the latent legal need in Victoria.

DATA PROXIES

We have used six data sets as proxies to predict legal need relating to consumer, credit and debt in a suburb or LGA.

- ▶ Need for Legal Assistance Services (NLAS) capability indicator. This shows the number of people in any suburb who have a low income (less than 26K) and low education level. The research (*LAW Survey*) shows that this is an accurate predictor and appropriate proxy for legal need.¹⁰
- ▶ The number of people who have a moderate income (less than 52K) and low education level. This is not a research-based proxy for legal need. However, we believe it is appropriate for Consumer Action's work because the people at most risk (e.g. from bankruptcy proceedings) are those who have a moderate income and some assets.
- ▶ NLAS Aboriginal and/or Torres Strait Islander background indicator (low income, low education level and Aboriginal and/or Torres Strait Islander). The *LAW Survey* shows that this is an accurate predictor and appropriate proxy for legal need.
- ▶ NLAS CALD indicator (low income, people for whom English is not main language). The *LAW Survey* shows that this is an accurate predictor and appropriate proxy for legal need.
- ▶ Data provided by the Department of Social Services (Commonwealth) on the location of people who pay for consumer leases from Centrepay. This data shows location of people with a very low income (payment from Centrepay means they receive Centrelink) who are signed up for a low value product (consumer leases). We draw a strong inference that every one of these people has an unmet legal need.
- ▶ Data provided by the liquidators of the Aboriginal Community Benefit Fund (ACBF). This data shows location of people who held a low-value funeral insurance policy sold by ACBF/Youpla. We can draw a strong inference that every one of these people has an unmet legal need.

DATA TOOLS

We have used a number of data tools to review and analyse this data.

- ▶ **Victoria Legal Aid Data Tool** (NLAS data available by Local Government Area only)

The Legal Need in Victoria data tool developed by Victoria Legal Aid ('*VLA Data Tool*')¹¹ includes Victorian data from the Law and Justice Foundation of NSW. It only includes data by Local Government Area (LGA). Each LGA is composed of multiple suburbs. This tool can generate maps and tables. This enables us to draw rapid conclusions about legal need in LGAs.¹²

- ▶ **NSW Law and Justice Foundation Data Tool** (NLAS data available by suburb and LGA)

Suburb level data is available through the Tableau tool created by the Law and Justice Foundation of NSW ('*NSWLJR Data Tool*').¹³ This suburb-level data is available for the four proxies for legal need listed above. This data can be directly compared against our service data. It enables more accurate and granular analysis of the extent to which we are meeting legal need in specific suburbs.

- ▶ **Consumer Action data visualisation map**

We engaged a consultant to develop a data visualisation map that brings together the following data sets at a postcode level:

- ▶ **NSW Law and Justice Foundation data by suburb for several proxies** (NLAS CALD, NLAS ATSI, NLAS Capability)
- ▶ **Consumer Action's Consumer Advice Service and National Debt Helpline data**
- ▶ **Data on the location of people who are using Centrepay to pay for consumer leases**
- ▶ **Data on the location of people who held ACBF policies**

This is postcode level data. Using this data allows direct comparison of legal need against our services. This level of data is invaluable but unwieldy. The data visualisation tool will assist with investigation of the legal need and the existing access to Consumer Action in a particular region. This can inform our decision making regarding partnerships and outreach. At this stage, the data tool is not public because it includes confidential data.

Working across these data tools enables us to identify the LGAs and suburbs across the state of Victoria where there is high legal need.

¹⁰ See Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S 2012, Legal Australia-Wide Survey: legal need in Australia, Law and Justice Foundation of NSW, Sydney. The 'Need for Legal Assistance (NLAS) indicator is used by in the collaborative planning resource developed by VLA. See [Need for legal assistance services: developing a measure for Australia, Justice issues paper 26 \(lawfoundation.net.au\)](#).

¹¹ A public version of the online tool is available at [Legal Need in Victoria \(NLAS\) | Tableau Public](#).

¹² Note that the VLA data tool also brings together data about legal service delivery by both CLC and VLA offices. This makes it possible to identify the extent to which local services may already be meeting legal need (so people do not need to access Consumer Action). This part of the tool has some limitations: It enables search by 'civil' legal problem, but this is broader than consumer/credit and debt, and it does not include data from all CLCs. For example, it does include data from Djinna but does not include data from VALS. It also does not include Consumer Action's service data.

¹³ This tool is accessible to the public at [Profile - law and justice foundation of nsw | Tableau Public](#).

Step 1 DATA REVIEW

We have undertaken our data analysis in three steps.

Legal need — NLAS capability and NLAS CALD by Local Government Area

The first step of our data review looks at:

- ▶ People in Victoria with low income (less than 26K) and low education level ('NLAS capability')
- ▶ People in Victoria with moderate income (less than 52K) and low education level
- ▶ People in Victoria with low income and from a culturally and linguistically diverse background (NLAS CALD).

The images below are from the VLA Data Tool. They provide tables and visual representation of legal need by LGA. Each LGA covers multiple suburbs.

Figure 1: 'NLAS Capability': A count of people with low income (26K) and low education level (by LGA)

(Source: VLA Data Tool)

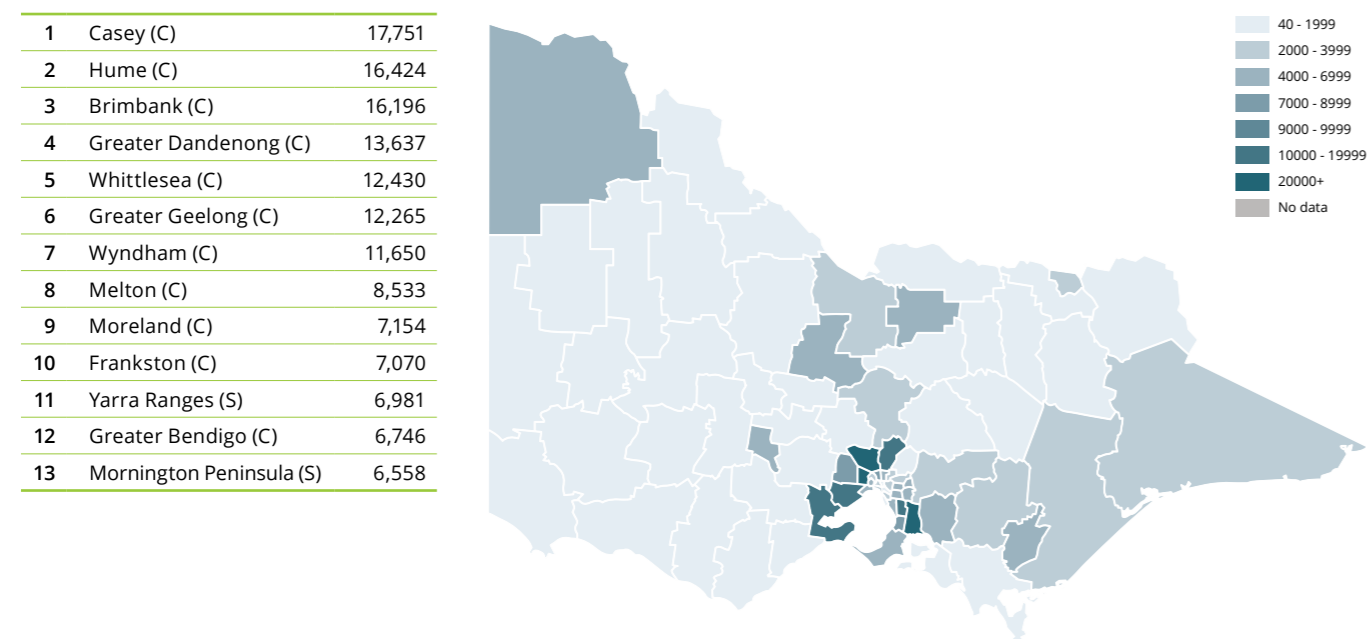


Figure 2: Number of people with moderate income (52K) and low education level (by LGA)

(Source: VLA Data Tool)

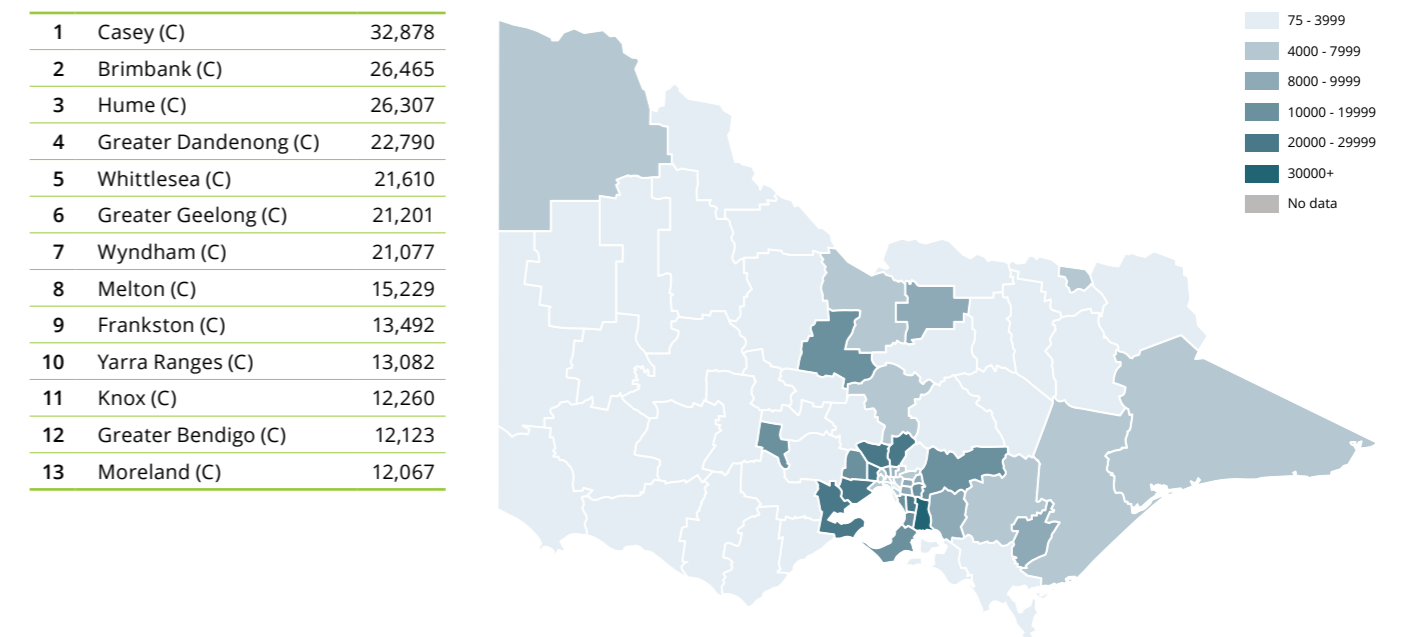
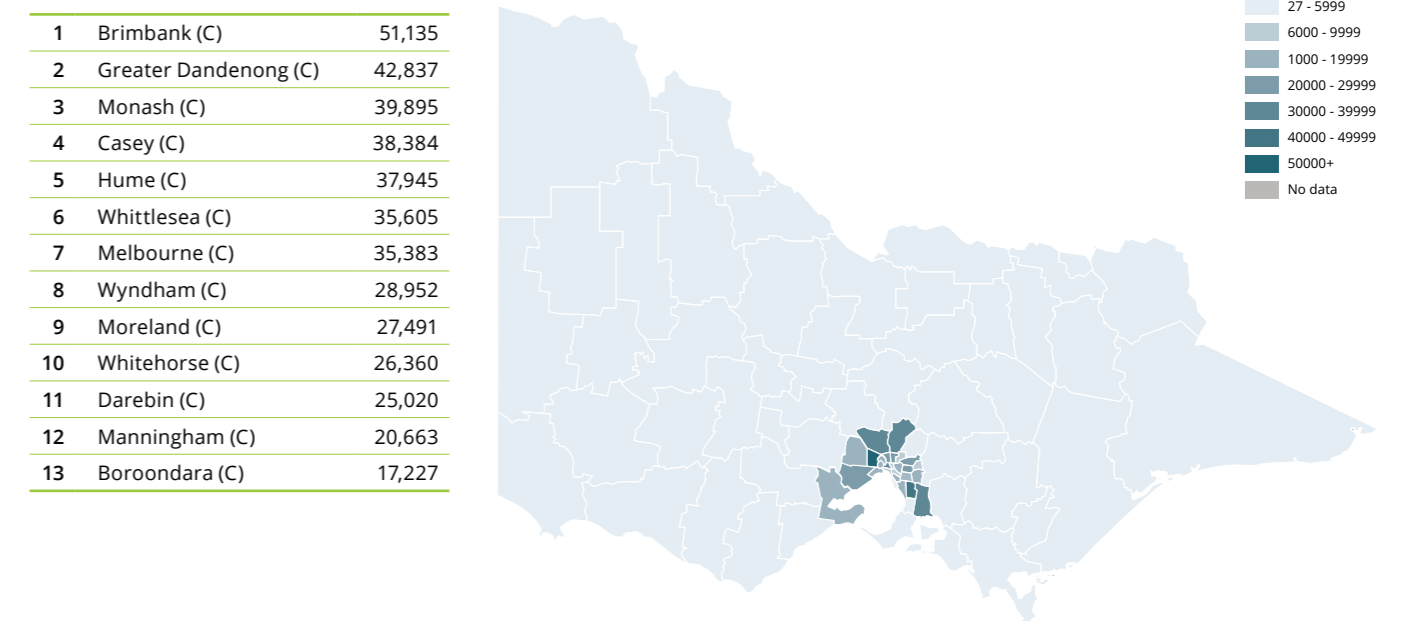


Figure 3: 'NLAS CALD': A count of people for whom English is not their main language, with a low income

(Source: VLA Data Tool)



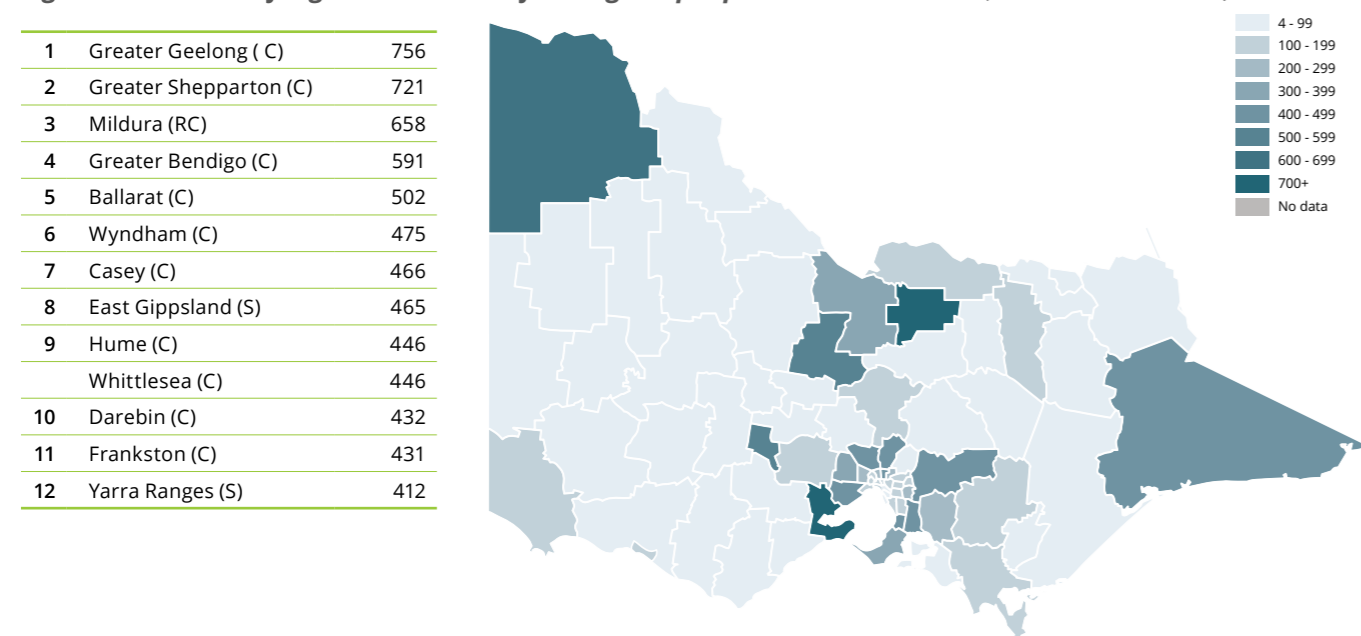
Legal need — NLAS ATSI* (by LGA) and Aboriginal Community Benefit Fund holders (by suburb)

The second leg of our data review looks at the legal needs of Aboriginal and/or Torres Strait Islander peoples in Victoria. We have used two proxies to identify the location of people who identify as Aboriginal and/or Torres Strait Islander who are likely to have legal need:

- Location of Aboriginal and/or Torres Strait Islander peoples with low income and low education level ('NLAS'). This is a research-based proxy for legal need.
- Location of people who took out funeral insurance with the Aboriginal Community Benefit Fund.

This data shows the key regions where there are people who identify as Aboriginal and/or Torres Strait Islander and who are likely to have high levels of legal need. This includes Greater Geelong, Greater Shepparton, the Mildura region, Greater Bendigo and Ballarat.

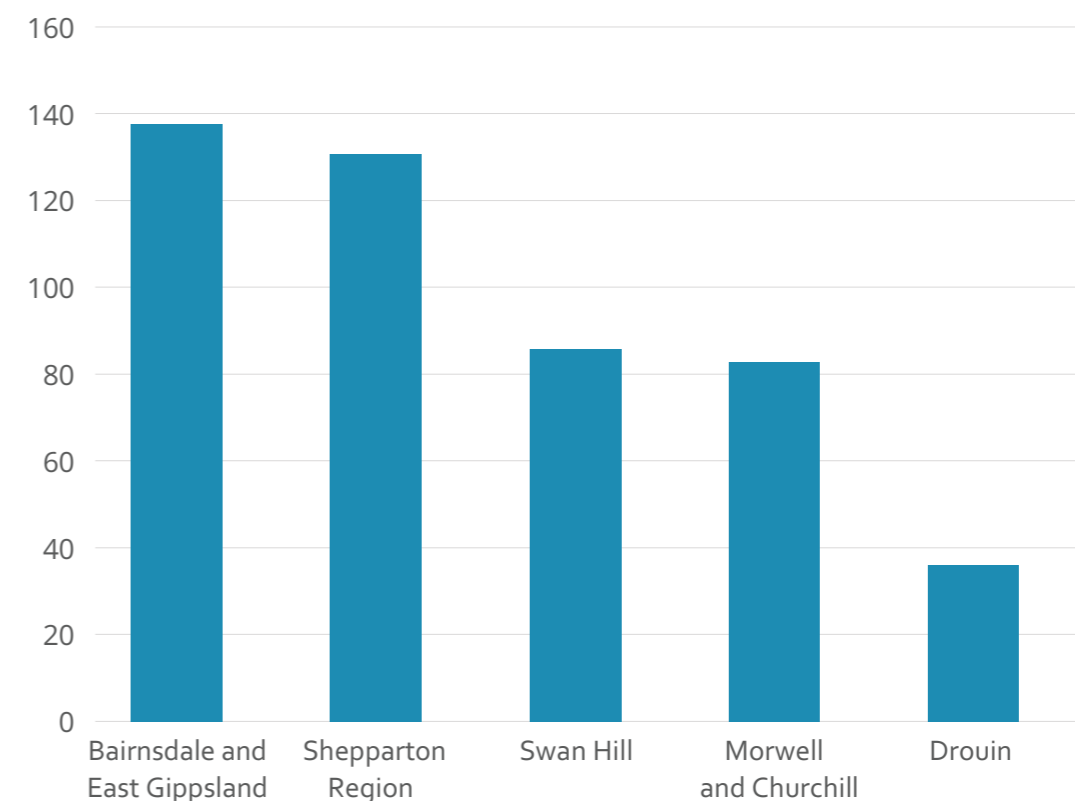
Figure 4: Location of highest numbers of Aboriginal people with low income (Source: VLA Data Tool)



* The NSWLJF has developed a Need for Legal Assistance Services (NLAS) indicator for Aboriginal and Torres Strait Islander people who have low incomes. In the research papers and Collaborative Planning Resource this has been referred to by the acronym "NLAS ATSI". Whilst this is not a term that CALC prefers to use, the term will be used here to reflect the actual names of these files to avoid confusion.

Figure 5: Regions with highest number of ACBF policy holders

(Source: Data provided by liquidators of ACBF; grouped by Katie Fraser)



In addition, the liquidators of the Aboriginal Community Benefit Fund/Youpla provided postcode-level data to show the location of people with ACBF policies, as well as the amount they spent (and lost when ACBF was liquidated) on those policies. Almost 900 people in Victoria held ACBF policies since 2012. The data is confidential but has been collated into regions for the purposes of showing likely regions of high legal need.

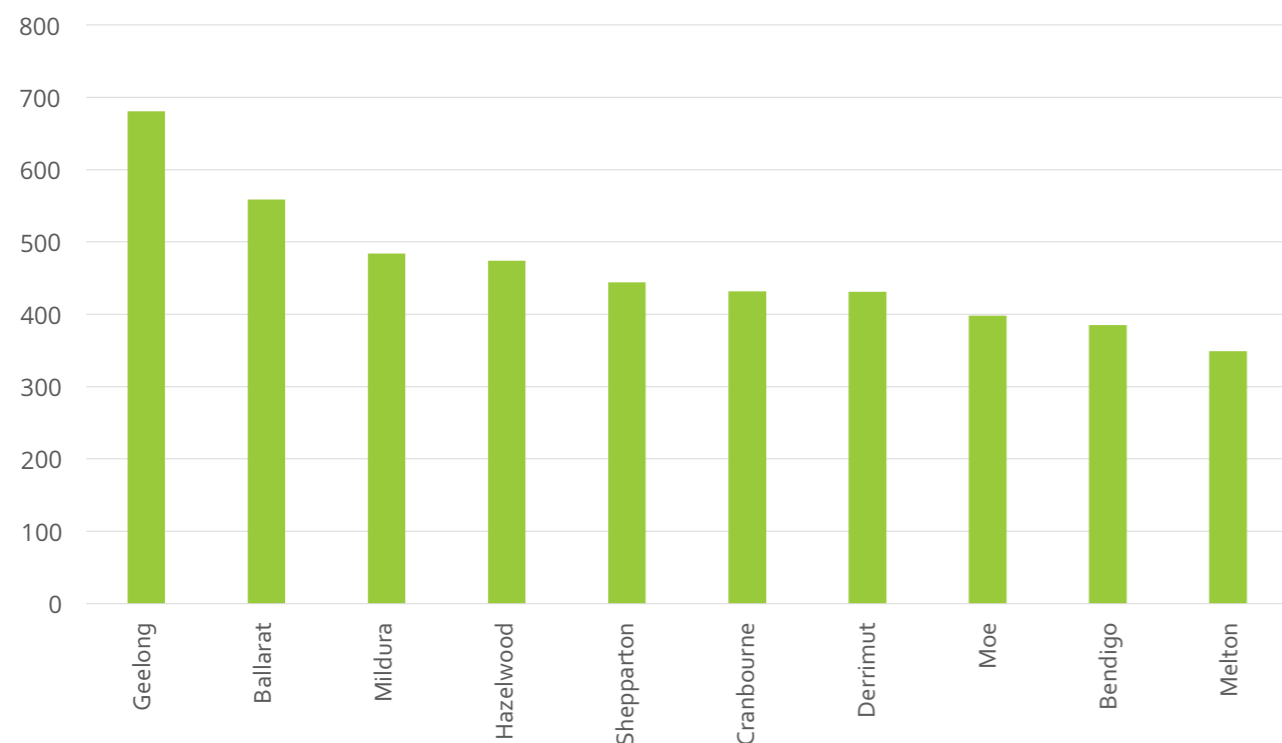
Legal need — Location of people who pay for consumer leases using Centrepay

The third leg of our data review uses data on the location of people who pay for a consumer lease using Centrepay. This captures people who have a very low income (payment from Centrepay means they receive Centrelink) who are signed up for a high-cost, low-value product (consumer leases). Every client we have assisted with a consumer lease has one or more legal issues, including the fact that they cannot afford the consumer lease. We have therefore made an assumption that every person who pays for a consumer lease through Centrepay has an unmet legal need. This may be an opportunity for future data analysis.

More than 19,000 people are paying for consumer leases in Victoria using Centrepay. These people come from more than 300 postcode regions. The table below only captures the top 10 postcodes where more than 350 people are paying for consumer leases from their Centrelink income.

Review of this data shows that there are a number of regions where there are low-income people with potentially high levels of legal need. See the Figure 6 below.

Figure 6: Top ten regions where more than 350 people use Centrepay to pay for a consumer lease (Source: Data provided by Services Australia)



Step 2 REVIEW OF CONSUMER ACTION'S DATA

For the purposes of this report, we have used data on all calls to our Consumer Advice Service from July 2019 to October 2022 as a proxy for 'expressed legal need'.¹⁴

Our service data review focuses on two data fields.

- i. **Location** We want to know if people are calling our service from areas where the population data shows legal need is likely to be high.
- ii. **Aboriginal and/or Torres Strait Islander Identity (where recorded)** We want to know if people who identify as Aboriginal and Torres Strait Islander are calling our service from areas where population and other data shows legal need is likely to be high. There is also a need to review data recording processes to ensure that the identification of Aboriginal and/or Torres Strait Islander people is asked at intake. This is in part being addressed through the development of the data manual for CALC.

The figures below show the results of this review.

Figure 7: Highest numbers of calls to the Consumer Advice Service 2019-2022 (by suburb) (Source: CALC data)

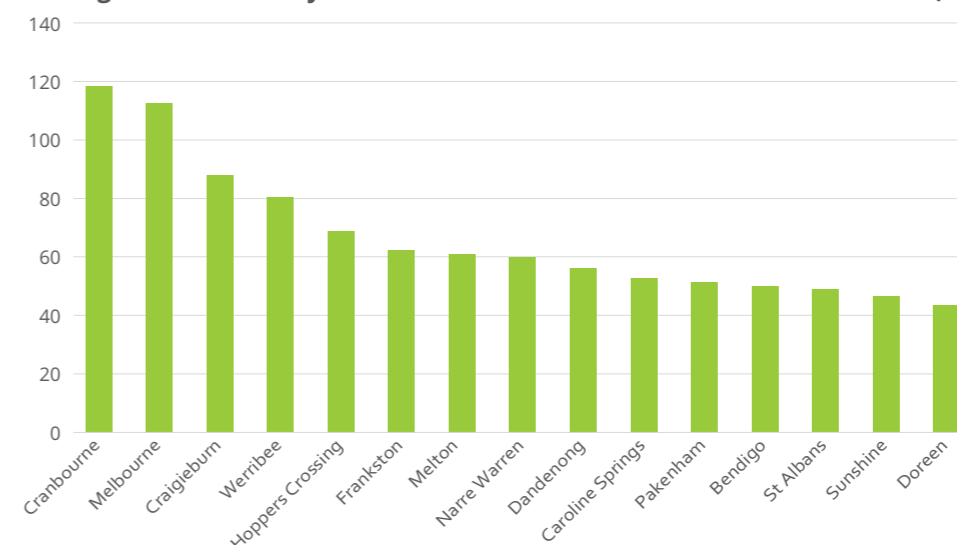
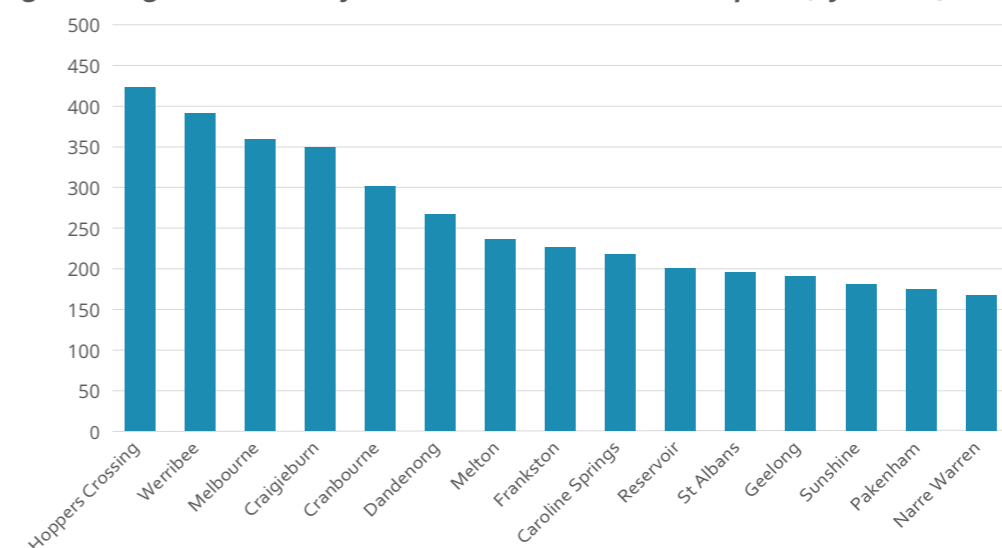


Figure 8: Highest number of calls to the National Debt Helpline (by suburb) (Source: CALC data)



¹⁴ We have analysed data for shorter time periods in our service evaluations. For example, the [Consumer Action Law Centre Evaluation of our Consumer Advice Service](#) found that the service responded to 2296 unique enquiries in 2020. We responded to 1646 (72%) of these enquiries with legal advice and opened representation files for a further 58 (2.5%). To the remaining 592 (25%), we provided either no assistance (because the client could not be reached or did not meet the threshold criteria for assistance) or only basic information and/or a referral. The enquiries came from all around Victoria. Lawyers recorded location details for 90% of enquiries. Of those enquiries, 99% were made by clients who lived in Victoria and 1% from interstate. With one exception (Greater Geelong), the top 20 Local Government Areas ("LGAs") for Victorian enquiries were all located in Metropolitan Melbourne, with the largest number located in the growth corridors of Casey (5.2%), Whittlesea (4.45%) and Brimbank (4.16%). And again with one exception (Nillumbik), the 40 LGAs with the fewest number of enquiries were in regional Victoria.

Step 3 COMPARISON OF DATA TO IDENTIFY GAPS IN SERVICES

This section seeks to identify the gap between the latent legal need (people who have a legal issue) and expressed legal need (people calling us) in Victoria. To do this we have compared our service data on location of the people who call us (suburb) against data using legal need proxies to identify locations where there is high legal need (by LGA and suburb).

Our review of this population data in step 1 shows that people in the outer Local Government Areas of Melbourne are likely to have a high level of legal need. This includes the western suburbs, the northern suburbs and the south-eastern suburbs.

Our review of Consumer Action's data in Step 2 shows that we receive a high number of calls to the Consumer Advice Service and National Debt Helpline from most of the highly populated areas where there are significant numbers of people who are experiencing disadvantage. We can draw a preliminary conclusion that our services are accessible to people in these areas who have legal need.

However, our analysis has also enabled us to identify some gaps—that is, locations where there is likely to be high legal need and our advice services are not being accessed by the number of people we would expect. The analysis and list of areas that have potential unmet legal need are listed in Figure 9.

We can use this analysis to undertake further research—for example, to identify whether local services (financial counsellors and legal services) are meeting consumer/credit/debt legal need. This could help us identify locations where legal need is not being met by other services. We will then be able to make evidence-based decisions about where to target our engagement, training, partnerships, and capacity-building projects.



Figure 9: Legal Needs Analysis: High Legal Need Areas, CALC Presence and Potential Gaps

The headings in this table refer to:

- ▶ The proxies we have identified for unmet legal need
- ▶ Areas of high legal need (Source: VLA Data Tool)
- ▶ Areas where CALC delivers the highest number of services (Source: CALC data)
- ▶ Potential unmet legal need—that is, the gap between regions of high legal need and the regions where services are delivered
- ▶ Potential partnership organisations in areas of unmet legal need

	HIGH NEED	CALC PRESENCE		GAPS
Legal need indicator	High legal Need Areas (LGAs)	Services Delivered by CALC (by LGA)	Potential unmet need for CALC services	Potential Partnership Organisations to meet unmet need
High number of people with low income (<26K) and Low education level (by LGA) (Source: VLA tool)	<ul style="list-style-type: none"> Casey Hume Brimbank Greater Dandenong Whittlesea Greater Geelong Wyndham Melton Moreland (now Merri-Bek) Frankston Yarra Ranges 	<ul style="list-style-type: none"> Wyndham City of Melbourne# Hume Casey Greater Dandenong Melton Frankston Darebin Brimbank City of Greater Geelong Cardinia City Of Greater Bendigo Whittlesea 	<ul style="list-style-type: none"> Moreland (now Merri-Bek) Yarra Ranges Whittlesea 	<ul style="list-style-type: none"> Springvale CLC (covering Casey and Greater Dandenong), Peninsula CLC & VLA office (covering Frankston), Eastern CLC (covering Yarra Ranges), Brimbank Melton CLC (covering Melton), Whittlesea CLC (covering Whittlesea); and Northern CLC (covering Moreland/Merri Bek) Financial counselling services in these LGAs.
High number of people with income less than 52k and low education level (by LGA) (Source: VLA tool)	All of the above and <ul style="list-style-type: none"> Knox Greater Bendigo 	As above	All of the above and <ul style="list-style-type: none"> Knox Greater Bendigo 	<ul style="list-style-type: none"> ARC Justice (Greater Bendigo) Eastern Community Legal Centre Financial counselling services in these LGAs.
'NLAS CALD' People for whom English is not a first language with a low income (by LGA) (Source: VLA tool)	All of the above and <ul style="list-style-type: none"> Monash Whitehorse Manningham 	As above	All of the above and <ul style="list-style-type: none"> Monash Whitehorse Manningham 	All the services listed above CALD community organisations
'NLAS' Aboriginal and /or Torres Strait Islander peoples People who identify as Aboriginal and/ or Torres Strait Islander (by LGA) and Regions with highest no. of ACBF policy holders (Source: VLA tool)	<ul style="list-style-type: none"> Greater Geelong Greater Shepparton Mildura Greater Bendigo Ballarat Wyndham Casey East Gippsland Hume Whittlesea Darebin Frankston Yarra Ranges 	As above	<ul style="list-style-type: none"> Greater Bendigo Ballarat Bairnsdale/East Gippsland Shepparton Swan Hill Morwell/Churchill Drouin 	<ul style="list-style-type: none"> Goulburn Valley CLC/ ARC Justice (Greater Shepparton) Gippsland CLC (Bairnsdale/Morwell/ Drouin) Djirra Murray Mallee CLC (Mildura and Swan Hill) Ballarat and Grampians CLC (Ballarat) ARC Justice (Bendigo) Financial counselling services in these LGAs.

potential data error

With respect to Aboriginal and/or Torres Strait Islander communities with legal need, Consumer Action does not receive as many calls as we would expect from some locations where there is likely to be high legal need for consumer credit and debt issues in the Aboriginal and/or Torres Strait Islander community. However, this may be because we are not a first point of call for many Aboriginal and/or Torres Strait Islander peoples. For example, people may be more likely to go to a local CLC that is doing assertive outreach (as Barwon CLC is doing in the Geelong region), or one of the Aboriginal Community Controlled Organisations, VALS and Djirra. The value of partnerships in meeting legal need is considered further in the next section.

The VLA data tool can tell us the number of clients who identify as Aboriginal and/or Torres Strait Islander have been assisted by a particular CLC. Meeting with these CLCs to learn more about their work with community and any opportunities for us to provide support would be valuable.

Figure 10: People who identify as Aboriginal and/or Torres Strait Islander background accessing generalist CLCs with civil law issues (Source: VLA Data Tool)

The table displays the client count in all LGAs for 8 service provider(s) – Ballarat & Grampians Community Legal Service, Barwon Community Legal Service, Eastern Community Legal Centre, Gippsland Community Legal Service, Hume Riverina Community Legal Service, Murray Mallee Community Legal Service, Peninsula Community Legal Centre, Whittlesea Community Legal Service. The data is filtered by civil law and client Aboriginal and/or Torres Strait Islander in 2021.

Service Provider	Unique Client Count	% of Total Clients
Ballarat & Grampians Community Legal Service	22	19.13
Barwon Community Legal Service	14	12.17
Eastern Community Legal Centre	10	8.70
Gippsland Community Legal Service	8	6.96
Hume Riverina Community Legal Service	26	22.61
Murray Mallee Community Legal Service	15	13.04
Peninsula Community Legal Centre	17	14.78
Whittlesea Community Legal Service	3	2.61
Total Clients	115	100

Partnerships address legal need for the most vulnerable

The strength of Consumer Action’s model and services is our specialisation: our lawyers and financial counsellors have high levels of expertise in consumer/credit and debt law and can undertake complex casework and litigation. Our people also have skills in the way they deliver information, particularly in providing help to people via telephone and online chat.

However, our specialisation also limits the help we can provide. Our focus on credit and consumer law means that we cannot help clients with other legal issues they might have, including tenancy, family violence or criminal law matters. But partner CLCs can do this. We do not have relationships with social workers and local community organisations that can provide wraparound help to people who are very vulnerable. But financial counsellors do, and many are co-located in larger social services organisations.

Our partnerships with community legal centres

When we work with other community legal centres, we can support their lawyers to identify and provide legal advice and casework on common consumer, credit and debt issues. In turn, we learn from our partners about their communities, their services and projects, their clients, and the many areas of law that intersect with consumer and credit issues. And we know that they can engage and support people who are particularly hard to reach, including Aboriginal and/or Torres Strait Islander communities (VALS), recently arrived migrants and refugees (Westjustice), people who are bushfire affected (Hume Riverina), and older people (Barwon CLC).

Local services can connect us to communities who we might never be able to reach. For example, in late 2022, Barwon CLC was undertaking an ongoing project with their local ACCO (Wathaurong) and invited Consumer Action staff to attend and provide training about common credit and debt issues to workers there. The fact that Consumer Action was introduced by a known and trusted local service meant we did not have to build a new relationship and establish our credentials as a reliable service.

We are indebted to the Aboriginal Community Controlled Organisations for working with us to reach community. Djirra has developed a sophisticated engagement model and strategy to reach Aboriginal women; Consumer Action has been able to attend their Sista’s Day Out sessions and provide information to women with Djirra’s support. These services have connections with and in community that we cannot replicate.

We have partnered with Hume Riverina CLC and Barwon CLC since 2017 and with the Victorian Aboriginal Legal Service since 2018. Our close relationship with Westjustice goes back to 2008. In 2021, we started a new partnership with Gippsland CLC.

Legal Needs Advocacy Impact Analysis

How advocacy addresses and prevents legal need

In our Impact Framework, Consumer Action's policy and advocacy work leads (or contributes to) to the following long-term outcomes:

- ▶ Consumers are protected by strong and effective laws
- ▶ Regulators take strong and effective action to address unlawful conduct
- ▶ Business practices are lawful, inclusive and fair
- ▶ Courts, tribunals and External Dispute Resolution entities help resolve disputes quickly and fairly
- ▶ Case law and EDR guidance promotes fair outcomes for consumers

Achieving these outcomes can be an effective way of addressing unmet legal need and reducing service demand, including by meeting expressed legal need and latent need.

Meeting expressed legal need.

If there are strong and effective laws and regulators take strong and effective action, then it is more likely that we can achieve good outcomes for people who have a consumer/credit/debt legal problem and contact us.

Note that strong systems may still not address latent legal need.

If a person does not know their rights under strong and effective laws and does not seek out legal help, they may not be able to achieve a good legal outcome.

Meeting latent legal need.

The first part of this legal needs analysis indicates that there is a high level of latent legal need for consumer, credit and debt issues, i.e., a person has a legal problem but does not seek help.

At the start of these partnerships, we provided training, file reviews, one-to-one mentoring and advice and secondary consultations. Access to training is ongoing, including internal Continuing Professional Development training for financial counsellors (in partnership with Financial Counselling Victoria), and we meet monthly to share information. This ongoing relationship means that we continue to build skills and capacity in other services, including as they recruit new lawyers. We also encourage our partners to call the Worker Advice Service if they would like information or support about a particular client or issue.

Our data shows the impact of these partnerships and the benefits for both services and the community. For example, when our partnership with Hume Riverina started in 2017, they provided 36 pieces of advice on consumer, credit, or debt work in one year. In 2020/21 their lawyers provided more than ten times as much advice (on 402 matters) and had \$601,480.20 of debts waived.¹⁵

Partnerships with generalist services also mean that people with multiple legal issues can receive coordinated legal help for a number of matters from one service. For example, a client we referred to Hume Riverina received 11 separate legal services from their lawyers, including advice on divorce, fines, Centrelink debt, Victim's Compensation and credit and debt issues, and representation for a credit and debt issue. This kind of wraparound legal help is particularly important for people who are very vulnerable. Consumer Action has the expertise to contribute to the wraparound service model in the provision of direct advice to both clients and workers as well as professional development of staff delivering services on the ground.

These partnerships contribute to and amplify our policy and advocacy work. For example, our partners at generalist CLCs have met with local MPs as part of our campaigns. They have been able to engage their local members because they can talk about how unfair laws and systems directly affect their local community (this was the case in Consumer Action's Save Safe Lending campaign).

In 2021 Consumer Action's CLC partners were involved in multiple advocacy and policy campaigns including the Save Safe Lending campaign led by Consumer Action; Small Amount Credit Contract (SACC) reforms; advocacy relating to the Aboriginal Community Benefit Fund; review of the Australian Banking Association Code; and a group complaint to the Commonwealth Ombudsman about Centrepay payments for consumer leases.

VALS has become a key partner in our policy and campaigns work on the issues that affect Aboriginal people. They have shared case studies that we have used in our campaigns, made media appearances, co-signed letters and met with politicians. It is particularly important for us to work with Aboriginal Community Controlled Organisations when we are working on sensitive issues that have particularly significant impacts on Aboriginal communities. Further it is imperative that we seek advice and support on policy issues to ensure Aboriginal communities' perspectives are considered as part of the policy and campaign development process.

Our partners also contribute to our strategic use of existing dispute resolution mechanisms. For example, in 2021-22 Hume Riverina CLC made 10 regulatory complaints. Each complaint has value to test a regulator's response and draw attention to the scale and number of issues.

Our partnerships with financial counsellors

Some of the closest, most important and longest-standing relationships we have are with financial counsellors. We seek to empower financial counsellors to achieve good outcomes for their clients by providing extensive training (60 hours a year), access to resources including template letters and information kits, and the ability to call the Worker Advice Service if financial counsellors need information or advice to assist their client.

In turn, our work benefits from the expertise and connection that local financial counsellors have with their communities, their understanding of complex clients and their advocacy skills. Financial counsellors contribute to our policy and advocacy work, by sharing stories, supporting our campaigns and engaging in strategic casework, for example, making multiple complaints about Cigno to ASIC.

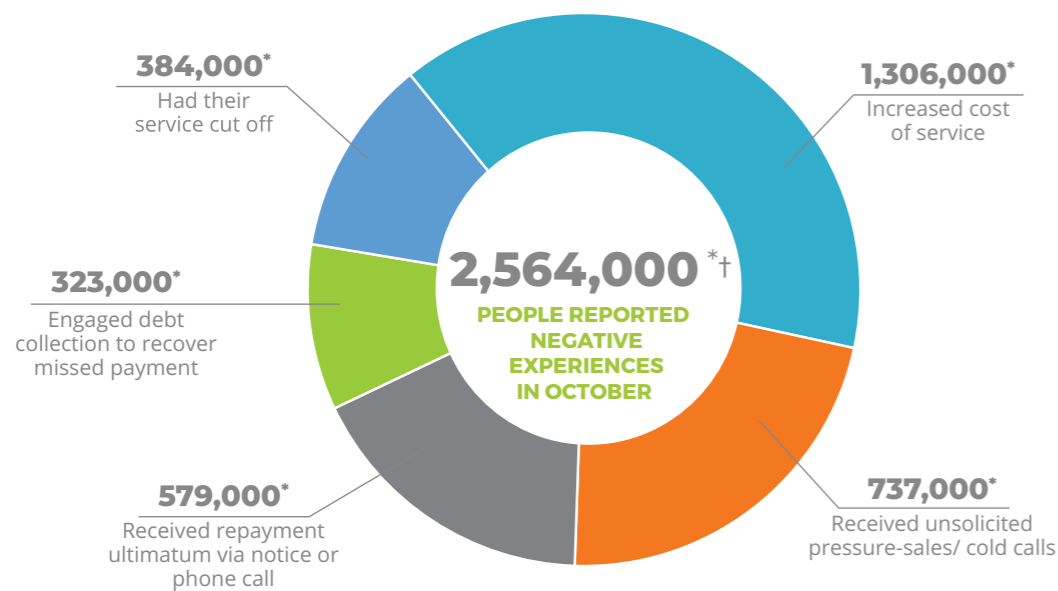
¹⁵ See the Hume Riverina Community Legal Service's Annual Report at https://www.hrcs.org.au/wp-content/uploads/2021/10/21061_HRL-Annual-Report-2021_Final_Web.pdf.



For example, our lawyers and financial counsellors provided advice and assistance to hundreds of people with legal and financial issues arising from telecommunications issues in one year. However, this represents less than 0.01 percent of the legal need. For example, an analysis undertaken by the Consumer Policy Research Centre indicated that more than two million people across Australia were likely to have had a negative experience with a telecommunications company in one month in 2020.

2020: NEGATIVE TELECOMMUNICATIONS PROVIDER ACTIONS, OCTOBER

Base: Australians aged 18+ (n=2,274)



DATA FROM CPRC

*Extrapolated to Australian Population from n=2,274

† Discrepancy between this figure and figures relating to type of experience is due to some respondents likely reporting more than one negative experience

Preventing legal need from arising.

If there are strong and effective laws and regulators take strong and effective action, then this can prevent legal need from arising. For example, responsible lending laws reduce legal need because banks and lenders comply with the law and do not make irresponsible loans.

The examples below are a reflection on some successful campaigns and how they have addressed legal need. Their effectiveness has relied upon integration across all aspects of Consumer Action's work as well as close collaboration and partnerships with sector colleagues. By integration, we mean a way of working that is committed to broader, substantive and system change through systemic work that is informed by (and informs) advice work, casework (both legal and financial counselling) and engagement activities.

CASE STUDY

Fairer laws for payday loans and consumer leases

Consumer Action has been involved in a long running sector campaign over more than six years to seek better regulation of payday lending and consumer leases.

Payday loans (also known as small amount credit contracts or SACCs) are high-cost fast loans of up to \$2,000 paid back over a period of 16 days to 12 months. Equivalent annual interest rates for these loans can vary anywhere between 100 and 400 percent. Consumer leases are rental arrangements for common household goods that charge well-above the cost of the goods, sometimes with equivalent interest rates of up to 800 percent.

We have worked with a coalition of partners to demonstrate the harm caused by these products.

Activities included:

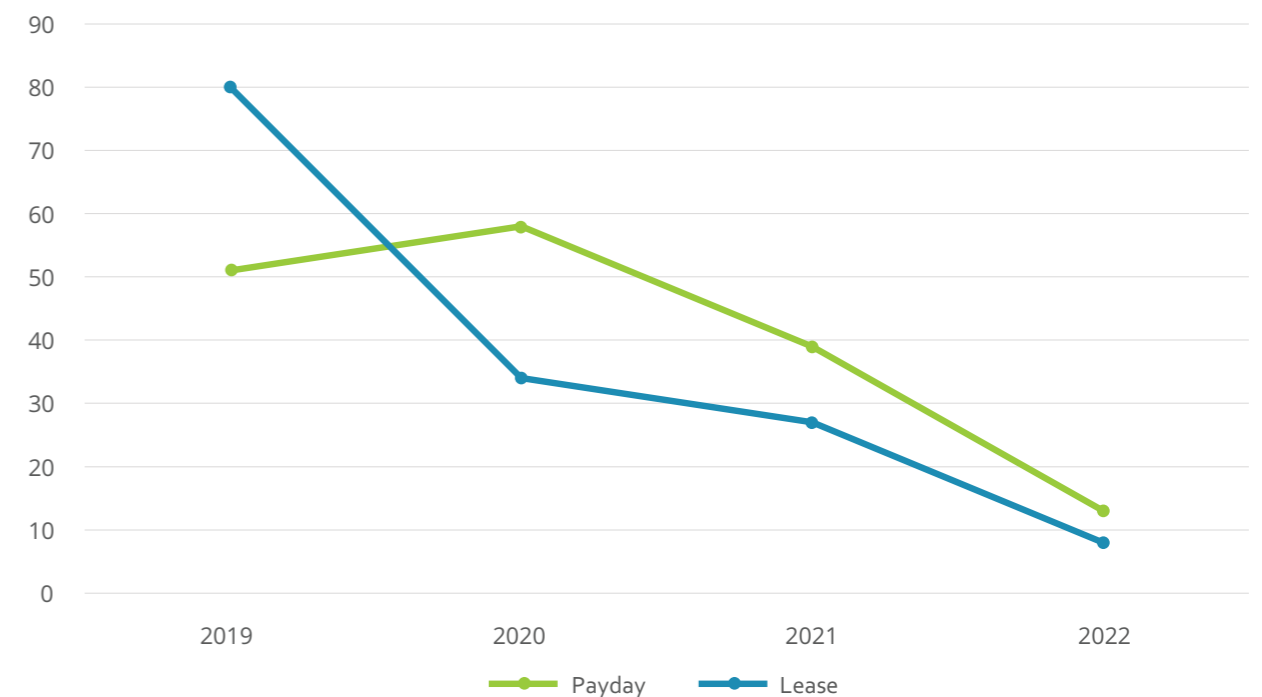
- ▶ Developing case studies and sharing these with decision-makers, and media
- ▶ Making complaints to regulators to encourage compliance enforcement action
- ▶ Undertaking research to identify the scale of the harm¹⁶
- ▶ Providing submissions to government policy processes
- ▶ Sector-wide campaigning for reform¹⁷

In 2022, new laws were passed that will improve the safeguards for these products, including cost-caps on consumer leases as well as limits on how much of a borrower's income can be attributed to repayments.¹⁸

We expect the implementation of these reforms to help CLCs better meet legal need by using the laws to get good outcomes for clients, and to prevent legal need arising by changing lender conduct in the marketplace.

However, there are some indicators that the broader advocacy work has had some impact on legal need expressed to Consumer Action. The below represents data from our Consumer Advice Service, where case notes record "payday loan" and a particular consumer lease provider. Due to the limitations on search, this data under-estimates the total number of contacts, but the trajectory shows that there have been less people seeking legal help about these products over the last four years.

Figure 11: Case note search from Consumer Advice Service over 2019-2022



¹⁶ See *The debt trap: how payday lending is costing Australians*, 2019, <https://consumeraction.org.au/20191112-the-debt-trap-report/>

¹⁷ Stop the Debt Trap coalition, see <https://consumeraction.org.au/policy-campaigns/stop-the-debt-trap/>

¹⁸ Finance Sector Reform Act 2022 (Cth)

CASE STUDY

Complaints about solar energy

Reliable, affordable, renewable energy has helped many Australians take back control of their power prices. Yet as the solar industry boomed, consumer protection did not keep up. This was demonstrated by contacts to Consumer Action and other CLCs regarding contracts with solar retailers. Issues experienced included:

- ▶ inappropriate or unaffordable finance being offered to purchase solar systems
- ▶ misleading and high-pressure sales tactics (i.e., unsolicited door-to-door sales, cold-calling, etc.)
- ▶ failings in solar installations or grid connection, product faults and poor performance
- ▶ poorly structured and unfair solar power purchase agreements
- ▶ a lack of affordable dispute resolution, complicated further by business closures.

In response to consistent concerns, Consumer Action campaigned for improvement to the consumer protection regime. This was particularly important in solar, because we recognised its role in supporting Australia achieve net-zero emissions which was at risk if people are treated poorly.

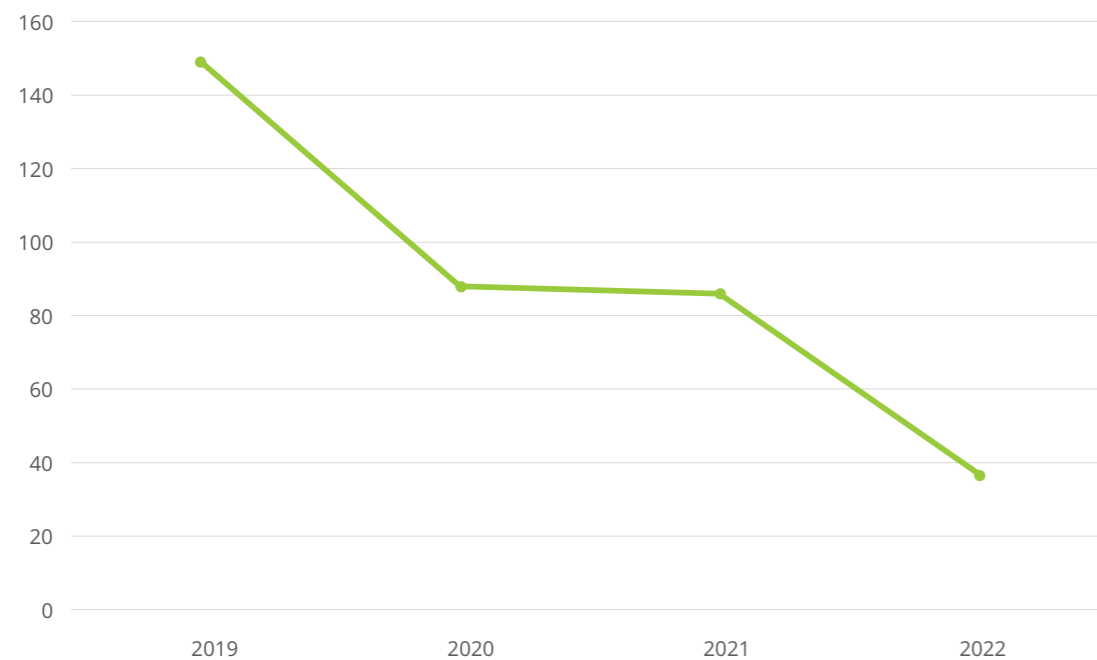
Activities included:

- ▶ identifying case studies and presenting those to media and decision-makers¹⁹
- ▶ preparing reports which provide case studies and policy solutions
- ▶ making complaints to regulators to influence compliance and enforcement action
- ▶ working with industry to improve standards in self-regulatory schemes
- ▶ making submissions to policy and regulatory processes
- ▶ engaging in strategic legal action to improve consumer protections²⁰
- ▶ campaigning for change

These activities contributed to change over time. For example, in 2021 the State Government banned the use of door-to-door sales in relation to solar.²¹ In 2022, new requirements on solar retailers were imposed by the Clean Energy Regulator, including on assurance of connections, improved information and improved sales processes.²²

We consider that these changes operated to prevent legal need through improving standards in the marketplace. This can be demonstrated through contacts to Consumer Action's Consumer Advice Service. The below shows data from case note searches for the term "solar" over four years. It demonstrates a significant reduction in contacts about this issue.

Figure 12: 'Solar' case note search from Consumer Advice Service over 2019-2022



¹⁹ Consumer Action, *Sunny Side Up*, 2018, <https://consumeraction.org.au/20190404-sunny-side-up-report/>

²⁰ Consumer Action, Responding to the New Energy Tech Consumer Code, 2021, <https://consumeraction.org.au/report-our-response-to-the-new-energy-tech-consumer-code/>

²¹ Minister Lily D'Ambrosio, Door-to-door sales banned from today, 1 September 2021, <https://www.premier.vic.gov.au/door-door-solar-sales-banned-today>

²² See: <https://www.cleanenergyregulator.gov.au/RET/Scheme-participants-and-industry/solar-retailers>

CASE STUDY

Junk Add-On Insurance

Some policy and campaign activities uncover latent legal need, as well as work to meet legal need and prevent it. An example of this was Consumer Action's campaign relating to junk add-on insurance.

This insurance is called 'add-on' because it is added on at the point of sale when a consumer is buying another product like a credit contract or car. Consumer Action's work focused on a number of forms of junk add-on insurance including:

- ▶ Consumer Credit Insurance: a product designed to protect a consumer's ability to meet their credit repayments in the event of death and/or involuntary unemployment and/or permanent disability
- ▶ Gap Insurance: if a motor vehicle is written off, gap insurance is designed to cover the amount left to pay on the consumer's car loan once a comprehensive car insurance policy has paid out

While not many consumers complained of these products, analysis by Consumer Action demonstrated that they were a significant problem. In particular, the add-on sales technique led to consumers buying insurance that they did not understand and was unsuitable for their needs. The add-on sales process, together with commission-based remuneration for sales staff, also encouraged mis-selling. Our solicitors identified many cases where consumers were sold insurance without their knowledge — so it didn't identify itself as expressed legal need but certainly represented latent legal need.

In response to this issue, the Centre engaged in significant advocacy and campaigning to address the concern. This included:

- ▶ Identifying case studies in sharing these with decision-makers and with the media
- ▶ Publishing case study and policy reports with recommendations for change
- ▶ Establishing a self-help tool, Demand A Refund, to help people make complaints and seek refunds for mis-sold junk insurance
- ▶ Making complaints to regulators to encourage compliance and enforcement action
- ▶ Supporting a client to appear before the Financial Services Royal Commission
- ▶ Making submissions to government regulatory and reform processes

This activity has influenced the marketplace, including access to compensation for mis-sold add-on insurance. For example, the extent of remediation has been significant. More than \$35 million has been claimed through Demand A Refund, ASIC has secured \$160 million in remediation, and class actions have settled for \$138m (Swann Insurance), \$48m (NAB), \$47m (ANZ), \$50m (CBA) and \$29m (Westpac). Other class actions are on foot.

Beyond compensation, there has been significant regulatory reform with the introduction of a deferred sales model for add-on insurance. The deferred sales model requires a clear four-day pause between when a customer purchases the principal product or service, and when they are offered or sold an add-on insurance product. The government stated that the objective is to promote informed purchasing decisions, enabling and encouraging consumers to consider the merits of the insurance offered and to consult alternative providers.

More critically, the reform has influenced a decline in the sales of junk add-on insurance. For example, the number of consumer credit insurance policies in Australia has fallen dramatically over the last few years. The reduced number of these policies in the community means that legal need has likely been addressed and/or prevented.

	30/6/2018	30/6/2020	As at 30/6/2022
Consumer Credit Insurance Policies	2,616,000	2,051,437	1,088,000



LEGAL NEEDS ANALYSIS: NEXT STEPS

Continue to analyse and reflect on our service data

Consumer Action can and should continue to analyse its work and the extent to which it is meeting legal need. Future work could include:

- ▶ More granular analysis to identify suburbs with high legal need. This is beyond the scope of this report, which provides a service gap analysis based only on LGA. However, this will be valuable for us in our future work. For example, if we identify a potential partner organisation that covers three LGAs, then we will be able to look closely at our data by suburb for those LGAs and compare it to NLAS capability data by suburb using the NSWLJR tool and our own data visualisation map.
- ▶ Analysis of the extent to which other Consumer Action services are meeting legal need. These include Consumer Action's Worker Advice Service, our digital online-resolution tools, and our sector partnerships.
- ▶ Location of callers who are culturally and linguistically diverse (CALD). We do not ask people if they are 'CALD' and would need to identify one or more proxies, such as country of birth. It should be noted that need for a translator is not a perfect proxy for CALD community members.

Work with the CLC and legal assistance sector

This legal needs analysis can inform our strategic decisions about where to build partnerships with other CLCs to meet legal need. We should undertake further research (using the VLA Data Tool) and start conversations with local legal services to understand the extent to which they are already addressing legal need relating to consumer, credit and debt issues in their community.

Embed and repeat legal needs analysis

Undertaking a legal needs analysis is time consuming the first time around. Repeating the exercise will involve less time, allowing us to use legal needs analysis as part of our ongoing evaluation and assessment of the impact of our work. Undertaking legal needs analysis at regular intervals will also allow comparison of our service data by year to identify any trends.

CALC is currently exploring a new comprehensive research report released by the Victoria Law Foundation: *The Everyday Problems and Legal Need Vol 1* report released on 30 August 2023, which provides key findings and data on the Public Understanding of Law Survey (PULS). The survey was conducted to measure both legal need and legal capability in the Victorian community, with over 6,000 respondents interviewed for the survey.

This substantial volume of data provides information that includes the types of legal needs that exist in the community, what people have done about their judicial problem as well as significant demographical information such as geographical location and the nature and extent of the legal problem affecting Victorians. Of particular interest to CALC is the data relating to the prevalence of justiciable problems by type which shows that the highest type of problem at 21% is that relating to goods and services, followed by housing at 10.5%, while 4.2 % of respondents reported problems relating to debt or money.

This important data and the key findings of the report will be considered as part of future legal needs analysis to be conducted by CALC.

Show how systemic policy and campaigns address and prevent legal need

The research around legal need tends to be individualised, focusing on the characteristics of individuals as indicating higher legal need and the need for legal assistance services to initiate place-based or targeted responses. This dialogue does not sufficiently recognise the value of systemic advocacy as a means to help address legal need and prevent it from occurring to begin with. If we can work to prevent legal problems through influencing regulatory action or changing the law, this is going to benefit many more people than helping individuals one by one.

There is value in sharing information about the success of our advocacy and campaigns with the legal assistance sector in Victoria and more broadly.

About Consumer Action



Consumer Action Law Centre is a state-wide specialist community legal centre that has developed a complex and effective model to meet legal need. This is captured in the three domains of our Impact Framework.

Impact Domain 1

EMPOWERED CONSUMERS

We provide legal assistance and financial counselling that contributes to positive outcomes for individuals and broader systemic change. This work includes the following activities:

- ▶ Telephone legal advice service for consumers
- ▶ Telephone financial counselling (and warm referral to local financial counsellors)
- ▶ Financial counselling casework with legal support ('integrated practice')
- ▶ Legal casework and representation
- ▶ Legal information and resources for consumers (including online self-help tools that enable consumers to self-advocate).

Impact Domain 2

EFFECTIVE SECTOR

We contribute to the effectiveness of other organisations through our engagement, training and projects. This work includes the following activities:

- ▶ Online and in-person training and engagement to build capacity of other consumer advocates (financial counsellors and community legal centre lawyers) to provide consumer credit and debt advice and casework.
- ▶ Engagement, training and project work to build capacity of community workers to identify consumer/credit/debt issues and make an effective and timely referral to Consumer Action. We have prioritised and focussed this work on family violence workers, disability workers, and workers based at Aboriginal Community Controlled Organisations.
- ▶ Telephone legal advice service for community workers.
- ▶ Online information resources and online training (via Thinkific).

Impact Domain 3

FAIRER SYSTEM

We tackle the systemic consumer issues that make life harder for people experiencing vulnerability, including by advocating for fair business practices and law reform. We develop evidence-based policy positions that are informed by the lived experiences of our clients. This work includes the following activities:

- ▶ Research and policy work
- ▶ Partnerships and coalitions
- ▶ Media and communications
- ▶ Engaging with policy-makers
- ▶ Engaging with regulators
- ▶ Engaging with industry
- ▶ Engaging with dispute resolution forums

The work of all teams is underpinned by the whole-of-organisation support provided by the Operations Team.



To access the full framework, click [here](#)



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