Friday 23 October 2026

Victorian Legal Services Board + Commissioner
Level 27, 500 Bourke Street
Melbourne VIC 3000
Via email: consumerstrategy@lsbc.vic.gov.au

RE: Consumer Strategy consultation

Dear Commissioner and team,

Financial Counselling Victoria (FCVic) welcomes the opportunity to contribute to the Victorian Legal Services Board and Commissioner's (VLSB+C) Consumer Strategy consultation.

FCVic is the peak body for financial counsellors in Victoria. Financial counsellors regularly support people whose legal problems are inseparable from financial hardship, family violence, housing insecurity, fines, debt, small business distress and other forms of disadvantage. Our submission draws on direct feedback solicited from financial counsellors about their clients' experiences with fee-paying Victorian legal services.

The responses present a consistent picture. People experiencing financial hardship often cannot obtain timely, affordable and appropriate legal assistance. When they do engage a legal service, poor communication, limited responsiveness, unclear costs and advice that is difficult to understand can deepen existing disadvantage. Many consumers are also unlikely to complain because they are exhausted, fearful, lack confidence or do not believe that raising concerns will lead to a useful outcome.

1. Legal consumers, protection and empowerment

A broad definition is essential

FCVic supports the proposed broad definition of legal consumer. It appropriately recognises that consumers include people who need or want legal assistance but do not obtain it because of cost, limited availability, lack of knowledge, or other barriers. This is particularly important for financial counselling clients, whose absence from legal-service data can otherwise be mistaken for an absence of need or harm.

We suggest that the definition should also expressly recognise people who are materially affected by the conduct of lawyers even where they are not the lawyer's client. This can be relevant where legal processes affect an opposing party, a family member, a joint borrower, a person experiencing family violence or another person with limited capacity to obtain advice.

Protection must include prevention and redress

FCVic supports a definition of consumer protection that covers the prevention and mitigation of unfair, deceptive and unsafe practices. The Consumer Strategy should make clear that protection also includes access to redress, which should be independent and easily accessible for all consumers.

Empowerment requires supported access

Consumer empowerment should not be understood solely as shifting responsibility onto consumers to navigate a complex market alone. It also requires legal services and regulatory systems to be designed around the circumstances and capabilities of the people who use them.

Therefore the definition of 'consumer empowerment' should not be reduced to giving people more information. Information is valuable only if it is understandable, timely, relevant and accompanied by realistic pathways to support. For many consumers, empowerment will require a trusted person to help them understand advice, communicate with a service or progress a matter. The Consumer Strategy should therefore recognise supported decision-making, warm referral, advocacy and integrated service delivery as core elements of empowerment.

2. Understanding legal consumer needs and experiences

The dominant barriers are cost and service availability

Recognising that there is some respondent bias in feedback collated, the cost of legal services was identified as the predominant barrier by the vast majority of financial counsellors. Other barriers included limited service availability, lack of knowledge, distrust of lawyers and the legal system, long wait times, or language and literacy barriers.

Legal problems are complex. Managing a legal problem alone is difficult even for clients who aren't experiencing different vulnerabilities. Finding an affordable, accessible lawyer who you can trust can be even harder.

These barriers compound one another. A person may be unable to afford private representation, may be ineligible for Victoria Legal Aid, unable to locate a community legal service with capacity, and then be required to manage the matter alone. Several financial counsellors described a cohort with too much income or too many assets to qualify for free assistance, but insufficient available funds for private representation. This 'missing middle' includes people with a home or other asset but little cash flow, people reliant on Centrelink, small business owners, and women facing family-law or property matters.

Community legal services are highly valued but constrained by demand

Financial counsellors frequently spoke positively about community legal services and the important assistance they provide to people who would otherwise have no access to legal help. They highlighted the expertise, commitment and consumer-centred approach of many community legal services, particularly for people experiencing financial hardship, family violence and other forms of disadvantage.

However, financial counsellors also consistently reported that demand exceeds available capacity. They distinguished between the quality of support provided by community legal services and their ability to meet demand, noting that many services are forced by funding constraints to limit assistance to advice and referral even where ongoing representation, casework or advocacy would be more appropriate.

Long waiting lists, restrictive eligibility criteria, geographic limitations and the inability to provide ongoing representation were commonly identified. Many consumers are therefore unable to obtain assistance despite clear legal need. This reflects funding and resourcing constraints rather than a lack of willingness or capability on the part of community legal services.

Access can be further restricted by geographic catchments, conflicts of interest and the increasing specialisation of community legal services. In family violence matters, a conflict may prevent a local service from assisting one party, while limited regional alternatives leave the other person without a realistic pathway to advice or representation. Although specialist services are essential, consumers may also struggle to obtain generalist assistance for common legal issues such as fines and infringements. These structural gaps can result in consumers being referred repeatedly between services without ultimately receiving assistance.

Groups at greatest risk of unmet legal need

Financial counsellors repeatedly identified people on low incomes, victim survivors of family violence, people from culturally and linguistically diverse communities, refugees and asylum seekers, people with disability or psychosocial distress, people with low literacy, people experiencing homelessness or housing stress, Centrelink recipients, incarcerated people, sole traders and small business owners as groups who are underserved by current availability of legal services.

What is clear in financial counselling practice is that people themselves are not inherently vulnerable. Vulnerability arises when systems, policies and processes fail to respond to their particular circumstances and needs.

It is important to consider that these cohorts are not inherently vulnerable – but that vulnerability can arise from the interaction between a person's circumstances and the design, cost, pace and complexity of the legal service or regulatory system. A consumer may have capability in many areas but still be unable to navigate a prolonged, costly or traumatic legal matter without support.

What accessible and responsive services look like

Financial counsellors described accessible services as affordable or free where a person has no capacity to pay, available within reasonable timeframes, and offered through multiple channels including face-to-face, telephone, outreach and online options. They also emphasised plain English, interpreters and translated resources, broad and transparent eligibility criteria, trauma-informed and person-centred intake, and the ability to involve a support person such as a financial counsellor.

They also emphasised the importance of readily available interpreter services and translated resources throughout a legal matter, not only at intake, to ensure consumers can participate meaningfully in decisions affecting them.

For consumers experiencing family violence, accessibility also requires safe and flexible engagement throughout the legal matter. This includes confirming safe methods and times for communication, carefully managing confidential and identifying information, accommodating changes to appointments where safety or trauma affects participation, and minimising the need for consumers to repeat traumatic experiences to multiple people or services.

A strong theme was the need for assistance that goes beyond one-off advice and referral. Advice without casework or advocacy can leave the consumer, or their financial counsellor, carrying a legal problem that is outside their expertise and capacity. Where a service cannot provide ongoing assistance, it should make a warm referral and clearly explain what the next service can and cannot do.

Integrated services should be supported

FCVic's submission earlier this year to the Victorian Law Reform Commission on legal privilege emphasised that integrated practice can reduce the need for clients to repeat traumatic experiences and can deliver more holistic support, better collaboration and stronger outcomes.[1]

Responses from financial counsellors reinforce this position, describing legal services as more responsive when lawyers work alongside financial counsellors, social workers and other trusted professionals, and when consumers can authorise those workers to participate in communications and decision-making.

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[1] FCVic Submission to the VLRC Review of Legal Privilege and Integrated Legal Assistance Services. Accessible via: https://fcvic.org.au/publications/vlrc-submission-2026/

3. Quality, communication and costs

Quality is not just the final legal outcome

A majority of financial counsellors reported that clients had raised concerns about the quality of legal services. The most frequently reported issues were poor communication and lack of responsiveness, with difficulty understanding advice, unexpected costs or billing concerns, and feeling pressured or not listened to were also identified.

From a consumer perspective, quality is not measured only by the final legal outcome. It also includes whether the lawyer listens, explains options and risks, communicates progress, provides realistic expectations, responds within reasonable timeframes and makes costs understandable.

Quality also includes responding in a trauma-informed, culturally safe and person-centred manner, particularly when supporting people experiencing family violence, mental ill-health, homelessness or other forms of disadvantage.

Importantly, consumers also need to understand the broader consequences of a legal outcome, including possible effects on housing, Centrelink, debt, medical care or family safety. A legal outcome, positive or negative, or legal advice, must be considered in the context of the consumer's personal situation as there is a risk that the consumer can be left worse off where system interactions are not adequately considered.

In one matter, a family law property settlement was negotiated without input from the client's financial counsellor. The agreement required the family home to be refinanced into the client's name, with the other party to be paid out. However, the client was unable to demonstrate that they could afford the loan and was therefore unable to refinance the property as agreed.

This created a significant practical barrier to implementing the settlement and highlighted the importance of assessing a client's financial capacity before finalising property arrangements. Earlier collaboration between the lawyer and financial counsellor may have helped identify the affordability issue and explore more realistic options before an agreement was reached.

This case demonstrates the value of integrated legal and financial support, particularly for people experiencing family violence and financial hardship. Better collaboration can help ensure settlements are not only legally agreed upon but financially achievable in practice.

Case study from a financial counsellor

Clearer expectations for legal services

The VLSB+C should develop practical, enforceable expectations for consumer-facing communication. At a minimum, legal consumers should receive in the initial letter of engagement:

- a plain English explanation of the scope of the service and what is not included;
- clear information about fees, likely disbursements, billing stages and circumstances that may increase costs;
- an expectation of regular updates, including when there has been no substantive change; and
- clear information about how to raise concerns, change lawyers or make a complaint.

Where a consumer is experiencing financial hardship, for-profit legal services should be encouraged to discuss affordable payment arrangements and alternatives before costs escalate. Fee transparency should begin before engagement and continue throughout the matter, particularly where delay or adversarial conduct is eroding a limited asset pool.

4. Complaints, dispute resolution and redress

Financial counsellors indicate that the people at greatest risk of poor service may be the least likely to complain. They describe clients who were exhausted by trauma or prolonged proceedings, concerned about consequences, unsure what level of service was acceptable, unfamiliar with complaint pathways, lacking confidence, or convinced that they would not be heard. A power imbalance can also lead consumers to assume that the lawyer must be right.

Consumers may fear that raising concerns will jeopardise an ongoing legal matter, damage their relationship with their lawyer or adversely affect the outcome of their case. This concern is particularly acute where the consumer cannot afford to change lawyers or faces lengthy waits for alternative community legal assistance. Some consumers may also struggle to distinguish between an unfavourable legal outcome and a possible service or conduct issue.

The complaints framework should therefore be designed for people who are not confident, legally literate or able to sustain a complex process. VLSB+C should:

- provide a visible, plain-English entry point explaining what can be complained about and the possible outcomes;
- offer telephone, assisted and non-digital complaint options, with interpreter access;
- allow and encourage consumers to involve an authorised support person, including accepting designated third party authority forms from professionals like financial counsellors;
- use trauma-informed and family-violence-aware processes, including safe contact arrangements;
- provide early triage and active referral where a matter falls outside jurisdiction;
- publish practical guides on costs, poor communication, delay, scope of service and common issues in family law, fines, housing, debt and property matters; and
- communicate outcomes and reasons in clear language, including what the process can and cannot achieve.

We also encourage the VLSB+C to examine whether current redress settings adequately address the power imbalance described by financial counsellors. An accessible process must offer a realistic prospect of timely and meaningful resolution, not simply a place to record dissatisfaction.

5. Systemic issues requiring regulatory attention

The consultation paper describes a risk-based approach to the VLSB+C's Regulatory Approach. We recommend that this risk assessment give particular weight to the severity of harm for people with limited financial or personal capacity to recover, even where the number of formal complaints is low.

Family violence and economic abuse

Financial counsellors describe legal proceedings being used or prolonged in ways that continue financial abuse, increase costs and deplete assets. They also described victim-survivors becoming under-represented when their funds run out, while the other party retains access to resources.

> *I see private lawyers taking on clients impacted by family violence and experiencing significant financial hardship, despite knowing from the outset that the client had limited or no capacity to pay. In some cases, lawyers have proceeded without clearly advising that legal fees may ultimately need to be recovered through the sale of the family home. Once the legal matter has concluded, the client can then face debt collection action for substantial outstanding fees, compounding the financial and emotional impact of family violence.*
>
> **Quote from a financial counsellor**

The Consumer Strategy should prioritise family violence capability across the legal profession, safe complaints pathways, early identification of economic abuse and regulatory attention to unreasonable delay or conduct that foreseeably compounds harm.

Opaque and disproportionate fees

Financial counsellors raised non-transparent fees, unexpected billing, high charges for relatively straightforward services, and cost arrangements that can entangle a consumer in the matter. One example from a financial counsellor involved $47,000 in legal fees from a $500,000 Total and Permanent Disability insurance claim.

"We see deceptive and unconscionable conduct – e.g. charging high fees to help a consumer with having an infringement reviewed while the consumer could have the infringement reviewed free of charge or seeking assistance from a community legal centre."

Quote from a financial counsellor

These examples point to the need for clearer cost disclosure, stronger monitoring of high-risk fee practices and consumer information about lower-cost pathways.

Debt recovery and failure to account for hardship

One de-identified case described lawyers pursuing a consumer following a minor motor vehicle accident. The consumer repeatedly offered affordable repayment arrangements, including during an oral examination, but these offers were rejected. The lawyers instead obtained judgment and pursued further enforcement action, including a warrant to seize property, causing the debt to escalate to more than $20,000. The financial counsellor considered that the consumer did not understand their legal rights and was unable to access legal assistance.

The case also highlights concerns about debt collection practices where sustainable repayment offers were repeatedly rejected in favour of litigation and enforcement action that substantially increased the consumer's liability. The financial counsellor questioned whether the approach was consistent with regulatory expectations that creditors and their representatives act fairly, proportionately and with regard to a person's capacity to pay when recovering debts.

The VLSB+C should consider how lawyers acting in debt collection can be expected to take account of sustainable repayment proposals, financial hardship and the disproportionate impact of escalating enforcement costs.

Service scope, referral and role clarity

Financial counsellors raised concerns of harm where services accepted a matter but later determined that the client was ineligible or outside scope, without providing an effective referral.

"A regional CLC took on all disaster impacted clients, telling the community they would take anyone in need. Several months after the event, many community members received letters advising they were not eligible for service/the CLC could not assist them. There was no referral pathway provided, leaving many without an advocate to negotiate their insurance claim. Several community members reported a distrust of all services after this experience."

Quote from a financial counsellor

They also raised the importance of clearly identifying whether a person providing community legal education is a lawyer and the limits of any information given. They were particularly concerned that consumers do not always understand the distinction between legal information, legal education and

legal advice, creating a risk that people may rely on information beyond the provider's role or expertise.

Areas of persistent unmet need

Financial counsellors identified persistent gaps in family law and property settlement, fines, housing, public tenancy, taxation, small business insolvency, child support and debt matters. They also reported that many consumers struggle to identify which area of law applies to their problem or which legal service is best placed to assist, resulting in delays, repeated referrals and missed opportunities for early intervention.

While the VLSB+C cannot address all service shortages through regulation, it can use its roles as regulator, funder and investor to support integrated services, targeted grants, clearer referral pathways and evidence-based responses to unmet need.

6. Technology and artificial intelligence

Financial counsellors saw potential for technology and AI to improve efficiency and free professional capacity. However, they also raised risks of inaccurate AI-generated information, unrealistic expectations, privacy concerns, lack of human oversight and deskilling. Several emphasised that consumers value human contact and that AI should support processes, not replace relationships.

These risks are likely to fall most heavily on consumers who cannot afford legal advice, have low legal or digital literacy, use English as an additional language, or are attempting to resolve urgent matters without support. A confident presentation by an AI tool may be mistaken for reliable and personalised advice.

We do not seek to prescribe how the legal profession should manage the use of AI. However, legal practitioners may wish to consider **FCVic's AI Ethics Framework for Financial Counselling** as a practical resource for ensuring AI is used transparently, responsibly and with appropriate safeguards for vulnerable consumers.[2]

7. Engagement and implementation

The VLSB+C should build sustained relationships with organisations that hear about legal service problems before they become formal complaints. This includes financial counselling organisations, community legal centres, family violence services, disability organisations, multicultural and refugee organisations, Aboriginal community-controlled organisations, housing and tenancy services, small business support services and regional community organisations.

Engagement should be ongoing, accessible and two-way. The VLSB+C should report back on themes raised, explain what action is being taken, and create simple pathways for trusted organisations to share de-identified intelligence about emerging or systemic harm. Grants and funding relationships should also include mechanisms for identifying service gaps and consumer experience without imposing disproportionate reporting burdens on frontline services.

Conclusion

We welcome the VLSB+C's commitment to a Consumer Strategy. The survey responses show that the central challenges are not confined to consumer knowledge or expectations. They also arise from unaffordable services, limited capacity, weak referral pathways, poor communication, opaque costs, power imbalances and the difficulty of obtaining redress.

A strong Consumer Strategy will recognise that people experiencing financial hardship often need more than information. They need timely access, human support, understandable advice, transparent

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[2] Digital Transformation Roadmap. Volume 2: AI Ethics Framework for Financial Counselling. Accessible via: https://fcvic.org.au/digital-transformation-roadmap/

costs, safe complaints pathways and a regulator prepared to act on patterns of harm even where formal complaint numbers are low.

Thank you for the opportunity to contribute to this important consultation. Please contact FCVic's Advocacy Manager Amanda Chan on achan@fcvic.org.au if you have further questions.

Regards,

Zyl Hovenga-Wauchope
Chief Executive Officer
Financial Counselling Victoria