



# What people need from the Justice system: a person-centred approach

Presentation to 2019 Family Law Forum

Geoff Mulherin

Law and Justice Foundation of NSW

3 May 2019



### **Conference paper**

What people need from the Justice system: a person-centred approach  
Presentation to 2019 Family Law Forum, hosted by Commonwealth Attorney-General's  
Department, Sydney, 3 May 2019  
Geoff Mulherin, Director, Law and Justice Foundation of NSW

### **Publisher**

Law and Justice Foundation of New South Wales  
Level 13, 222 Pitt Street, Sydney NSW 2000  
PO Box A109 Sydney South NSW 1235  
P: +61 2 8227 3200  
E: [publications@lawfoundation.net.au](mailto:publications@lawfoundation.net.au)  
W: [www.lawfoundation.net.au](http://www.lawfoundation.net.au)

© Law and Justice Foundation of New South Wales, 2019.

This presentation is copyright. It may be reproduced in part or in whole for educational purposes as long as proper credit is given to the Foundation.

Any opinions expressed in this publication are those of the authors and do not necessarily reflect the views of the Foundation's Board of Governors.



## Aim

- Introduce the recent person-centred approaches to identifying legal need and what works to address it
- Briefly highlight key relevant findings
  - LAW Survey
- Pre-'taste' of new DV analysis



# A21 JLN Program Method

**Three** methodological streams (initially):

- Analysis / mapping of service provider data ('expressed' need)
- Legal need surveys ('expressed'+ 'unexpressed' need)
- Targeted qualitative studies (particular disadvantaged groups)



# Legal Australia-Wide (LAW) Survey

- First large-scale, comprehensive survey of legal needs in each state/territory (8)
- 20,716 phone interviews across Australia
  - > 2,000 in each state/territory
- In-depth analysis in each state/territory, and whole of Australia
  - 9 reports
- Broad findings similar across jurisdictions



# LAW Survey Aims

## Objective:

Inform debate and policy on provision of legal services and access to justice

## Specific aims:

- prevalence and nature of legal problems
- responses to legal problems, including seeking advice
- finalisation and outcome of legal problems
- Which demographic groups fare worst?



# Widespread legal problems

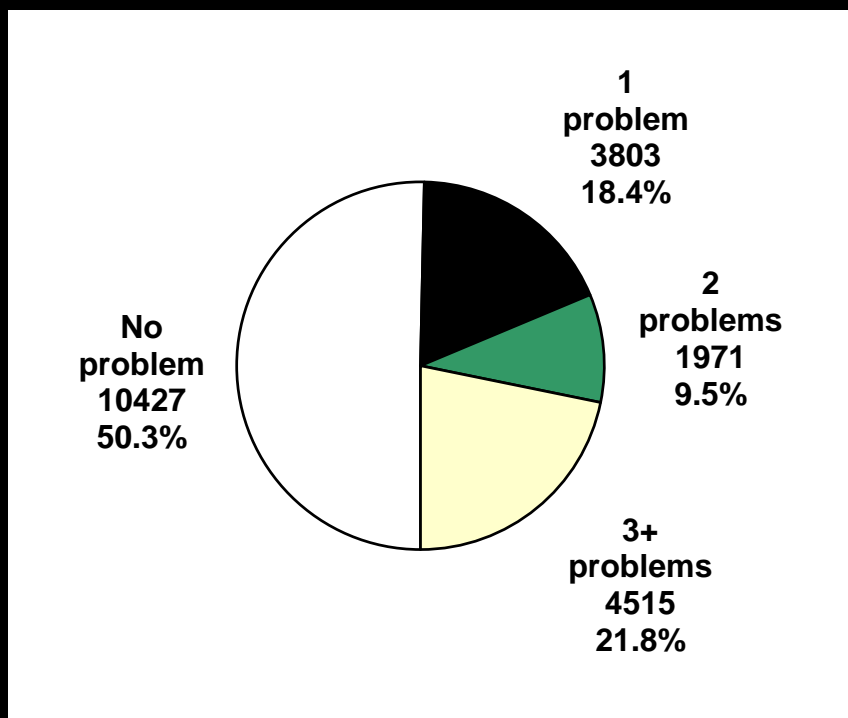


Figure: Prevalence of legal problems, Australia (N=20 716 respondents)

Overall prevalence - widespread, often multiple problems:

- 50% had a legal problem:  
8.5 million 15+ years in 1 year
- 22% had 3+ legal problems:  
3.7 million 15+ years in 1 year



# Widespread legal problems

Problem group	Respondents %
Accidents	7.7
Consumer	20.6
Credit/debt	6.4
Crime	14.3
Employment	6.2
Family	5.0
Government	10.7
Health	3.3
Housing	11.8
Money	5.7
Personal injury	7.0
Rights	5.8

- Some types of legal problems were more prevalent (see *table*)

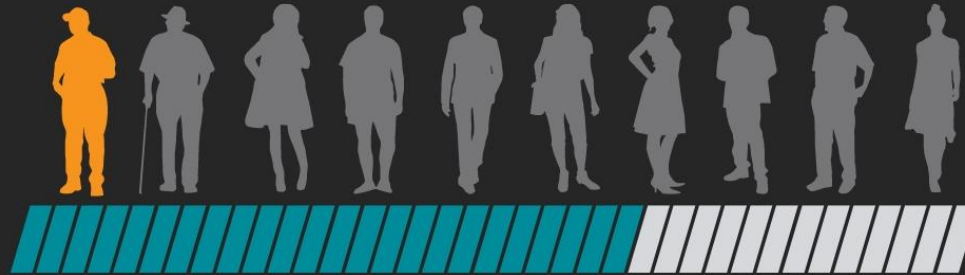
Table: Prevalence of legal problems  
by problem group, Australia  
(N=20 716 respondents)





# Some more vulnerable than others

9% of our population experience 65% of the legal problems



## The most vulnerable to legal problems in 2008

people with a  
**disability**



**single parents**



**unemployed**  
people



people living in  
**social housing**



**business owners**



## How many people in these groups in 2016

**4.3 million** people  
with a disability

Almost **1 million**  
single parents

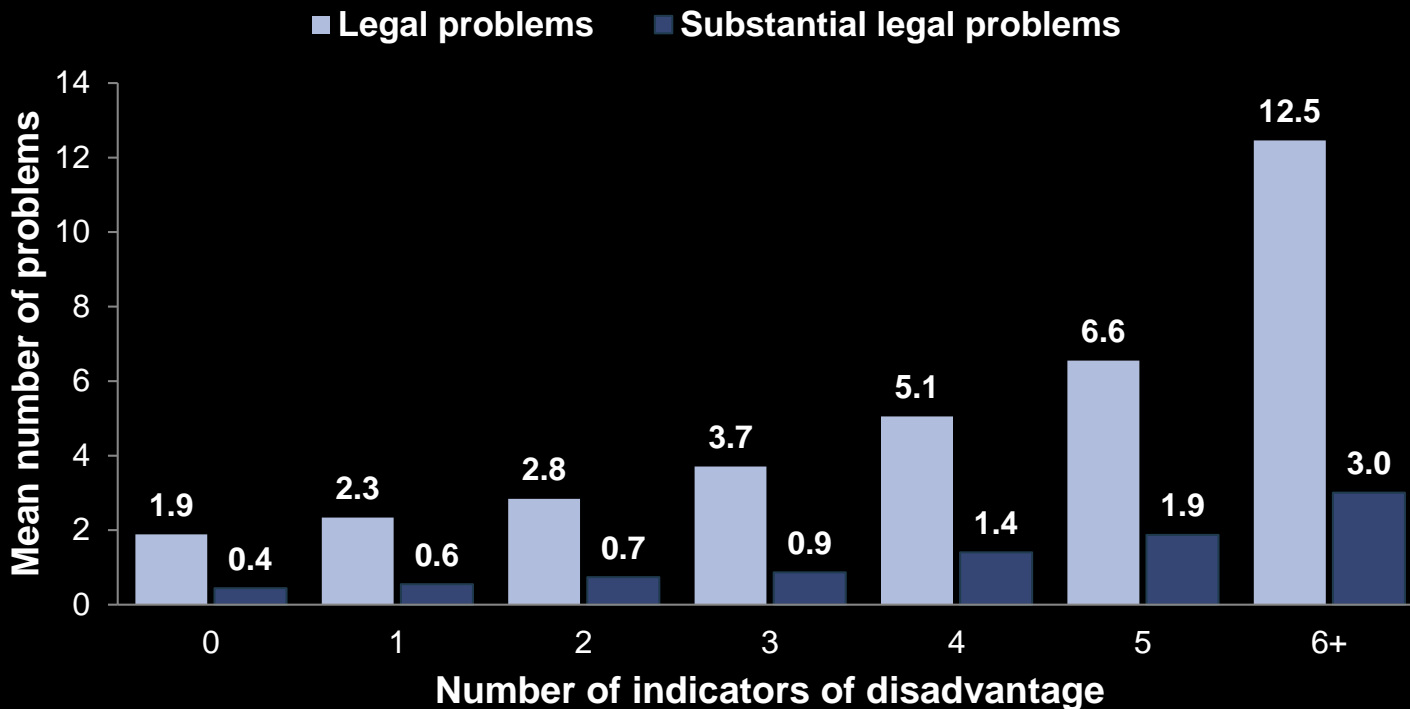
**700,000**  
unemployed

**430,000**  
dwellings

**2 million** small  
businesses



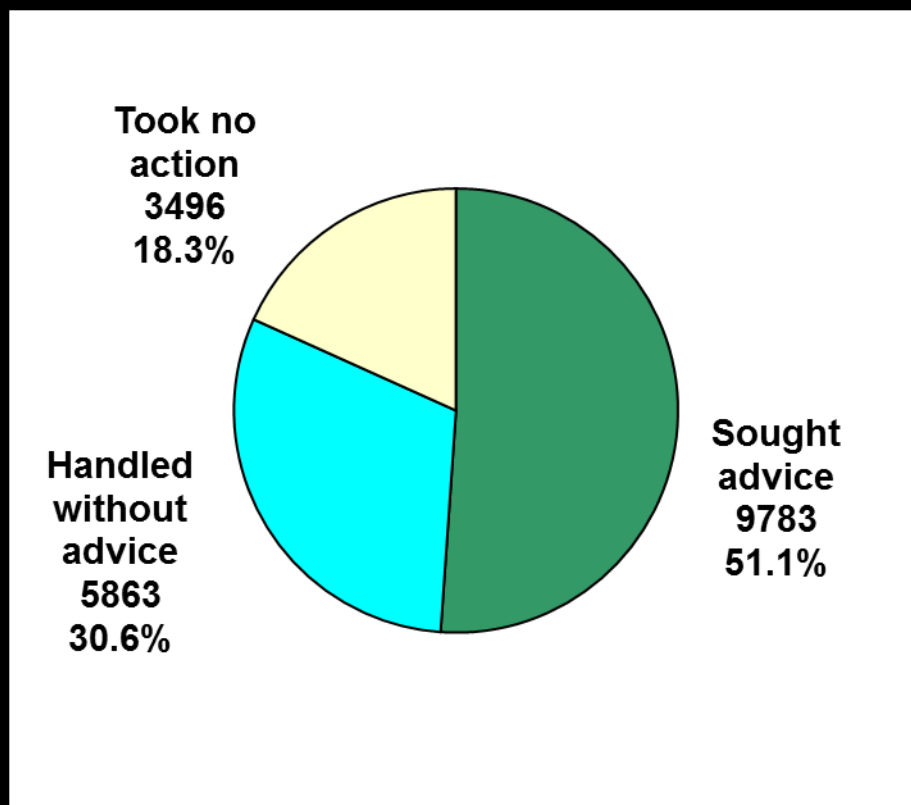
# Vulnerability to multiple problems



N=20716, LAW Survey, Australian - McDonald & Wei



## Response – Overall strategies



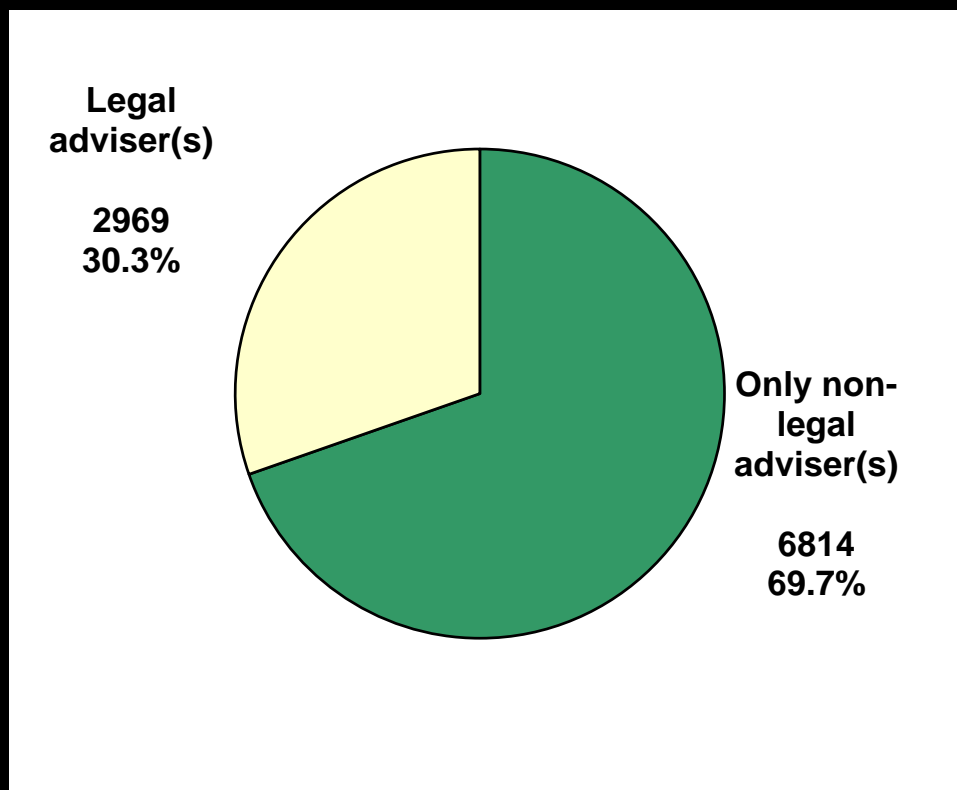
Most people don't consult a lawyer:

- 18% no action
- 31% handled without expert advice
- 51% sought expert advice

Figure: Strategy in response to legal problems, Australia (N=19 142 problems)



# Response – Use of legal advisers



Where sought expert advice:

**30% legal adviser**

*(16% of all problems)*

Figure: Figure 6.3: Use of legal versus non-legal advisers, Australia  
(N=9783 problems)



# Response – by adviser type

	%		%
<b>LEGAL ADVISER</b>		<b>NON-LEGAL ADVISER</b>	
ALS	0.1	Dispute/complaint-handling adviser <i>(e.g. ombudsman, tribunal, family dispute mediation body)</i>	8.1
CLC	1.7	Government adviser <i>(e.g. local council, MP, police government department/agency)</i>	38.8
Court registrar/staff	2.7	Trade or professional association	7.6
LawAccess NSW	0.3	Health or welfare adviser <i>(e.g. doctor, hospital, psychologist, social/welfare worker)</i>	27.2
Legal Aid	6.0	Financial adviser <i>(e.g. accountant, bank, financial planner, insurance company/broker)</i>	22.2
Private lawyer	21.3	Other adviser <i>(e.g. business/service, employer/boss, non-legal community org., school/university)</i>	17.1
Legal adviser — other	2.9		

- Legal advisers:
  - Private lawyers: 21%
  - A not-for-profit legal service: 10%
- Non-legal advisers: broad range
  - Only point of professional contact
  - Often appropriate

Table: Adviser type, Australia  
(N=9783 problems where sought advice)



# Response – legal help by adviser type

Legal help not exclusive domain of lawyers:  
but highest rate

Legal help:

- Pre-packaged legal information
- Advice on legal rights/procedures
- Help with legal documents
- Help with court/tribunal processes
- Help with formal dispute resolution
- Negotiation with the other side
- Referral to a lawyer/legal service

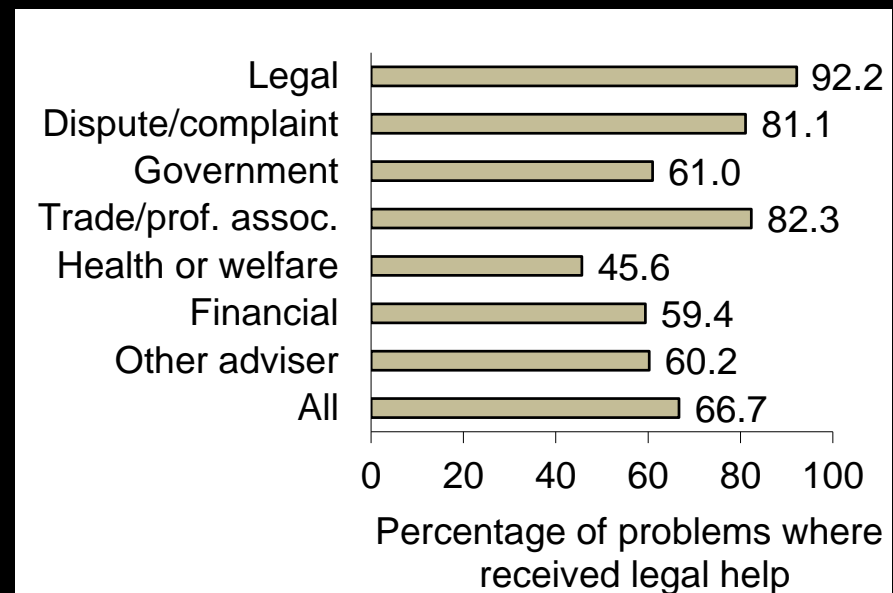
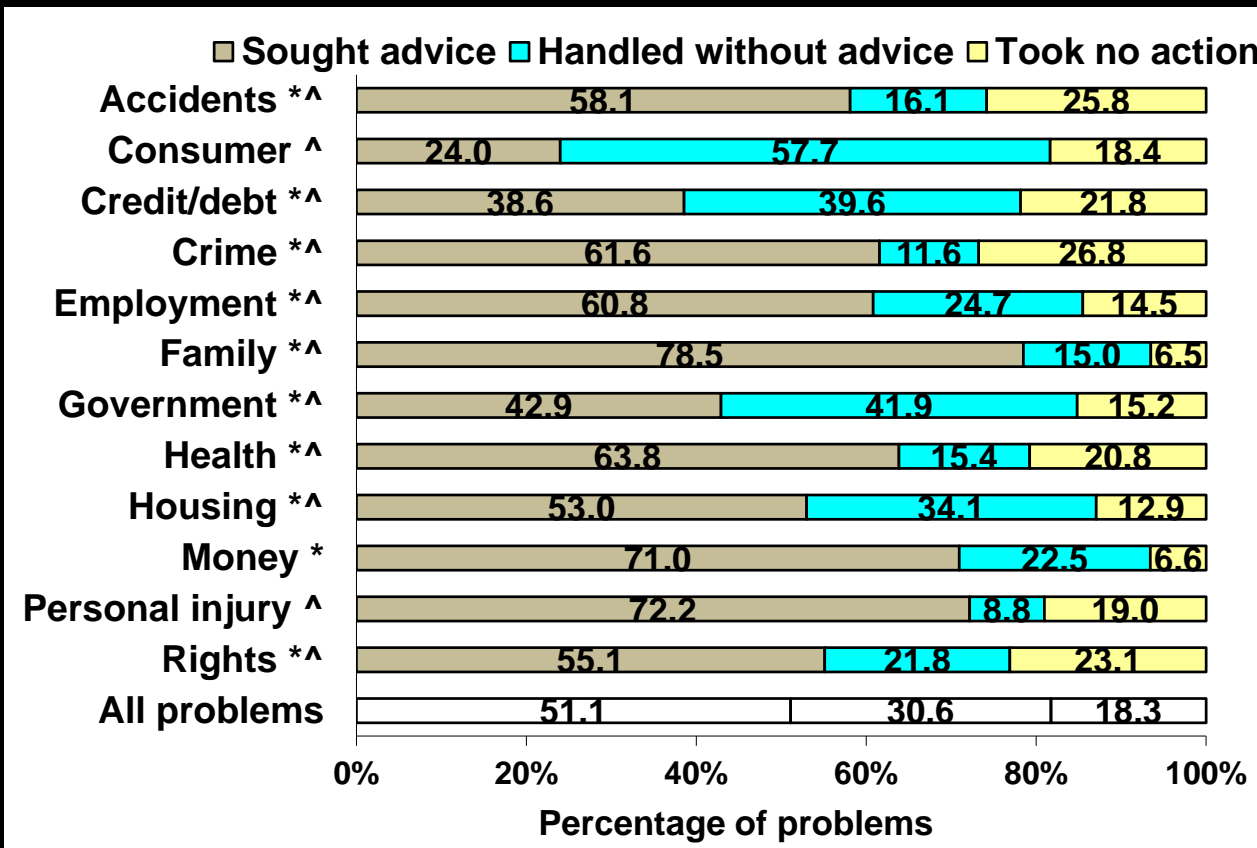


Figure 6.6: Legal help from main adviser by main adviser type Australia  
(N=9327 problems where sought advice)



# Response – by problem group



Taking action and seeking advice: strongly related to problem type

Family – advice

Consumer – handle without advice

Figure: Strategy in response to legal problems by problem group, Australia

(N=19 142 problems)

\* Sig – taking action

^ Sig – seeking advice



# Finalisation of legal problems

Manner of finalisation	%
Court or tribunal	3.4
Formal dispute resolution	1.5
Complaint-handling body	1.9
Agreement with other side	29.9
Respondent didn't pursue further	29.8
Another agency ( <i>e.g. government body, insurance company, police</i> )	15.0
Lawyer's help	1.6
Someone else's help	4.8
Other side didn't pursue further	7.5
Other	4.7

No 'rush' to law

- Finalisation infrequent via:
  - legal proceedings
  - dispute resolution or complaint-handling processes

Table: Manner of finalisation of legal problems, Australia (N=12 090 finalised problems)





# Overlap between legal and non-legal public service needs

Non-legal public service need	Number	% of all LAW Survey respondents	% reporting 1+ legal problems
Health	4,095	19.8	61.0
Housing	1,235	6.0	60.9
Unemployment	1,700	8.2	59.5
Health + housing	507	2.4	66.8
Health + unemployment	971	4.7	61.9
Housing + unemployment	331	1.6	71.3
Health + housing + unemployment	233	1.1	75.1
All LAW Survey respondents	20,716	100.0	49.7



## Conclusion (1):

- Legal problems are widespread and not evenly distributed



## DFV respondents had more legal problems

DFV respondents had

**20**

**legal problems**  
*on average in 1 year*

including **4 DFV**

incidents and *much higher*  
rates of **family, civil** and  
other **crime** problems

---

*other respondents had*

**2 legal problems on average**

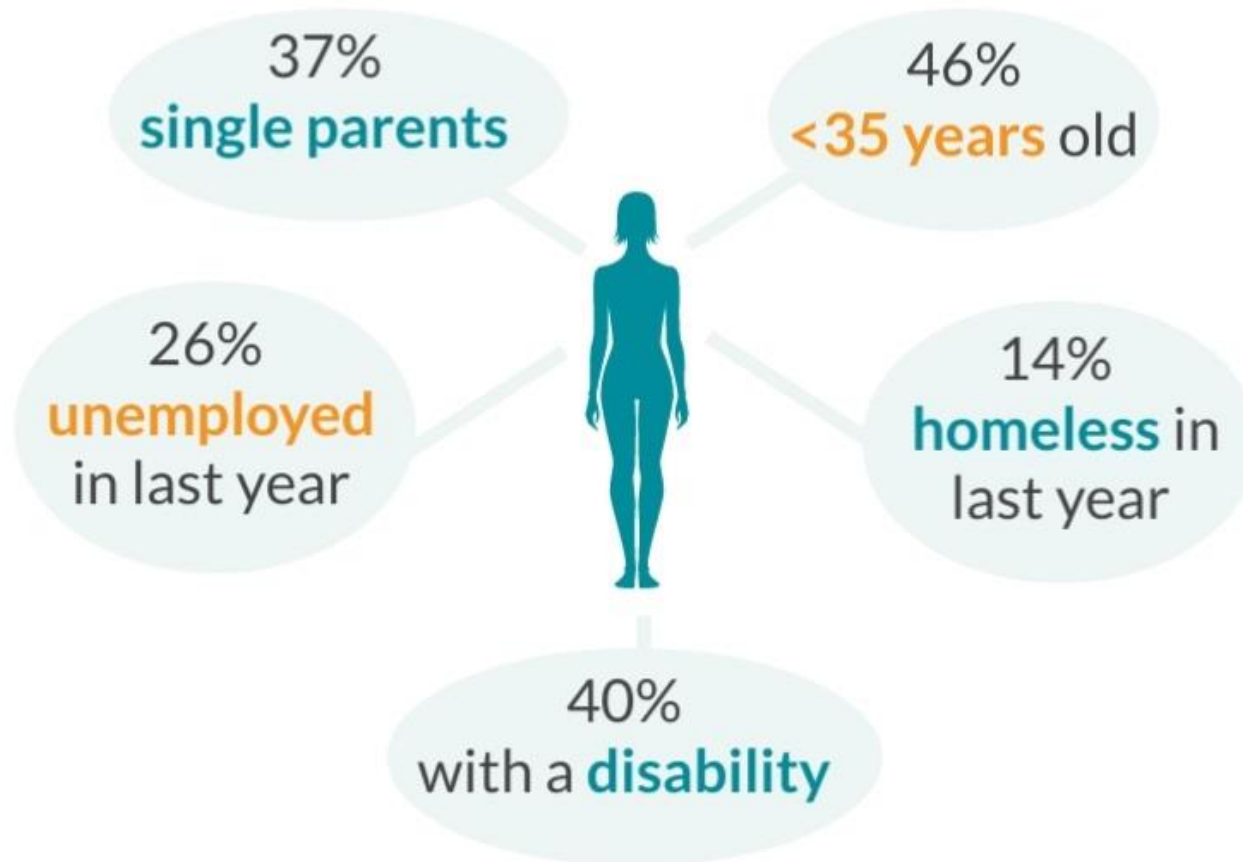


## Conclusion (1):

- Legal problems are widespread and not evenly distributed
- Legal problems intertwined with other legal and non-legal problems



## DFV respondents were more disadvantaged





## Conclusion (1):

- Legal problems are widespread and not evenly distributed
- Legal problems intertwined with other legal and non-legal problems
- People-centered approach – impossible to isolate State & Commonwealth matters



## Conclusion (1):

- Legal problems are widespread and not evenly distributed
- Legal problems intertwined with other legal and non-legal problems
- People-centered approach – impossible to isolate State & Commonwealth matters
- No rush to law



## Conclusion (2): Implications for service delivery

Services should be:

**Targeted** to reach the neediest

**Joined up** to address joined-up, complex life problems

**Timely** to ensure responsiveness as early as practicable

**Appropriate** to the needs and capability of the user