

Legal need and the COVID-19 crisis

Federation of Community Legal Centres Victoria

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Executive Summary

Community Legal Centres

Community legal centres (CLCs) are localised, independent, community-based organisations providing free legal assistance to people across Victoria. The community legal assistance sector plays a crucial role in ensuring equitable access to justice and in strengthening the capacity of Victoria's community service network to meet the needs of vulnerable people, including in regional areas.

CLCs assist members of the public with tenancy, employment, social security, family law and family violence, consumer law and many other legal problems. These types of legal problems are often complex, stressful and almost always carry serious implications for affected individuals' lives and livelihoods. Unaddressed, legal issues can escalate and ultimately carry heavy consequences, including significant financial strain or bankruptcy, physical ill-health, psychological distress and homelessness. The risks posed by unresolved legal need are especially severe for the many CLC clients who already experience some form of disadvantage, as existing vulnerabilities are compounded by risks arising from legal problems.

Impacts of COVID-19

The COVID-19 health crisis will have wide ranging financial economic and social impacts on individuals and communities across Victoria, creating significant areas of legal need while also seriously impacting on the ability of the community legal sector to meet demand.

CLCs across Victoria are already experiencing huge increases in demand for their services, as the economic implications of the COVID-19 crisis begin to be felt. Data gathered from CLCs indicate that uncertainty around legal rights and obligations in the wake of government announcements, in combination with mass job losses across several industries, is already leading to unprecedented demand for free legal assistance with residential tenancy, employment and social security law matters.

Demand for assistance with these issues will remain at elevated levels during the post-crisis recovery period, while levels of need in relation to other types of legal problems will grow as restrictions and stimulus packages come to an end but financial and economic pressures remain.

CLCs focus on assisting disadvantaged members of the community, serving the large and growing gap between those who are eligible for LegalAid and those who can afford private legal assistance. As the economic implications of the COVID-19 crisis take hold, a growing number of Victorians will fall within this cohort. Without legal assistance, risks to mental, physical and financial wellbeing arising from legal problems increase substantially, with flow-on costs to the state, in the form of increased burdens to health, child protection, justice and other publicly funded systems.

The community legal assistance sector plays a crucial role in intervening early to stop the escalation of legal problems, avoiding harm to individual Victorians and leading to significant avoidance of costs to the community and government.

At its current capacity, Victoria's community legal assistance sector will be unable to meet the demand for legal assistance caused by the social and economic implications of COVID-19. This will leave huge numbers of Victorians vulnerable to the serious consequences of unresolved, escalating legal problems - and create the risk of considerable future costs to government.

1. Community Legal Assistance in Victoria

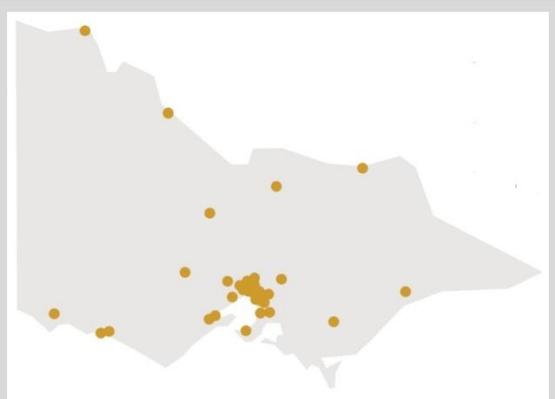
Community legal centres are localised, independent, community-based organisations providing free legal assistance to people across Victoria. The community legal assistance sector plays a crucial role in ensuring equitable access to justice and in strengthening the capacity of Victoria’s community service network to meet the needs of vulnerable people, including in regional areas where access to services is limited.

1.1 Community legal centres assist vulnerable Victorians with a broad range of legal problems

Community legal centres are independent community organisations that provide free legal assistance to the public, prioritising vulnerable cohorts within the community. The Federation of Community Legal Centres (Federation) represents 48 CLCs across Victoria, each providing members of their local community with legal advice, information, ongoing assistance and referral services.

Across the state:

- ▶ 28 specialist CLCs -
 - provide expert advice on certain types of legal problems
 - work with particular client cohorts
- ▶ 20 generalist CLCs provide legal advice and assistance on a range of legal problems
- ▶ 10 CLCs provide access to legal services in regional or rural areas



CLCs focus on helping people who face economic and social disadvantage, meeting the legal needs of Victorians who are not able to access LegalAid assistance and who cannot afford a private lawyer.¹ As distinct from Legal Aid, CLCs work directly with and in their local community. The CLC model is built on the understanding that people most in need are often the least likely to seek help directly. CLCs use partnerships with community doctors, nurses, psychologists, social workers, financial counsellors or teachers to connect with and provide people with the legal assistance they need. See below image for a snapshot of the types of issues facing CLC clients:

In 2019, CLCs assisted at-risk Victorians with more than **84,260** distinct legal problems.



This snapshot represents data from a proportion of CLCs and only represents figures from government-funded services. Actual figures will be much higher.

¹ A large portion of Legal Aid funding is dedicated to assisting people facing criminal charges, and there is limited LegalAid assistance available in many areas of civil law. Additionally, in some cases Legal Aid may not be able to act due to conflict reasons.

Unlike Legal Aid, where a large portion of funding is dedicated to assisting people facing criminal charges, CLCs have extensive civil law practices. As recognised in the Victorian government's 2016 Access to Justice review, unresolved civil legal problems - such as issues relating to housing, mental health, social security or employment - have far-reaching consequences for both the individual and the state.² Some of the most common types of legal problems with which CLCs provide advice and assistance are set out below.

Common CLC legal matters

	Tenancy	<ul style="list-style-type: none"> ▶ Evictions ▶ Repairs and maintenance ▶ Bond disputes 	<ul style="list-style-type: none"> ▶ Property damage, including as a result of family violence
	Family law & family violence	<ul style="list-style-type: none"> ▶ Divorce and separations ▶ Custody disputes ▶ Property settlement 	<ul style="list-style-type: none"> ▶ Family violence intervention orders
	Social security	<ul style="list-style-type: none"> ▶ Centrelink and NDIS eligibility ▶ 'Robodebt' and other social security debt disputes 	<ul style="list-style-type: none"> ▶ Review of social security decisions
	Employment	<ul style="list-style-type: none"> ▶ Unfair dismissal ▶ Leave and other benefit entitlements ▶ Underpayments 	<ul style="list-style-type: none"> ▶ Rights of casual and part-time workers ▶ Workplace bullying
	Consumer	<ul style="list-style-type: none"> ▶ Mortgage disputes ▶ Misleading and deceptive conduct 	<ul style="list-style-type: none"> ▶ Unfair loans

CLCs assist their clients with the above list of legal problems using a specialist/generalist model where needs can be identified either through a geographical legal needs analysis in a Generalist CLCs catchment or through a technical Specialist CLC which assists with a particular area of law. The two aspects of the CLC model remain interconnected to ensure the geographical expertise of the Generalist CLC (and their strong community connections) is linked in with the appropriate technical expertise of the Specialist to ensure clients are supported to resolve their specific legal needs.

1.2 Community legal assistance reduces harm and creates value

The community legal assistance sector plays a vital role in ensuring access to justice for all Victorians. By providing free, expert and holistic legal assistance and information to communities across Victoria, CLCs ensure that a person's financial status, disability, educational attainment, regional location, cultural background or mental health needs pose no barrier to their full and fair engagement with the justice system.

The types of legal problems with which CLCs predominantly assist are often complex, stressful and almost always carry serious implications for their clients' lives and livelihoods. Unaddressed, legal issues such as these can escalate and ultimately carry heavy consequences, including significant financial strain or bankruptcy, physical ill-health, psychological distress and homelessness. The risks posed by unresolved legal need are especially severe for the many CLC clients who already experience some form of

² Victorian Department of Justice and Regulation, *Access to Justice Review: Summary Report* (August 2016) 4.

disadvantage, as existing vulnerabilities are compounded by risks arising from legal problems. Conversely, the ability of individuals to enforce their legal rights can have profoundly positive impacts on their financial, physical, mental and social wellbeing.

Promoting universal access to justice provides significant value to the state. As noted in the 2016 Access to Justice review, the consequences for individuals of unresolved legal problems often generate costs ultimately borne by the state, both within the justice system and in other publicly funded systems.³ The Productivity Commission has made similar statements, finding in 2014 that unaddressed legal issues can place burdens on health, child protection and other community welfare services.⁴

Ensuring equal access to justice is particularly important in the current environment, as publicly funded systems and community or social services are already under strain as a result of the COVID-19 crisis. Avoiding added costs to these systems is essential to ensure that Victoria's health, welfare and other essential service systems remain able to meet the needs of all Victorians.

1.3 CLCs are an essential part of the community service landscape

Many CLC clients access community legal services to request assistance with urgent legal problems - such as an imminent eviction - but also present with a range of complex and intersecting needs, both legal and non-legal. CLCs are community-based, meaning that many have strong relationships with other local community services, such as health and substance dependency treatment clinics; financial planners; social workers; child, youth and family services and the courts. CLC lawyers, meanwhile, hold expertise both in the relevant areas of law and in responding to the complex needs of vulnerable people.

As such, CLCs are uniquely placed to assist their clients both with the pressing legal issues that many Victorians will face at a point in their lives, and to ensure wraparound service provision through referrals to other appropriate local community services - including through the health justice partnerships that have become a highly effective part of Victoria's community service provision. In this way, community legal centres form a valuable part of the community service network in Victoria and provide a crucial safety net for disadvantaged Victorians. The holistic, community-based nature of CLC services distinguish CLCs from other legal services, which do not tend to be as embedded in local communities and support networks.

Interdependencies within the landscape of community services mean that support for the broader community service sector will struggle to achieve optimal outcomes if it is not applied across all service types. For example, providing funding to community-based family violence support services may assist victim-survivors to leave a dangerous situation, but not to handle the legal ramifications of damage to their rental property inflicted in an incident of family violence or to navigate complex family law rules around custody of children. A lack of access to legal support could result in poorer outcomes for victim-survivors if leaving their property results in ongoing debt or an unfavourable custody decision.

³ Victorian Department of Justice and Regulation, *Access to Justice Review: Summary Report* (August 2016) 3.

⁴ Productivity Commission, *Access to Justice Arrangements: Inquiry Report* (September 2014) Vol 1, 7.

2. Impact of COVID-19

The COVID-19 health crisis will have wide ranging financial economic and social impacts on individuals and communities across Victoria that will create significant areas of legal need while also seriously impacting on the ability of the community legal sector to meet demand. It is crucial to prepare now for the projected increase in demand for community legal assistance, so that all Victorians can continue to access the help they need. Without additional support, the legal needs of many vulnerable people will go unmet, with severe consequences for the Victorian community.

2.1 The legal implications of the COVID-19 crisis

CLCs across Victoria are already experiencing huge increases in demand for their services, as the economic implications of the COVID-19 crisis begin to make themselves felt. Data gathered from CLCs indicate that uncertainty around legal rights and obligations in the wake of numerous government announcements, in combination with mass job losses across several industries, is already leading to unprecedented demand for free legal assistance with residential tenancy, employment and social security law matters. Demand for assistance with these issues will remain at elevated levels during the post-crisis recovery period, while levels of need in relation to other types of legal problems will grow as restrictions and stimulus packages come to an end but financial and economic pressures remain.

Tenancy Law

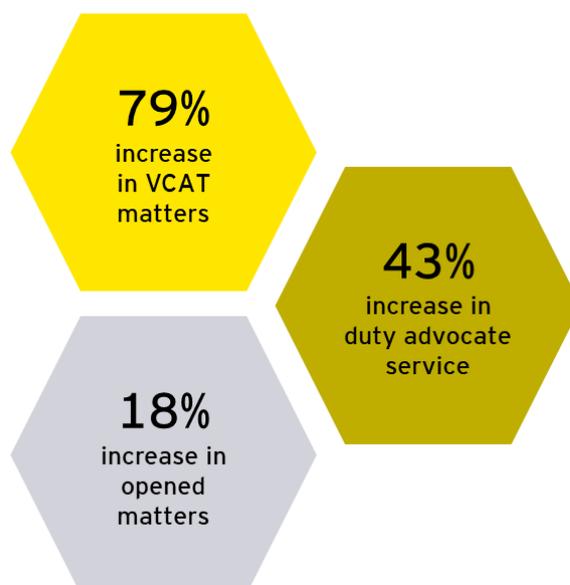
The impact of COVID-19 on tenants and landlords across Victoria and the rest of the country is already being felt, with thousands of workers losing their income and with it their ability to meet rental payments. Recent National Cabinet announcements regarding an evictions moratorium recognise the ramifications of COVID-19 for tenants but areas of uncertainty remain about the legal impacts on landlord and tenant obligations, including the position with respect to rental arrears that may accumulate over the moratorium period. The ramifications of COVID-19 for tenants, landlords and tenancy law will not subside after the 6-month moratorium, but may in fact increase as parties to residential tenancies seek to understand and assert their rights as restrictions ease.

The financial implications of COVID-19 and these government announcements create significant scope for legal need, as tenants and landlords struggle to understand their rights and obligations amidst significant anxiety about housing and financial security. While some immediate relief may be provided by the 6-month moratorium, the requirement for tenants and landlords to enter into good faith negotiations regarding rental payments and reductions can leave tenants with no alternative housing option in a weak position to assert their rights. Meanwhile, the broad range of exceptions to the moratorium mean the risk of eviction remains and the legal position with respect to already issued notices to vacate, possession orders and warrants of possession remains unclear.

CLCs across Victoria are already experiencing increases in inquiries from tenants seeking advice in relation to their legal options in the face of loss of income and in light of government announcements.

For example, the demand for Peninsula Community Legal Centre's Tenancy Assistance and Advocacy Program (TAAP) remains consistently strong and the

In the matters opened between 25 January 2020 and 20 April 2020, PCLC has observed the following:



top 5 common tenancy matters assisted are possession/notice to vacate, rent arrears, bonds, compensation and repairs. Between 25 January 2020 and 20 April 2020, there has been an increase in total number of clients presenting with more complex tenancy matters, resulting in more intensive and integrated services, which an increase by 14% from this exact period last year and increased of open matters by 18% from this period last year.

Tenants Victoria has also experienced increases in demands for their services. Tenants Victoria provides information, advice and legal representation to Victorian renters. Tenants Victoria operate phone and email advice lines for the general public, along with a specialised advice service for community service workers assisting people who rent their homes. Tenants Victoria receives referrals from other CLCs, LegalAid and community services, and also provides extensive community legal education, including, currently, a rolling update on the legal position of tenants during the COVID-19 crisis.

Since the beginning of March 2020, Tenants Victoria has experienced:

- ▶ **350-400%** more hits to its website and online resources
- ▶ **150%** more requests for legal advice

Many of the calls to Tenants Victoria's help line have related to tenants' difficulty in paying rent due to loss of income, while other callers have requested assistance in responding to notices to vacate or other correspondence from landlords. Given the severity of the economic downturn

projected to result from the COVID-19 crisis, the prevalence of these legal issues will only grow.

Additionally, it is likely that demand will further increase as more detail about the operations of various tenancy-related government measures comes to light. For example, disputes arising from deferred rent payments or around the validity and duration of negotiated rental reductions may only eventuate after restrictions ease. The Tenants Victoria data illustrate the nature and extent of need for tenancy law assistance in response to COVID-19, which will be experienced across the many CLCs in Victoria providing a tenancy law practice.

Employment law

Demand for employment law services has already increased in response to COVID-19, and is only expected to grow further as employers make workforce decisions in reaction to the economic implications of the crisis, and government assistance schemes continue to be clarified and rolled out. These events have considerable, complex legal implications, as questions arise as to the legality of mass redundancies; unpaid wages and leave entitlements; business' obligations relating to government funding designed to support workers, and so on.

The impact of these developments on the community legal assistance sector is already being felt, and the nature of the matters raised by people seeking CLC assistance indicates that this spike in need will not diminish for some time.

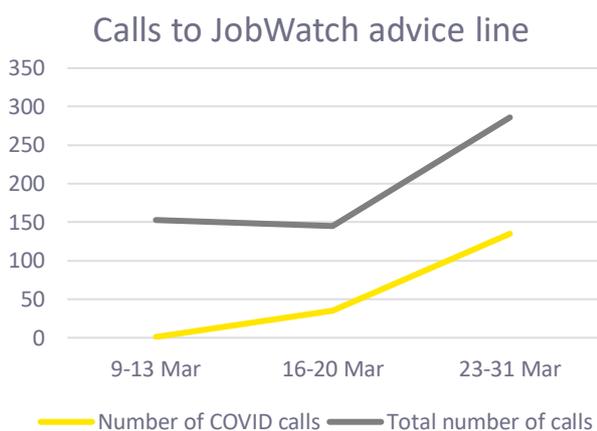
JobWatch is an employment rights CLC and provides legal assistance to Victorian workers through casework and legal representation, a telephone advice line on Wednesday evenings, and free online resources. JobWatch has also published a specific COVID-19 Q&A resource on its website. JobWatch receives referrals from and provides specialist support to other CLCs, and clients are also referred by LegalAid and other community services.

Data gathered from JobWatch illustrates the level and type of legal need that the many CLCs across Victoria offering employment rights services are experiencing as a result of COVID-19.

As illustrated below, the number of calls to JobWatch's telephone advice line has been increasing steadily and quickly over March 2020. A large and increasing proportion of callers are requesting assistance with COVID-related matters, including eligibility for the JobKeeper and JobSeeker payments.

Compared to March-April 2019, JobWatch has experienced:

- ▶ **83.1%** more calls to its legal advice telephone service
- ▶ **928%** more hits to its website
- ▶ **18.8%** more calls to its legal casework service



COVID-19 issues raised by JobWatch callers:

- ▶ **Redundancy**
 - ▶ Entitlements to redundancy pay
 - ▶ Employer's ability to use COVID-19 as a reason to make workers redundant
- ▶ **Stand downs**
 - ▶ Validity of stand downs where employer business still operating
- ▶ **Reduction of hours**
 - ▶ Risks to entitlements after a forced reduction of hours

The nature of the legal issues raised by these callers indicate that this uptick in legal need is unlikely to subside soon: redundancies, stand downs, hour reductions and disputes about entitlements will continue to occur during and after the height of the COVID-19 crisis as Victoria's economy adjusts and businesses adapt to the projected severe economic downturn. Although it has only been possible to gather data from JobWatch due to resourcing constraints at other CLCs, some generalist CLCs provide employment law services to the workers in their communities and are likely to experience a similar surge in demand.

Family violence

Rates of family violence increase in the wake of disasters, with Australian research into the Black Saturday bushfires suggesting that contributing factors include increased financial insecurity; the reversion to strict gender norms (in which female partners are subordinate to male) as a crisis response; and employment and housing insecurity.⁵

The COVID-19 crisis is a national emergency with similar consequences to a natural disaster for families affected by the illness, job losses, rental insecurity and business closures. Advocates in China have reported that the number of family violence cases tripled in February 2020 during the COVID-19 outbreak, compared to the same period in 2019,⁶ and a survey of family violence frontline workers undertaken by Women's Safety NSW released 2 April 2020 shows the beginning of this impact in Australia: the number of workers receiving reports of violence being used for the first time jumped to 47.5%, from 15.9% the previous week.⁷

Meanwhile, family violence specialists predict that social isolation requirements and service disruptions flowing from the public health response to COVID-19 will place victim-survivors at increased risk as families spend longer periods of sustained time together, perpetrators have new abilities to restrict their partners' movements, and victim-survivors are less able to flee and/or access community and social supports with the closure of schools and support services.⁸ Other types of family violence being experienced are elder abuse, economic and financial abuse and the exposure of children to seeing and/or experience violence directly. Family violence rates are unlikely to decrease as the threat of COVID-19 slows down: as social isolation measures are relaxed, rates of violence are in fact likely to increase as perpetrators react to the perceived loss of control. Similarly, as welfare entitlements are reduced or removed, the incidence of family violence - particularly elder abuse - is likely to increase as perpetrators come under the strain of significant financial hardship.

⁵ Debra Parkinson and Claire Zara, 'The hidden disaster: domestic violence in the aftermath of natural disaster' (2013) 28(2) *Australian Journal of Emergency Management* 28.

⁶ Bethany Allen-Ebrahimian, 'China's domestic violence epidemic' (7 March 2020) Axios <<https://www.axios.com/china-domestic-violence-coronavirus-quarantine-7b00c3ba-35bc-4d16-afdd-b76ecfb28882.html>>.

⁷ Women's Safety NSW, 'New Domestic Violence Survey Shows Impact of COVID-19 on the Rise' (2 April 2020) <<https://www.womenssafetynsw.org.au/impact/article/new-domestic-violence-survey-shows-impact-of-covid-19-on-the-rise/>>.

⁸ The Lookout, 'COVID-19 and Family Violence' (30 March 2020) <<https://www.thelookout.org.au/family-violence-workers/covid-19-family-violence/covid-19-and-family-violence-faqs>>.

Legal problems associated with family violence:

- ▶ Family violence intervention orders
- ▶ Family law, particularly child custody arrangements
- ▶ Consumer law, notably disputing utilities and other debts raised by perpetrators as a means of exerting control
- ▶ Tenancy law, such as liability for damage to property caused during a family violence incident
- ▶ Employment law, including access to family violence leave

Currently, CLCs across Victoria assist victim-survivors of family violence in responding to these legal problems: for example, between April 2018 and August 2019, 44% of clients attending CLCs were at risk of or currently experiencing family violence.⁹

Many people who experience family violence also experience other forms of disadvantage, meaning that there are high levels of dependency on free legal services among victim-survivors.¹⁰

For people experiencing family violence, assistance with family law to understand options and secure safety of children is essential. In some regional areas, for the month of April (as at 20 April), CLCs have

seen an increase of up to 50% in family violence and family law related enquiries for help. In the context of COVID-19, these enquiries are also highly complex, with former partners refusing to return children and making threats.

CLCs provide the legal support needed by survivors to fully extricate themselves from abusive domestic situations, and the wraparound support and referral services they provide are an essential part of any effective response to family violence. As the prevalence of family violence increases in the wake of the COVID-19 crisis, so will the level of need for free legal assistance for victim-survivors fleeing dangerous situations. However, recent government announcements of increased funding for domestic violence counselling services - which recognise the increased risk of family violence during and after the pandemic - do not extend to funding legal services, creating the possibility of a dangerous service gap for at-risk people across Victoria.

Social security law

Social security law in Australia is highly complex, with a significant portion of CLCs' business as usual operations consisting of advising people on their eligibility for payments, and their rights and obligations within the social security system.

The impacts of the COVID-19 crisis on CLC's social security assistance are twofold:

- ▶ government responses to COVID-19 have included significant changes to the national social security scheme, including to eligibility requirements, which need to be interpreted and conveyed to clients; and
- ▶ the financial implications of COVID-19 mean that more Victorians than ever are in need of government support, many needing assistance to navigate the complex application and eligibility assessment processes for the first time.

CLCs have already experienced a spike in demand for social security law assistance, and expect demand to continue to grow as more families and individuals need to access social security payments and understand how this area of law interacts with others such as family and employment law.

Social Security Rights Victoria (SSRV) is a state-wide CLC specialising in social security law, policy and procedure. SSRV provides legal services to vulnerable and disadvantaged Victorians and those who support them across the state, including through telephone information and advice, legal casework and representation, and community legal education.

⁹ This figure should be taken as a conservative representation of the level of assistance provided to clients in the family violence space.

¹⁰ Christine Coumarelos, 'Quantifying the legal and broader life impacts of domestic and family violence' (June 2019) Law and Justice Foundation of New South Wales, *Justice Issues* no. 32.

COVID-19 related issues raised by SSRV clients:

- ▶ Eligibility for payments, especially JobKeeper and JobSeeker;
- ▶ The implications of voluntarily leaving work due to health concerns;
- ▶ Interactions between different types of benefit/pensions and one-off stimulus package payments; and
- ▶ The potential for debts to be raised by Centrelink at a later date because assets have not been properly taken into account during the initial assessment process.

Since the beginning of the COVID-19 crisis and response in Australia, SSRV has experienced an increase in calls from the public as Victorians - many entering the social security system for the first time or after a long stint of self-sufficiency - seek to understand their rights and obligations within the social security system.

The following case studies

provide illustrations of how the COVID-19 crisis is affecting people across Victoria - and how SSRV and other CLCs offering support with social security matters are able to assist.

Jane called the Social Security Rights Victoria (SSRV) telephone advice line with regard to her rejected carer payment application. Jane looks after one of her parents, who suffers from a chronic lung disease. Jane supports herself with Job Seeker payment and working on a casual basis. Jane had not previously applied for carer payment as her casual work provided enough money to support themselves and care for their parent. Jane's parent requires a lot of care including assistance with housework, and attending appointments.

Since Covid-19, Jane has been unable to go out into the work force. Jane's parent is in a high-risk category due to the chronic lung disease, and Jane does not wish to unnecessarily expose her parent to the risk of contracting Covid-19. As Jane can no longer work casually, she needs extra financial assistance to care for her parent. SSRV assisted Jane by providing advice on how to appeal the rejected carer payment application.

Rowena called the SSRV telephone advice line. She has been made redundant and for the first time in her life has to apply for Centrelink payments. However, she wasn't sure whether Centrelink would think she's in a same sex de facto relationship or not. The information on the Centrelink website suggested she might be or might not be and she want to involve her partner if she doesn't need to.

The SSRV staff member was able to explain the markers of a Membership of a Couple, so Rowena was able to make the application in a way that the ramifications of her situation were clear.

This demand will persist after the immediate crisis subsides: the impact of COVID-19 on Victoria's economy will last beyond short-term government stimulus packages and more Victorians will need legal support to understand and access social security support during the recovery period. It is also likely that after the immediate crisis, social security authorities will shift their focus from assessing and making payments, to reviewing cases and raising debts - a further source of legal need.

Consumer law

The economic fallout of the COVID-19 crisis will place many Victorian families under financial strain, limiting the capacity of many to meet mortgage and other loan repayments. Specialist CLCs like the Consumer Action Law Centre and other generalist CLCs across the state assist with mortgage, debt and other consumer law matters, and have already seen a dramatic surge in requests for advice in these areas.

In the wake of the 2009 Global Financial Crisis, CLCs across Australia reported significant increases in inquiries relating to credit/debt issues, repossessions, bankruptcy and mortgages.¹¹ The economic downturn not only created new areas of legal need as more Victorians experienced financial stress and the associated legal problems, but also meant that many people were not able to afford private legal representation to address these issues.

¹¹ House of Representatives Standing Committee on Infrastructure, Transport, Regional Development & Local Government, *The Global Financial Crisis and regional Australia* (November 2009) 55-56.

Although the duration and extent of the economic downturn resulting from COVID-19 is not yet known, it is clear that its impact on Victorian businesses, families and individuals will be significant and sustained, and may exceed that of the GFC. This will lead to a corresponding increase in demand for legal assistance in relation to consumer law matters and the CLC sector will have a vital role to play as, once again, those Victorians struggling to meet mortgage repayments are unlikely to be able to afford private legal assistance.

2.2 Surge in legal need during the COVID-19 recovery period - and the struggle to meet demand

As the Victorian community and economy adjust to the COVID-19 environment, and begin to recover as the health crisis slows, demand for community legal assistance will continue to rise. Not only will legal need in relation to specific types of problem increase, the overall level of need for free legal assistance will rise as more Victorians are impacted by the economic implications of COVID-19. This is especially true for communities already under pressure from the impacts of the devastating 2019/20 bushfire season. With some CLCs already struggling to meet the increase in demand caused by the crisis so far - especially those assisting bushfire-affected communities - the Federation is concerned that many Victorians will miss out on crucial legal assistance if CLCs are not adequately resourced and prepared to meet future need.

Increased need for community legal assistance

The extent of the economic implications of the COVID-19 crisis cannot be precisely forecast at this early stage, but it is clear that the impacts on people across Victoria will be both serious and long-lasting.

Evidence from other economic downturns highlights the pressing need for a well-prepared and resourced community legal assistance sector to ensure that all Victorians are able to access the legal help they need during and after the COVID-19 crisis.

A parliamentary inquiry into the impact of the 2009 Global Financial Crisis on rural communities found that demand for community legal assistance surged in the wake of the GFC, and that under-resourced regional CLCs struggled to meet demand.¹² The peak body for community legal assistance in NSW reported significant increases in legal need across credit/debt, employment law and family law, stemming from the increased unemployment and reduced wages caused by the GFC.¹³

Research into the impact of the GFC on the legal aid sector in the UK found that caseloads grew by up to 50% in some areas of law - including debt, housing, welfare benefits and employment - both because of the growth in 'recession-related' legal problems and the increase in numbers of financially disadvantaged people in need of assistance.¹⁴

As more Victorians feel the impact of the COVID-19 period on their personal and business finances, and as the need for legal assistance grows in response to the growth in the legal issues discussed above, the demand for free legal assistance will grow significantly. It is crucial to prepare the CLC sector now so that Victorians will be able to access affordable, expert legal assistance as they adjust to and recover from the COVID-19 crisis.

Pressures on CLCs to meet demand

CLCs are facing challenges in meeting the new demand created by COVID-19, with existing resources already insufficient to ensure that people's legal needs are met.

For example, JobWatch's resources have been stretched by these increases in demand, particularly as its staff transition to working from home in compliance with social distancing regulations. As demand for JobWatch's services has grown, the proportion of callers JobWatch has been able to assist through telephone advice has dropped by a quarter, while casework assistances have fallen by almost half. Similarly, demand for Tenants Victoria's services currently exceeds its ability to supply legal advice, as its telephone advice line has had to close for urgent redesign to facilitate lawyers working from home.

¹² House of Representatives Standing Committee on Infrastructure, Transport, Regional Development & Local Government, *The Global Financial Crisis and regional Australia* (November 2009).

¹³ NSW Legal Assistance Forum, 'Submission to the House of Representatives Inquiry into the impact of the global financial crisis on regional Australia and the role of the Commonwealth Government in ensuring that Australia is equipped to respond' (11 May 2009).

¹⁴ Tobias Schrank, 'Legal Aid in Times of Economic Turmoil: Current Challenges in England and Germany' (2011) Oxford University Comparative Law Forum 3.

CLCs will experience the same workforce challenges as other organisations across the state, as CLC workers who are also parents may need to step away from work to balance these competing demands, IT and file management systems need to be adapted and upgraded to accommodate remote working arrangements, and new means of providing services need to be developed. Overcoming these challenges can come at significant costs, which already stretched CLC resources will struggle to meet.

2.3 The social consequences of unaddressed legal need in the COVID-19 context

The COVID-19 crisis will lead to increased incidence of tenancy, employment, social security, family violence and general family law, consumer and other legal problems. Simultaneously, the economic impacts of the crisis on the financial situation may prevent many Victorians from accessing costly private legal assistance. The impacts of unresolved, escalating legal problems on individuals, the community and government are significant, but can be avoided through ensuring effective access to early, comprehensive and free legal assistance. Victoria's CLCs have a crucial role to play in the state's response to the social impacts of the COVID-19 crisis and investing now to prepare the community legal assistance sector to respond to the increased demand for its services will ultimately reduce harms to individual Victorians, strain on the community as a whole, and the level of costs to be borne by government.

Individual, social and government impacts of unresolved legal problems

The Productivity Commission, in its Inquiry into Access to Justice, concluded that the costs of unaddressed legal problems - both tangible and intangible - can be very high, including the risk of significant harm to the mental, physical and financial wellbeing of affected individuals.¹⁵ For example, facing housing insecurity without recourse to tenancy law advice places renters in a vulnerable position and increases the disproportionate power imbalance between landlords and their tenants. Renters who are unaware of their legal rights and their landlord's obligations miss out on the protections offered by residential tenancy law, and may fall victim to unlawful action by landlords - such as invalid eviction notices or refusals to pay for necessary repairs and maintenance. The consequences of such action can be serious: inadequate housing can have significant negative health effects on residents,¹⁶ while evictions carry a clear risk of pushing tenants into homelessness. Similarly, a lack of understanding about employment entitlements reduces workers' ability to ensure that they are being treated fairly and legally by their employer. The potential for financial stress from illegal employer action is clear: for example, invalid stand-downs, failure to pay required penalty rates for casuals or honour paid leave entitlements all carry significant consequences for workers' financial security.

These individual consequences can have profound effects for the broader community and government, especially, as noted by the Productivity Commission, in circumstances where the costs of unresolved problems are shifted into other areas of government spending.¹⁷ For example, a lack of early intervention to negotiate a payment plan for rental arrears can escalate into an in-debt renter being evicted from their property and becoming reliant on public housing. Housing and other community resources are finite: the impact from added burdens on these support services flows to other vulnerable Victorians, placing strain on the community as a whole. Meanwhile, a lack of legal support to ensure that the children of a family violence victim-survivor are placed in their custody creates significant risk of physical and mental harm, with consequential burdens placed on the public health system, justice sector (including police), and broader human services.

The compounding effect of COVID-19

The COVID-19 crisis has already impacted on Victoria's people and economy, as social distancing restrictions slow or shut down many industries and workers begin to lose income. The economic downturn that is predicted to follow the immediate crisis will continue this trend, threatening the financial security of

¹⁵ Productivity Commission, *Access to Justice Arrangements: Inquiry Report* (September 2014) App. K. See also P Pleasance et al, 'Civil law problems and morbidity' (2004) 58 *Journal of Community Health* 552.

¹⁶ See generally Anne-Marie Waters, Australian Housing and Urban Research Institute, 'Do housing conditions impact on health inequalities between Australia's rich and poor?' (2001) AHURI Positioning Paper no. 2; in relation to children specifically, Anastasia Sartbayeva, 'Housing conditions and children's health' (2016) Australian Department of Social Services - National Centre for Longitudinal Data, Research Summary no. 7.

¹⁷ Productivity Commission, *Access to Justice Arrangements: Inquiry Report* (September 2014).

large parts of the Victorian community. The economic implications of COVID-19 will intersect with the existing situation with respect to unmet legal need in several important ways.

First, the number of legal problems experienced by Victorians will increase, for reasons discussed above.

Secondly, the proportion of Victorians who need free legal assistance to handle their legal problems will increase, as more Victorians become unable to afford private legal representation. Additionally, analysis of an Australia-wide legal need survey found clear links between a person’s level of disadvantage and their ability to resolve their legal problems independently: the greater the disadvantage experienced by a person, the lower their capacity to finalise the legal issues they face.¹⁸ Accordingly, it is likely that not only will fewer Victorians be able to afford private legal assistance, fewer will be able to handle legal disputes unaided.

Finally, the consequences of unresolved legal problems will become more severe, as people lose sources of financial and health resilience to the adverse effects of their legal issues. For example, a renter who loses their job is more vulnerable to the negative consequences of facing an unfair eviction notice than one who still has an income and could find alternative accommodation. As the individual consequences of unmet legal need escalate, so too do pressures on community and publicly funded services as demand threatens to exceed supply.

Investment in community legal assistance to avoid social harms and economic costs

Free and holistic legal assistance provided by CLCs can provide a valuable early intervention by stopping the escalation of legal need and its associated individual and social consequences early, leading to significant avoided individual harm and costs to the state.

Two examples are illustrated in **Figure 1** and **Figure 2** below.

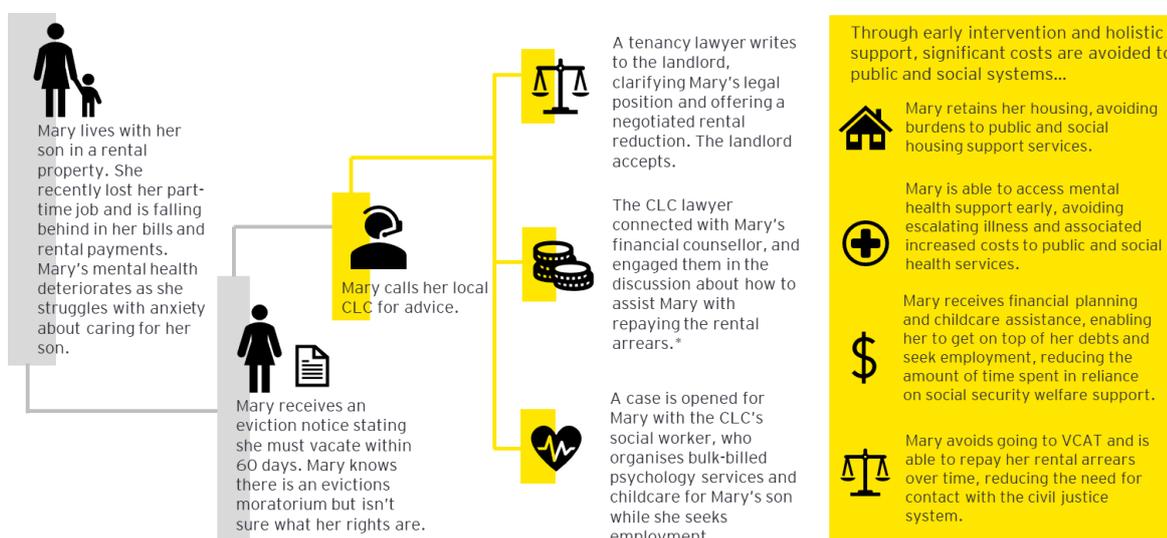


Figure 1 The costs avoided through CLC intervention: tenancy

*Financial counselling is usually delivered as part of an integrated services model where clients are able to access legal and financial services in a seamless and connected way, including some instances where the services are co-located. Because of the current Covid-19 restrictions, this place-based model has been adapted to use digital integration.

¹⁸ Hugh McDonald and Zhigang Wei, 'Resolving legal problems: the role of disadvantage' (June 2018) Updating Justice, paper no. 56.

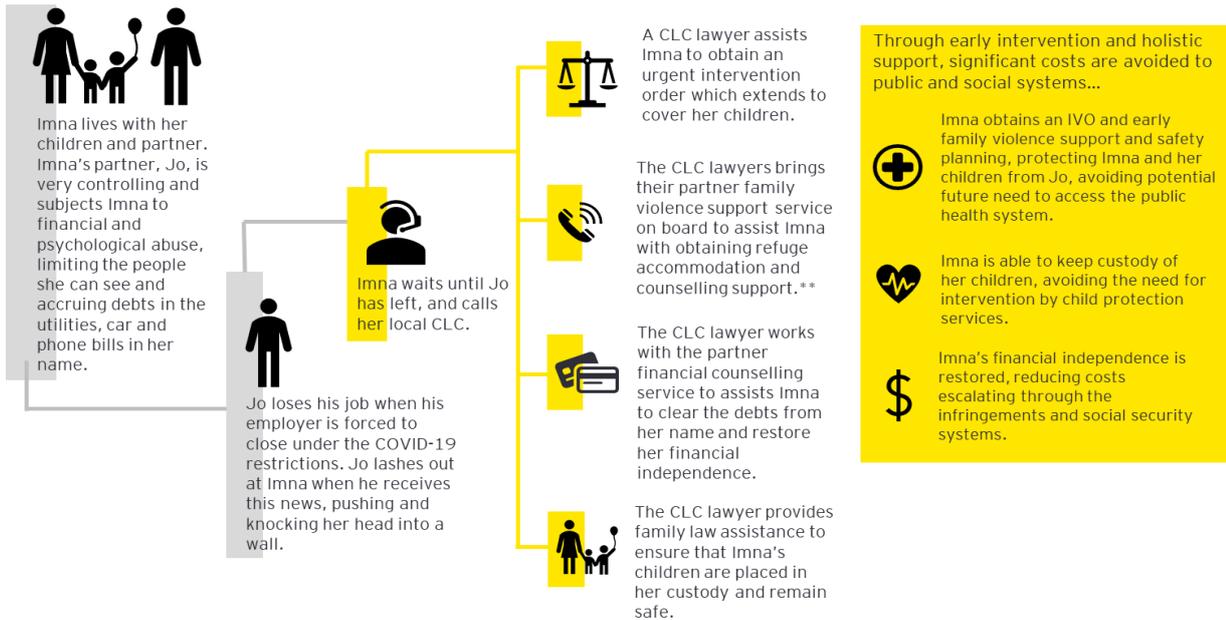


Figure 2 The costs avoided through CLC intervention: family violence

** Family violence services are often delivered through a Health Justice Partnership where a lawyer is embedded in a healthcare setting to reach out to people who may need legal help and not know it. Because of the current Covid-19 restrictions, this place-based model has been adapted to use digital integration.

The avoided costs associated with the early provision of support can be experienced across many social service systems, including public health (mental and physical); housing (public and social); human services (family violence support, substance dependency treatment); justice (including police and courts); and employment.

The community legal assistance sector provides expert legal advice and wraparound support, intervening early in legal problems which can, and often do, escalate into significantly harmful and costly issues. In the context of the COVID-19 crisis, investing in CLCs is essential to ensure that the growing number of Victorians at-risk of experiencing legal problems and being unable to resolve them are able to access crucial support, and to avoid the otherwise escalating burdens placed on other parts of Victoria's public and social safety net.

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