



BRIMBANK

Justice Out West

Brimbank Melton
Community Legal Centre
A PROGRAM OF COMMUNITY WEST INC.

Legal needs and
barriers to accessing
the justice system
in Brimbank



Acknowledgements

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Sunshine Youth Legal Centre

Victoria Legal Aid

Victorian Aboriginal Legal Service

Youth Law

Foreword

Brimbank Melton Community Legal Centre (BMCLC), a program of Community West, has undertaken an extensive legal needs analysis to provide an evidence-based approach to developing and delivering legal services in our Brimbank community.

Justice Out West: Legal needs and barriers to accessing the justice system in Brimbank, demonstrates the unique and sometimes challenging circumstances in which our clients live, work and study. The report highlights a range of issues and provides context for community service organisations delivering services in the Brimbank region. Community West and BMCLC will use this report and its recommendations to evaluate the services we provide and plan for the future to ensure we are meeting the needs of our community.

We would like to extend our appreciation to the significant stakeholders who contributed to this report – from members of the judiciary and legal practitioners to community housing, settlement and education service providers. Their contribution has enhanced this report by adding practical and relevant information from the “front line”, to enable us to fully comprehend the reality of unmet legal needs in Brimbank.

We also thank the funder of the report, Victoria Legal Aid, for recognising the value of undertaking local-scale legal needs analyses, which serves to strengthen the findings of the national LAW Survey (which has been referenced throughout this report).

Finally, we wish to acknowledge the very large amount of work undertaken by James Edwards, Project Officer, in creating not just another report, but a valuable piece of work that will be put to immediate practical use by BMCLC, Community West and hopefully a broad range of our colleagues in the community sector.

**JAMES MCCARTHY (CHAIRPERSON)
& RACHNA MUDDAGOUNI (CEO)
OF COMMUNITY WEST**

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Executive Summary

Community West

Community West is a leading non-profit agency that provides essential community services in Melbourne's western suburbs, with a particular focus on the Brimbank, Melton and Bacchus Marsh communities. Community West hosts the Brimbank Melton Community Legal Centre (BMCLC), Adult Education Program, Family Services Program and the community development activities of the Neighbourhood House Program. Our Services are pivotal to community strengthening in Melbourne's western suburbs. This project was commissioned to inform the service delivery model and ensure Community West's mission to be leaders in community strengthening in Melbourne's west is met.

Project Aim

Justice Out West identifies the types of legal needs and barriers to accessing the justice system that our community experiences. This greatly assists in the delivery and planning of appropriate and effective activities for the community legal services program. The report makes a number of findings that highlight the unique considerations and the many challenges for community legal service delivery in Brimbank.

The analysis in this report is gleaned from the following sources:

- population data;
- client access data for Brimbank Local Government Area (LGA);
- client surveying; and
- Community West staff and external community consultations.

This approach provides a dynamic legal needs perspective that we anticipate will guide our approach for inclusive planning of service delivery in Brimbank. The method and production of this report aligns with our strong values of community and stakeholder engagement to work creatively and responsibly in the community. It is premised on targeting services and programs at those who are most in need in our community. This report also builds on Community West's active membership in the Western Region Legal Assistance Forum.¹

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The Western Legal Assistance Forum is a forum of community organisations delivering a range of services in Melbourne's outer west who are committed to working collaboratively to address legal issues faced by our community.

Major Findings

Selected major findings from this report are:

- there is a particularly high prevalence of unmet legal needs and demand for community legal assistance in Brimbank;
- family law, credit/debt, crime and civil matters are prominent areas of legal needs in our community;
- severe socio-economic disadvantage in our community impacts on the types of legal needs and the barriers to accessing the justice system; and
- cost, access to services, lack of legal knowledge and other social determinants, such as mental illness, housing or education, are substantial barriers to accessing the justice system in our community.

Key Recommendations

Based on our findings, the key recommendations are that:

- a range of legal assistance provision including advice, advocacy, casework and community legal education be utilised to meet the unmet legal needs in Brimbank;
- specialist and targeted advice clinics and community legal education be developed with the aim of reducing the multiple and substantial barriers to accessing the justice system; and
- community legal service providers in Brimbank work in partnership with other legal assistance providers and other non-legal community organisations, to build capacity to deliver the most effective legal programs in Brimbank and the Western region.

One: Introduction

This report presents the extent of legal need, types of legal needs and the barriers that our Brimbank community faces in accessing the justice system. It is intended that the report will form part of an evidence-based approach to analysing and reshaping community legal service delivery in Brimbank and Melbourne's Western Region.

The low socio-economic status of Brimbank and the high levels of disadvantage in our community are compounded by a high prevalence of legal events experienced in our community and high demand for community legal assistance.

Existing surveys have found that disadvantaged members of the community have high incidences of legal needs and experience substantial barriers to accessing the justice system and legal assistance. In addition, other life events, including economic circumstances and physical or mental illness, impact on an individual's ability to engage with the justice system.

The first part of this report provides a detailed demographic profile of Brimbank. It distinguishes our community from other metropolitan LGAs on key indicators of legal needs and factors affecting access to the justice system. The types of legal needs experienced in Brimbank are captured in the Community Legal Service Information System (CLSIS) and Victoria Legal Aid (VLA) data. Together with information on barriers to accessing assistance, our client survey explores this data in detail. Specific areas of need are highlighted and considered through staff and community consultation, to provide an holistic legal needs perspective to be used to shape community service delivery.



Legal Needs Surveying

Existing legal needs surveys have established the prevalence of legal needs, the link between certain demographic indicators and types of legal needs as well as multiple barriers to accessing the justice system (particularly in the relationship between non-legal and legal events). However, legal needs findings in Australia are taken from large geographical area surveys. This report provides a specific analysis of the Brimbank community.

Justice Made to Measure: NSW Legal Needs Survey in Disadvantaged Areas (Coumarelos, Wei & Zhou 2006) and the *Legal Australia-Wide (LAW) Survey* (Coumarelos et al., 2012) provide the most recent findings for Australia. They find:

- disadvantaged members of the community, socially excluded groups and persons with a disability or chronic illness are more vulnerable to legal needs;
- inaction regarding a legal problem is more common than not, frequently due to access, cost and information barriers;
- disadvantaged members of the community have lower access to and engagement with the justice system, lawyers or the court system;
- effective identification of a legal need is a barrier to access;
- all members of the community often seek assistance outside the formal justice system, through family, friends or non-legal professionals; and
- legal needs have legal and non-legal implications, affecting physical and mental health, and social and economic aspects of people's lives.

Key Indicators of Legal Needs and Barriers to Accessing Justice

Justice Made to Measure and the *LAW Survey* found the following demographic indicators significantly impact on legal needs and barriers to accessing the justice system.

AGE

Age can inform the propensity and type of legal need a person is likely to experience. Young to middle aged adults are most likely to experience a legal need (Coumarelos et al., 2012). While certain legal needs are more common in each age group (Coumarelos, Wei & Zhou 2006; Coumarelos et al., 2012; Stubbs, 2010):

- Youth:** crime, government, consumer, housing and family law;
- Middle age:** family, housing, government, credit/debt and employment; and
- Older age:** money, housing and health.

GENDER

Gender can contribute to a person's experience and interaction with the legal system. Males and females are likely to experience similar legal needs (Coumarelos et al., 2012) but women are more often the victims of gender and family violence, and often have less access to resources to engage with the legal system (Stubbs, 2010).

CULTURAL AND LINGUISTIC DIVERSITY

Cultural and linguistic diversity is associated with low prior knowledge of the justice system and communication difficulties. Ineffective identification of a legal need was considered a major factor in the *LAW Survey* (Coumarelos et al., 2012) to explain underreporting of legal needs by respondents with a non-English first language. The survey also found that some members of the community are less likely to respond to an identified legal need, primarily due to higher barriers faced in accessing the justice system.

High social exclusion, disadvantage and cultural difference in Indigenous Australians reduce access to the legal system and legal services (Parliament of Australia, 2004). In Victoria, Indigenous Australians presented twice as likely to experience multiple legal needs than non-Indigenous Australians (Coumarelos et al., 2012).

SOCIO-ECONOMIC DISADVANTAGE

Legal needs are found to be higher in socio-economically disadvantaged communities, which also face substantially higher barriers to accessing the legal system and services (Coumarelos, Wei & Zhou, 2006). Income, employment, housing, education and family structure are all indicators of socio-economic status. Unemployment was found in the *LAW Survey* (Coumarelos et al., 2012) to be correlated with a higher risk of experiencing overall, multiple and substantial legal needs, particularly in the areas of credit/debt, consumer, government and rights. Furthermore, people living in disadvantaged housing reported higher legal needs in credit/debt, crime, employment, family, government and housing issues.

A higher prevalence of legal needs is compounded by difficulty accessing the legal system. Income and education levels are correlated with a person's effective response to a legal need (Coumarelos et al., 2012), and the likelihood of a person taking action or seeking professional legal advice to deal with a legal need.

HOMELESSNESS AND RISK OF HOMELESSNESS

Homelessness and being at risk of homelessness impact on a person's legal needs. Just prior to becoming homeless, family, family violence, debt and housing are found to be prominent legal needs, while crime and fines are most prominent with people living in prolonged homelessness (Forell, McCarron & Schetzer, 2005). The high rate of legal needs for homeless persons is further complicated by the daily struggles of homelessness and additional forms of social disadvantage (for example, mental illness) that increase the barriers to accessing the justice system (Coumarelos & People, 2013).

DISABILITY AND MENTAL ILLNESS

People with a disability or chronic illness, including mental illness, have a higher likelihood of experiencing overall, multiple and substantial legal issues, in nearly all areas of legal need (Coumarelos, Wei & Zhou, 2006; Coumarelos et al., 2012). It is less likely they will report a legal need or access assistance due to difficulty identifying a legal need and difficulty engaging with the right services. These barriers are exacerbated by discrimination and feared discrimination when attempting to engage with services (Karras et al., 2006, p.91).

Understanding key demographic indicators and their link to different types of legal needs and barriers to accessing the justice system helps to understand how the high socio-economic disadvantage in Brimbank, (demonstrated in the next chapter, Our Community Profile) impacts on the legal needs of our community.

Method

The Brimbank Legal Needs Analysis consists of four parts:

- a statistical profile of our Brimbank community;
- information regarding legal assistance sought from BMCLC and VLA;
- a survey of clients accessing Community West services in Brimbank; and
- consultation with staff at Community West, local community service providers and members of the justice system.

This approach enables a detailed analysis specific to our Brimbank community. The sources of analysis, and the focus on disadvantaged members of the community draws on recent models of legal needs analysis used in New South Wales (Ellison et al. 2004) and Victoria (Bruxner & Wise, 2011).

Population data for Brimbank LGA is presented to establish the degree of socio-economic disadvantage found to impact legal needs and access barriers. This is followed by information from CLSIS data from BMCLC and calls to the VLA Legal Help Line, which captures the types of legal needs Brimbank residents are seeking assistance with. This data is complemented by the client survey and service provider consultation process that establishes the context in which legal assistance is sought and allows consideration of specific issues. Thus each section of this report builds a layer of analysis that contributes to a comprehensive understanding of legal needs in Brimbank.

The particulars of each stage are outlined at the beginning of each chapter. This report uses a categorisation of types of legal needs consistent with recent Australian legal needs surveys (Coumarelos, Wei & Zhou, 2006; Coumarelos et al., 2012) to allow for comparison across surveys. A full list of the categories of legal needs used in this report is available in the appendix.



Justice out west

Legal needs and barriers to accessing the justice system in Brimbank

Two: Our Community

Brimbank has a significantly large LGA, covering 123.4 km². Located in outer western Melbourne, it is roughly 20 kilometres from Melbourne's central business district. The Brimbank City Council covers the following suburbs (or parts of the following suburbs): Albanvale, Albion, Ardeer, Brooklyn, Cairnlea, Calder Park, Deer Park, Delahey, Derrimut, Hillside, Keabla, Keilor, Keilor Downs, Keilor East, Keilor Lodge, Keilor North, Keilor Park, Kings Park, St Albans, Sunshine, Sunshine North, Sunshine West, Sydenham, Taylors Lakes, Tullermarine.

This chapter provides a detailed picture of our Brimbank community using the most recent Australian Bureau of Statistics (ABS) 2011 Census data as well as information from Victoria Police and additional health and community indicators. To establish our community relative to the rest of Melbourne, statistics for Greater Melbourne or Victoria are used as a point of comparison.



Demographics

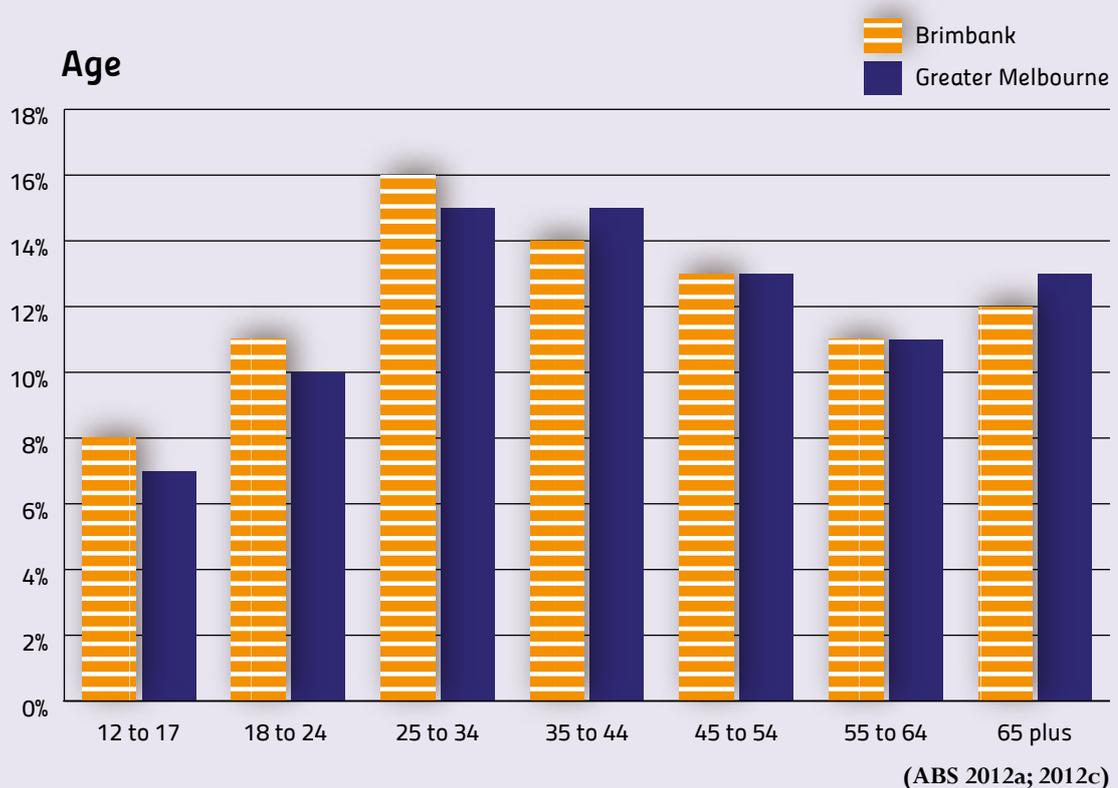
POPULATION

On the night of the ABS 2011 Census (2012a), Brimbank had 182,735 residents with almost equal representation of males and females. Between the 2006 and 2011 census, Brimbank's population grew 8.6%, an increase of 14,523 residents over the five-year period. This is a steady growth rate but it is slightly below the 11.3% growth for Greater Melbourne. Growth rates across Brimbank were not uniform. For example, Deer Park – part of the Western Melbourne growth corridor – experienced rapid 34.5% growth yet in Keilor there was negative 3.2% growth.

Brimbank is estimated to grow at a rate of 6.8% between 2011 and 2016 (DPCD 2012). Using a 2011 population estimate of 191,619, the 2016 population is estimated to reach 204,572 residents.

AGE

Age distribution in Brimbank is reasonably even. The table below shows the age distribution for key age brackets. In comparison to Greater Melbourne, Brimbank has a slightly younger population with a larger percentage of residents in secondary and tertiary education age groups.

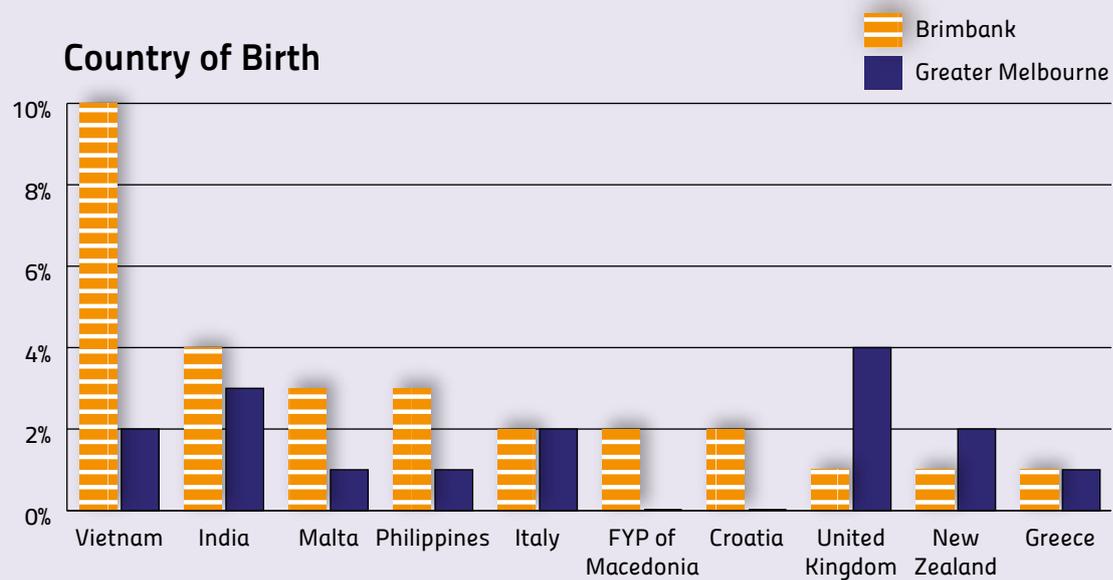


CULTURAL DIVERSITY

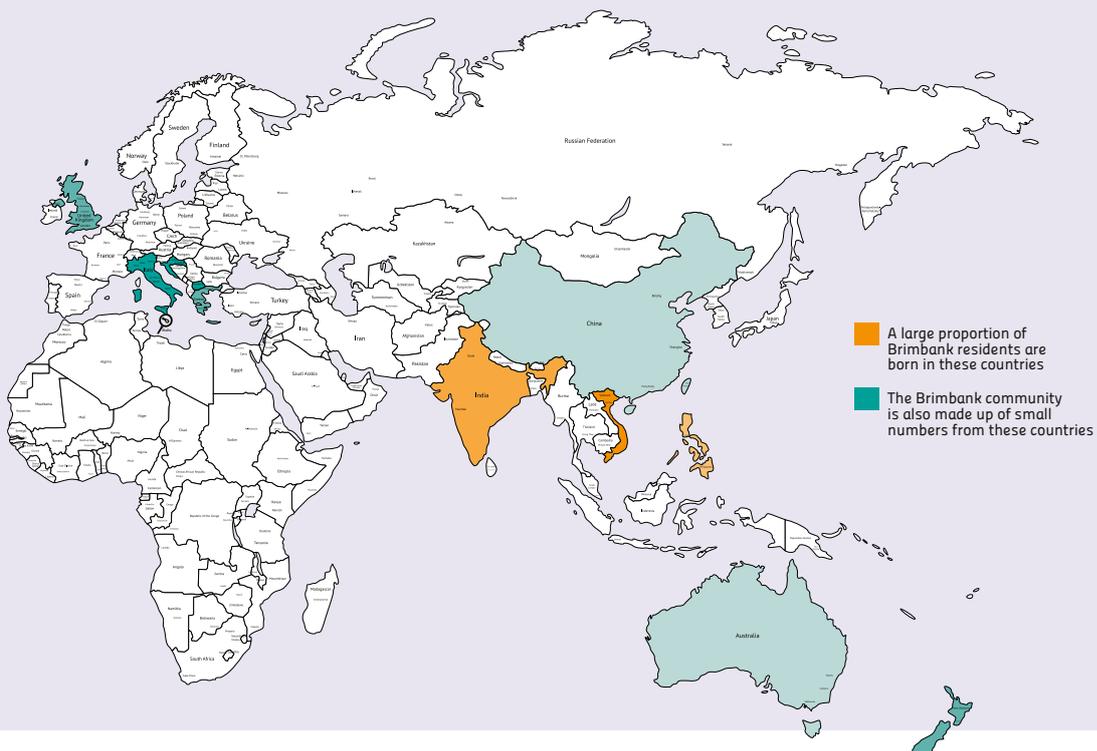
Our Brimbank community is rich in the number and variety of cultural and linguistic backgrounds.

The Indigenous population in Brimbank is small but significant. The 2011 Census (ABS, 2012b) recorded 702 Brimbank residents identifying as Aboriginal or Torres Strait Islander, representing 0.4% of Brimbank's population. In comparison, 0.5% of Greater Melbourne residents identify as Aboriginal or Torres Strait Islander.

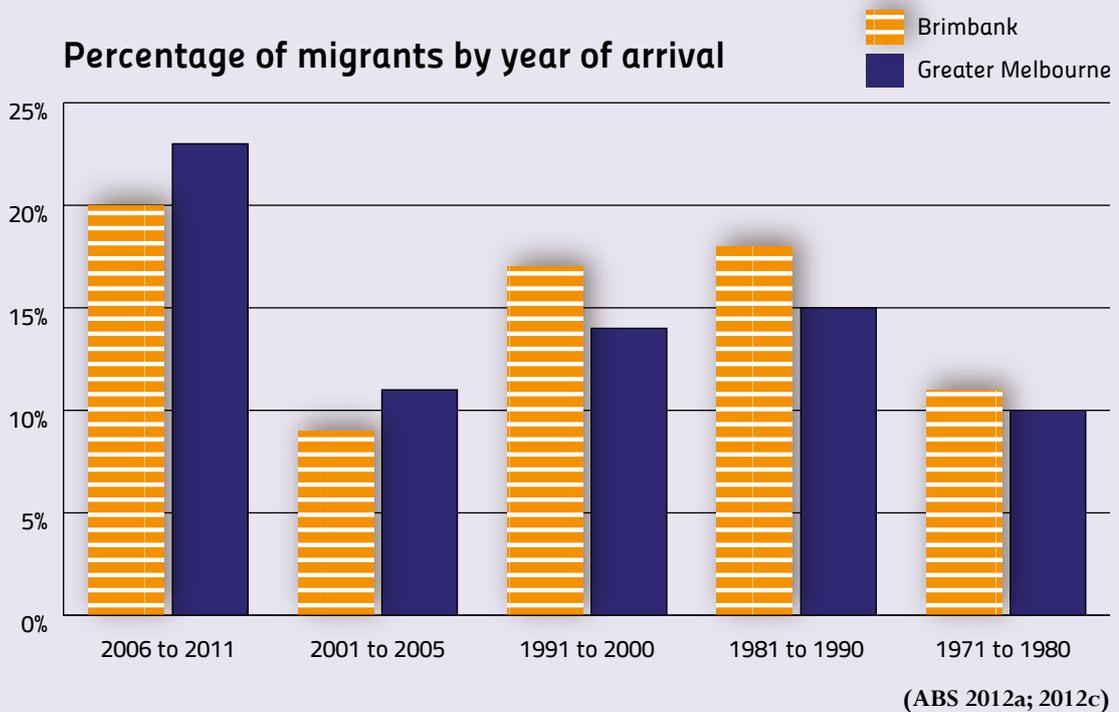
Nearly half (46.13%) of Brimbank residents were born outside Australia compared to 31.5% in Greater Melbourne. The following table shows a high proportion of residents born in Vietnam, with Southern and Eastern European countries: Malta, Italy, and Macedonia, are strongly represented. There has also been a significant increase in residents born in India, the Philippines and China.



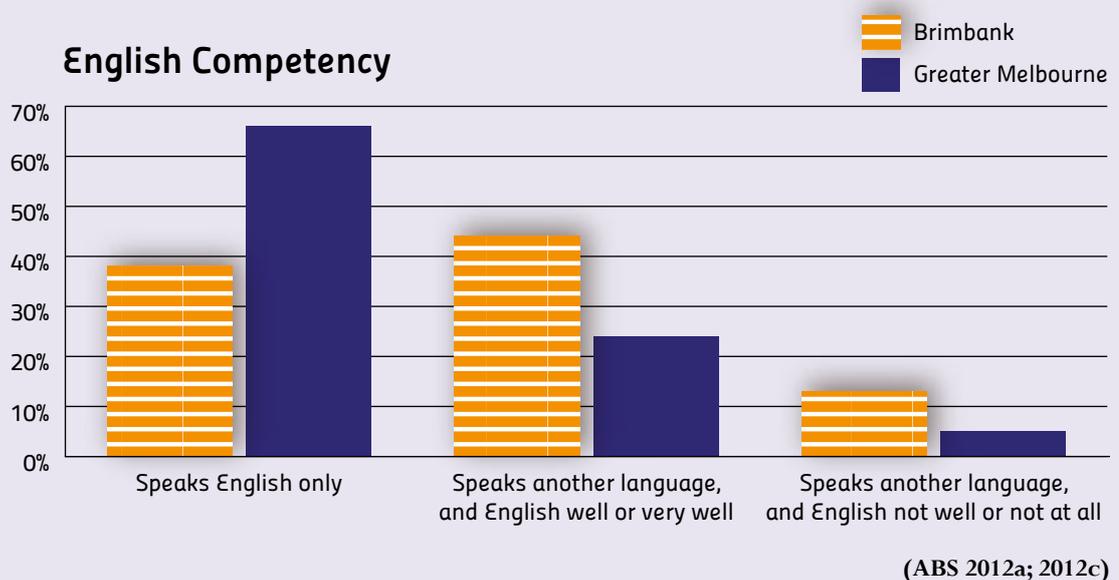
(ABS 2012a; 2012c)



Brimbank has a large number of new and established migrants. The following table shows the year of arrival in Australia for residents born overseas. 19.6% of residents born outside Australia (7.5% of Brimbank’s total population) arrived in Australia within the last five years. At the same time, Brimbank has a significant proportion of residents who are established migrants with second and third generation families. The percentage of Brimbank residents arriving in Australia in each of the three decades proceeding 2000 is larger than the corresponding percentages in Greater Melbourne.



A myriad of languages are spoken in Brimbank and English is spoken to varying degrees. The table below shows the percentage of uni- and multi-lingual residents and their English competency. In Brimbank, 56.2% of residents speak a language other than English at home, nearly twice that in Greater Melbourne (29%). The most significant figure is the percentage of residents who do not speak English well or at all: 12.5% of residents, which is more than two times that in Greater Melbourne (5%).

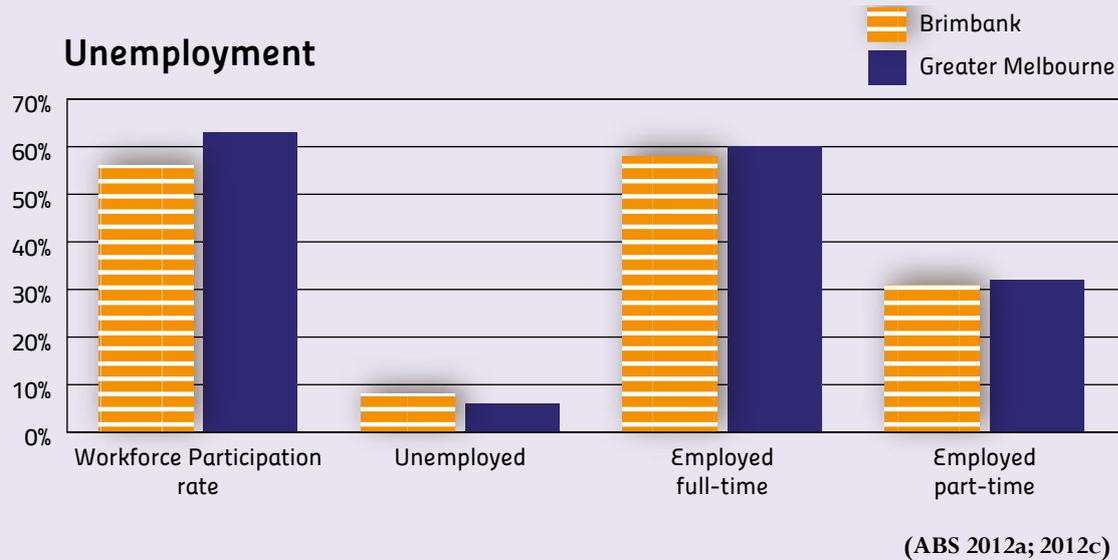


Socio-economic Disadvantage

The 2011 ABS Socio-Economic Index of Areas (SEIFA) (ABS 2013) of social economic disadvantage ranked Brimbank as the second most disadvantaged Melbourne metropolitan LGA and the third most disadvantaged LGA in Victoria.

UNEMPLOYMENT

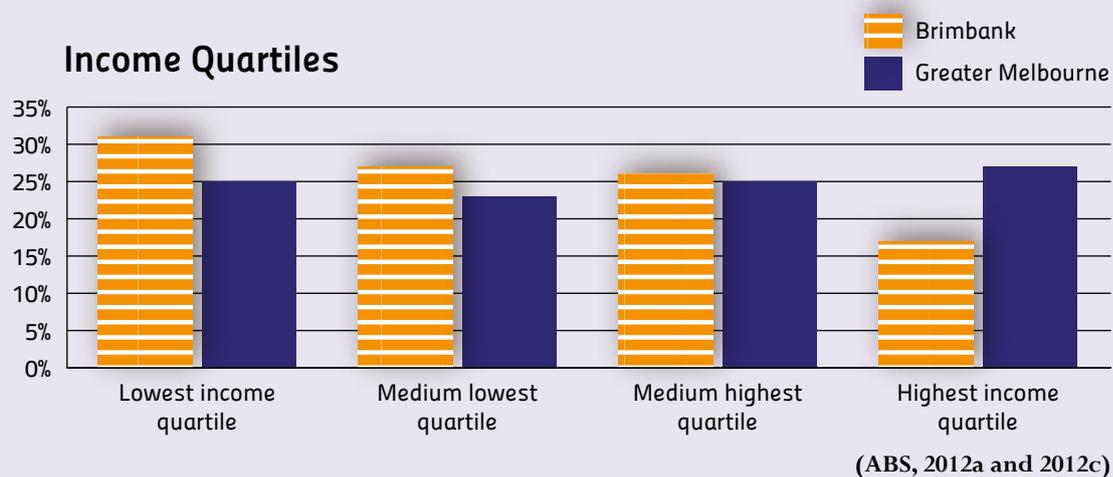
Unemployment in Brimbank was 8.3% on the night of the 2011 Census, significantly higher than 5.5% for Greater Melbourne (ABS 2012a; 2012c). While the workforce participation rate in Brimbank (56.3%) is also lower than Greater Melbourne 62.5%.



INCOME

The median individual income in Brimbank was \$429 per week in the 2011 Census (ABS, 2012a). Median family income is \$1,195 and median household income is \$1,106 per week. These are all far lower than the equivalent median incomes in Greater Melbourne (\$591, \$1,567 and \$1,333 respectively, ABS, 2012c).

The following table demonstrates the income disparity between Brimbank and Greater Melbourne. In the table below Victorian incomes are divided into quartile ranges and the percentage of residents in Brimbank and Greater Melbourne whose income falls into each of the income quartiles are shown. The lowest quartile is the income range for 31.4% of Brimbank's population while only 16% are within the highest quartile.



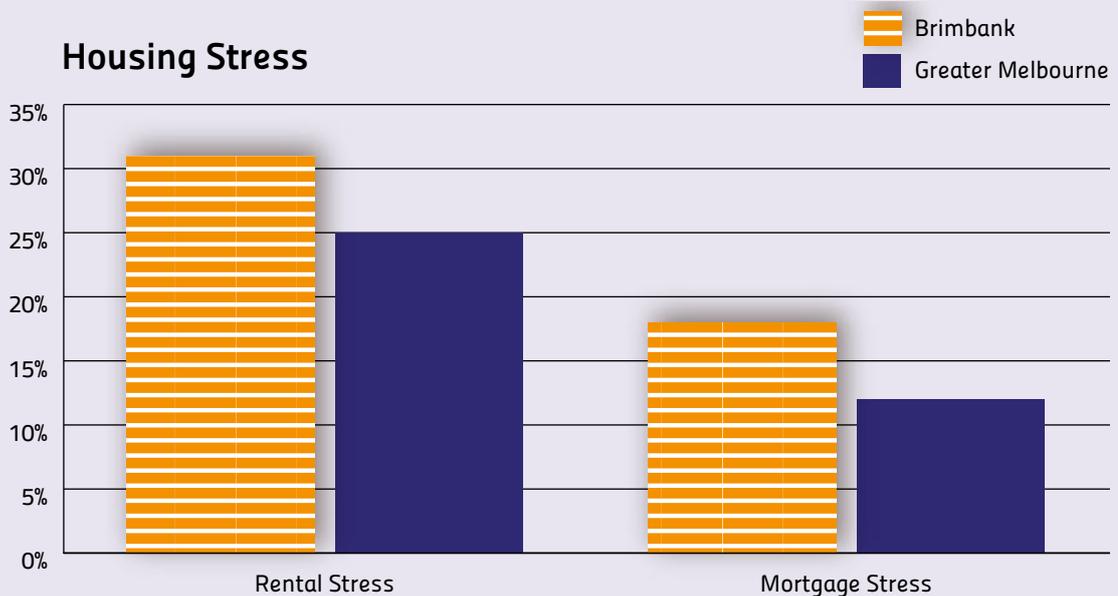
INDUSTRY OF EMPLOYMENT

The four largest employment industries for Brimbank residents are: manufacturing (15.7%), retail (11.1%), transport and warehousing (9.2%) and healthcare services and social assistance (9.1%) (ABS, 2012a). Employment in manufacturing is higher for Brimbank residents than for Greater Melbourne (10.8%). However, the manufacturing industry is experiencing significant change. In 2006, 19.3% of Brimbank residents were employed in manufacturing and by 2011 that figure dropped to 15.7%.

HOUSING

Brimbank residents experience higher rental and mortgage stress than residents in Greater Melbourne. Philips, Chi & Harding (2006) define rental and mortgage stress as a household in the lowest 40% of incomes that pays more than 30% of their income on rent or mortgage payments. Using this measure, in Brimbank, 30.5% of households falling within the lowest 40% incomes, are under rental stress (in comparison to 24.9% in Greater Melbourne). The difference is more apparent for mortgage stress, where 18.4% of Brimbank households falling within the lowest 40% of incomes are living under mortgage stress (compared to 11.5% in Greater Melbourne).

Taking a more general measure to household expenditure on rent and mortgage payments, 8.8% of Brimbank residents pay 30% or more of their household income on rent and 12.3% of households pay 30% or more of their income on mortgage repayments (ABS, 2012a). The respective figures for Greater Melbourne are 24.9% (rental) and 11.7% (mortgage repayments) (ABS, 2012c).



(ABS 2012a; 2012c, compiled by Atlas.id 2013)

HOMELESSNESS

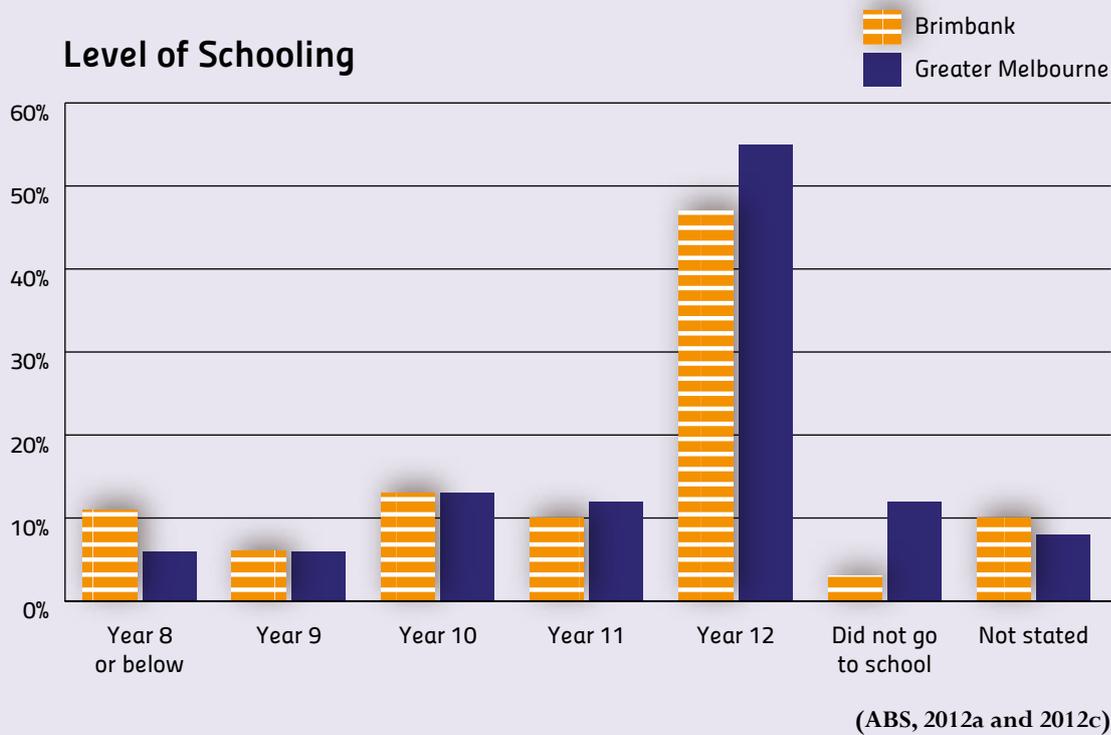
Victoria's fourth largest homeless population is in Brimbank. The ABS Census (2012e) recorded 1,125 homeless persons in Brimbank on Census night (0.6% of the community).

Brimbank also has the second highest number of persons living in supported accommodation.

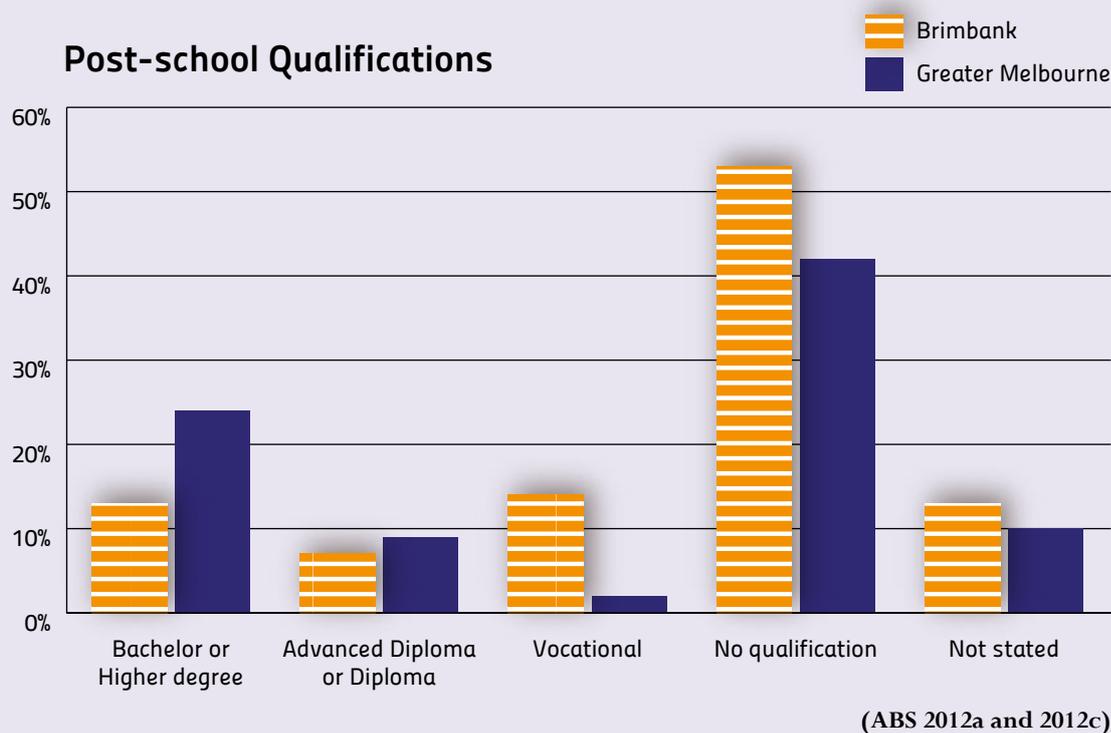
Brimbank has the second highest number of persons living in 'severely' over crowded dwellings (675) and the second highest number living in crowded dwellings (1243) of all Victorian LGAs (ABS 2012e).

EDUCATION

There are large groups of Brimbank residents with no or low levels of formal education. As many as 10.9% only completed to Year 8 or below, substantially higher than the 6.4% in Greater Melbourne. 47.3% of Brimbank residents have completed year 12 or equivalent, compared with 54.3% in Greater Melbourne.



Post-school education levels are also significantly lower in Brimbank than in Greater Melbourne. More than half (53%) of Brimbank residents have no post-school qualification, compared to 42.4% in Greater Melbourne.



COMMUNITY ENGAGEMENT

There are low indicators of community participation and engagement in Brimbank. The Community Indicators Victoria *Wellbeing Report* (2011) asked a sample of residents about their level of satisfaction and the extent to which they feel part of the community; the response from 0 to 100 in Brimbank was 65.1 while the average for Victoria was a higher 72.3.

The same survey recorded the percentage of residents who had attended a town meeting, public forum, engaged with their local politician or joined a petition or protest in the previous 12 months. Only 35.6% of Brimbank residents responded as having done so, compared to 50.5% across Victoria.

DISABILITY

Brimbank has a high level of people requiring assistance with core daily activities (for example, household activities, mobility or communication). 5.8% of Brimbank residents require such assistance in comparison to 4.5% in Greater Melbourne. While this is only one indicator of the number of residents living with a disability, it is indicative of the considerable gap between the Brimbank and Greater Melbourne average.

MENTAL ILLNESS

Mental illness in the Brimbank community is well above the state average levels. *The Victorian Population Health Survey 2008* (DPH, 2008, p.257) reported 16.7% of residents in Brimbank experience high and very high levels of physiological distress compared to the Victorian average of 11.4%.

Crime Statistics

Crime rates are high in Brimbank. Victoria Police (2013) recorded 1,231.6 crimes against the person per 100,000 people in Brimbank, well above the 1,026.7 recorded for Victoria.

Crimes against property were 6,500 per 100,000 people in Brimbank as opposed to 4,640.7 per 100,000 in Victoria. The high degree of recordings for justice procedure² is notable in Brimbank: 831.4 recordings per 100,000 people in contrast to 542.2 for Victoria.

In Brimbank 1,004.3 family violence incidents per 100,000 population were recorded by the Victoria Police (2013a) which is nearly the same as the number recorded for the entire State (1071). However, the number of family incidents which led to criminal charges being laid is 47.2% in Brimbank, while only 42% of incidents in Victoria resulted in charges being laid. The number of intervention order applications made by Victoria Police for family violence incidents is nearly twice as frequent in Brimbank (30.4% of incidents) than for the whole of Victoria (17.2%). The police can also apply for a family violence safety notice if a person is in need of protection outside court hours. Fewer safety notices were issued for family violence offences in Brimbank (1.6% of cases) compared to 8.3% in Victoria.

² This includes offences such as breach of intervention order, failing to answer bail, escape from lawful custody, resist police/ resist arrest, hinder police and make false report to police.

Three: Seeking Legal Assistance in Brimbank

A high demand for community legal services in Brimbank and the types of legal need for which legal information and assistance is sought, is apparent from client data collected at BMCLC and through the VLA Legal Help Line.



Client access at BMCLC

This section of the report presents the information recorded in the 2012-13 financial year for Brimbank residents accessing legal services at the BMCLC St Albans office. The client access information presented here was retrieved from the BMCLC CLSIS records.

TYPES OF LEGAL NEED

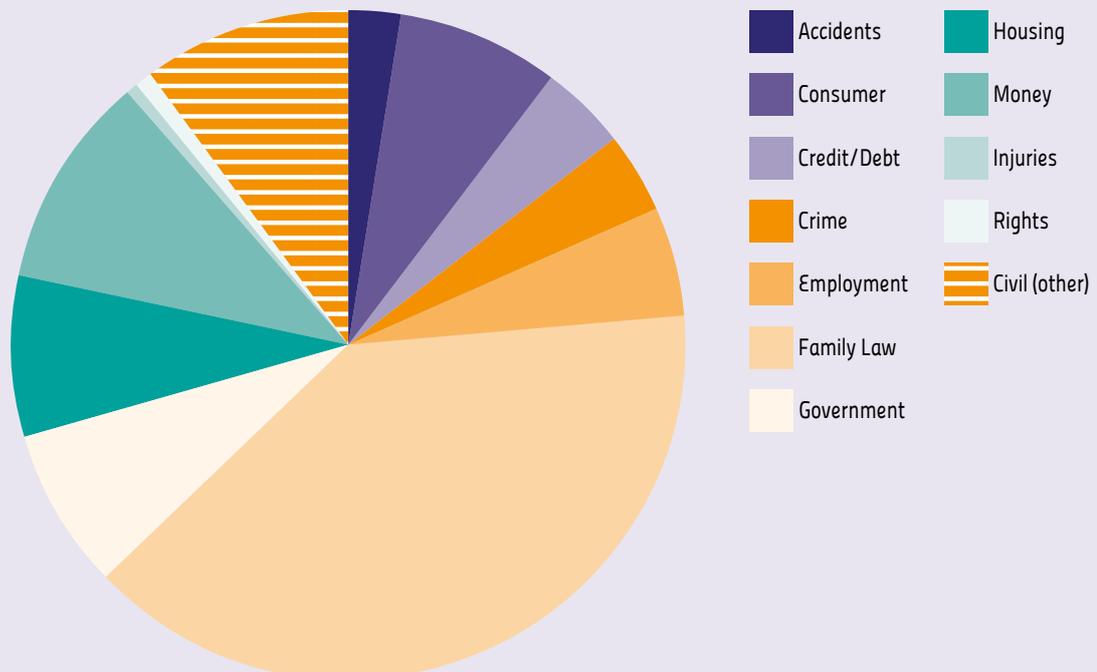
We consider the following three categories of legal service delivery:

- Information:** where information or a referral to another service is provided;
- Advice:** where a legal consultation and advice is provided; and
- Casework:** where ongoing legal assistance and representation is provided.

Family law was the most prevalent area of legal need, in which BMCLC provides information, advice and casework for Brimbank residents. Family law comprised 39% of information provided as well as 25% of advice and 23% of casework.

Legal information was requested for a wide range of legal needs. Family law (39%), civil (other) (10%), money (10%), consumer (8%) housing (8%) and government (8%), featured strongly in the CLSIS recordings.

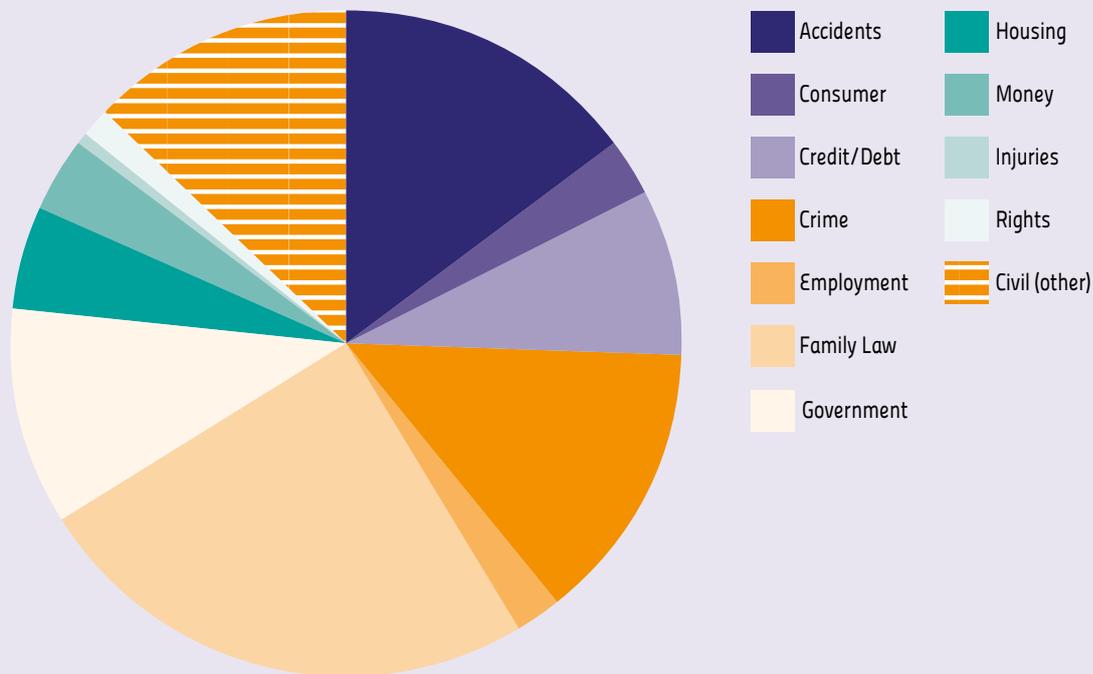
Information



(CLSIS, Information, Brimbank LGA, 2012-13)

Family law was the most prominent area for which a legal advice session was provided. Advice was also sought primarily in the areas of motor vehicle accidents (16%), crime (14%), civil (other) (13%), government (10%) and credit/debt (8%).

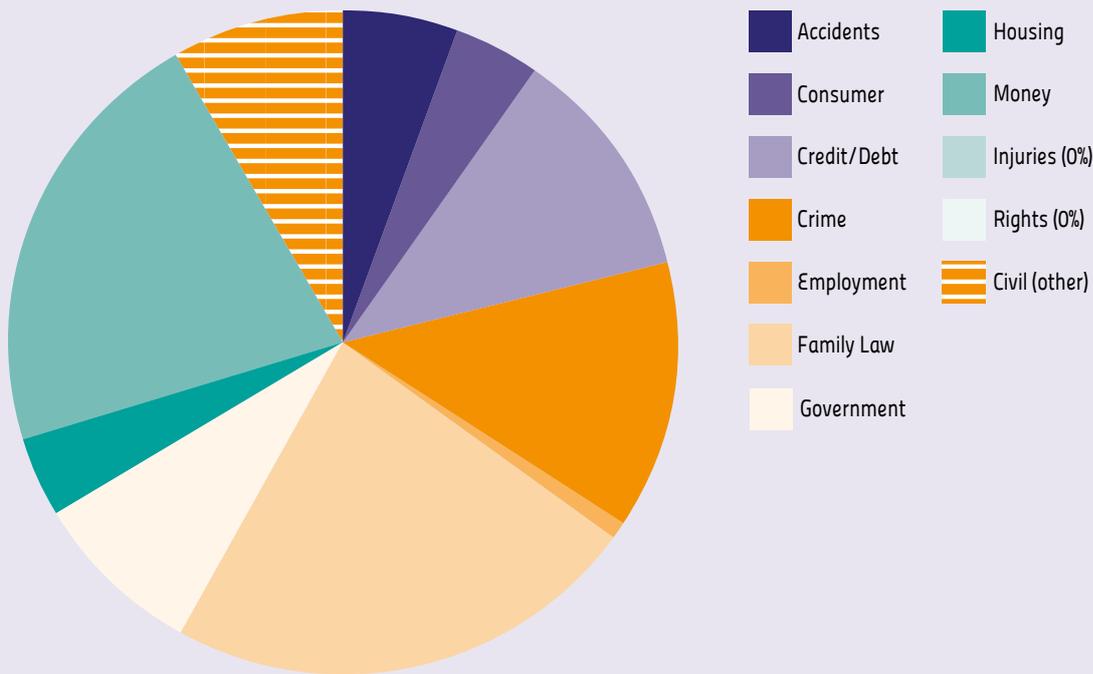
Advice



(CLSI, Advice, Brimbank LGA, 2012-13)

Family law remained the single most prominent area for casework, but money (21%) and credit/debt (12%) matters combined were also highly prevalent. Crime (13%), civil (other) (8%) and government (8%) were also significant areas of demand.

Casework



(CLSI, Casework, Brimbank LGA, 2012-13)

ACCESSING ASSISTANCE

BMCLC delivers legal services to clients in Brimbank with a range of barriers to accessing assistance.

DISABILITY

For clients accessing advice or casework services at BMCLC, 18.3% reported a disability indicator.

COUNTRY OF BIRTH

Nearly two-thirds, 65.7%, of clients accessing advice or casework services had a culturally and linguistically diverse background. The top 12 countries of birth for clients were as follows.

- | | |
|----------------|------------------|
| 1. Australia | 7. Malta |
| 2. Vietnam | 8. FYR Macedonia |
| 3. India | 9. New Zealand |
| 4. Sudan | 10. China |
| 5. Philippines | 11. Ethiopia |
| 6. Croatia | 12. Italy |



Successful Child Contact Application

Mr D, a client with a disability support pension, attended our office regarding a child contact matter. Mr D and the mother of their child had Court orders in place outlining how Mr D could see the child, and who was to have responsibility over certain aspects of the child's life.

During one of Mr D's contact visits with his child, he was told that the child's mother no longer wanted custody of the child. However, Family Court orders made it difficult for him to undertake simple acts as a parent, such as

getting a Medicare card or Centrelink benefits for the child, and enrolling him into a suitable kindergarten.

BMCLC successfully advocated for Mr D at the Federal Circuit Court by demonstrating that the previous orders ought be overturned and new ones issued, placing sole parental responsibility for the child in our client's hands. A lawyer from BMCLC further convinced the Magistrate to remove the child from the Airport Watch list and allow a passport to be issued in his name.

Resolution of Insurance Company and Motor Vehicle Accident Dispute

Ms M, a client who spoke limited English, attended our office regarding a motor vehicle accident she was involved in last year. She was being pursued for damages resulting from the accident despite the fact she had already paid her insurance excess in full.

Ms M attended our motor vehicle accident drop in clinic with Court documents but due to Ms M's inability to read or write English she did not understand the documents and was very confused about the situation.

BMCLC assisted Ms D by making a phone call to her insurer to resolve the dispute. By providing supporting documentation Ms D was able to confirm that her excess was paid and resolved her matter. BMCLC found that the insurance company had not taken the appropriate steps it was obliged to take as an insurance provider to adequately resolve the motor vehicle accident dispute.



Honouring the Rights of a Consumer

Mr O was a Liberian man who attended our drop-in clinic with a consumer matter. A car dealership refused to acknowledge the warranty on his car. As a low income member of the community, Mr O had worked hard to save for the car, which was his sole means of transport.

Mr O had purchased a car from a used car dealer. When a car is less than 10 years old and had done less than 160,000 kilometers the car is covered by a statutory warranty. One month after he had purchased the vehicle, terminal issues with the car arose, the brakes failed and there were several problems with the motor.

Mr O raised the concerns with the dealership who claimed they would have a look at the vehicle. However, the problem persisted. Mr O attended the dealership to return the vehicle and ask for his money back but the dealership called the police to escort Mr O from the premises.

BMCLC successfully assisted Mr O to lodge a consumer complaint with Consumer Affairs Victoria stating that car was not of acceptable quality within the meaning of Australian Consumer Law.

Restoration of Credit Rating

Ms L was an international student from Vietnam who had an inaccurate credit rating assessment applied by her phone provider.

Ms L had sought to obtain a new phone contract but was denied the contract because she had an alleged bad credit rating. She found that a bill from a major phone company was registered against her credit record but that she had never held that account. She tried to raise this directly with the phone company who asked her to complete an unreasonable amount of identity fraud documentation.

Despite her best efforts, Ms L found it difficult and frustrating as she was unable to explain the facts to the phone company.

A lawyer from BMCLC was able to take the time to understand her circumstances, submit the complete information and successfully had the debt erased from her credit rating.

Accessing Assistance through VLA

Data from VLA’s state-wide Legal Help Line demonstrates the high demand for legal help in Brimbank compared to other LGAs, and complements the above CLSIS data for BMCLC. This information was collected from October 2012 to June 2013.

DEMAND FOR LEGAL SERVICES

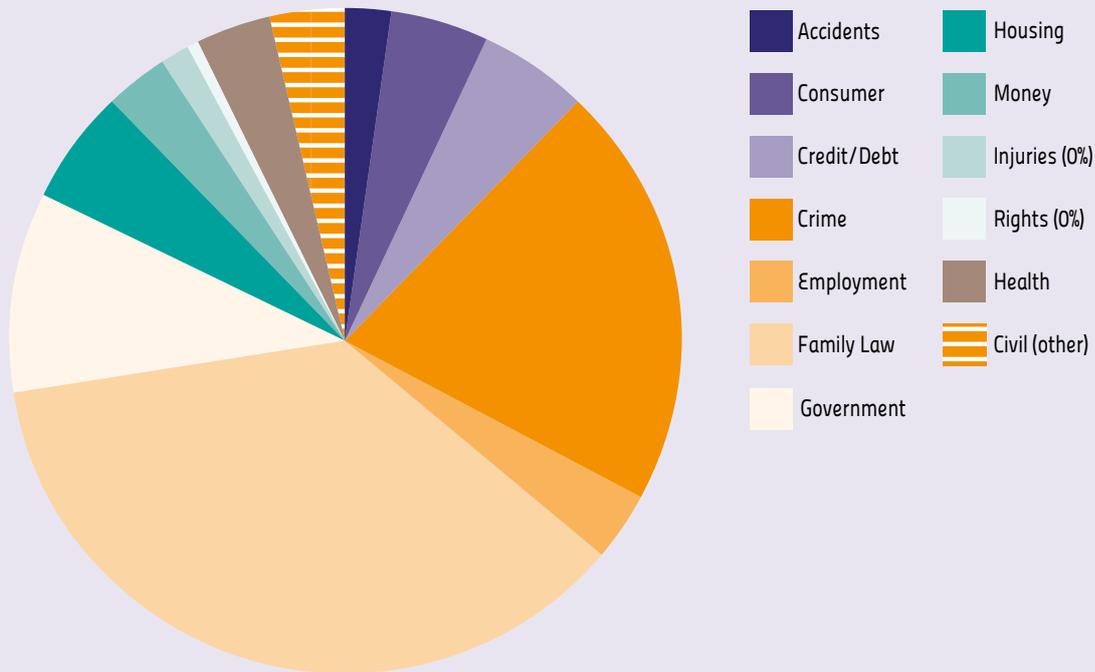
There is extremely high demand for community legal assistance in Brimbank. The second highest number of calls to the VLA Legal Help Line for all Victorian LGAs was recorded from Brimbank LGA residents.³ In volume of calls per 100,000 population Brimbank ranked third among all Victoria LGAs. Within Brimbank LGA Sunshine, St Albans, Deer Park and Keilor Downs were the top four suburbs for clients seeking assistance from the VLA Legal Help Line.

TYPES OF LEGAL NEEDS

The chart below shows the types of legal issues for which Brimbank residents sought assistance. Family law (36%) was the single highest area of demand, followed by criminal (21%), and combined civil matters accounted for 43% of assistance sought.

Strong demand in civil law matters was made up by government (10%), housing (6%), credit/debt (5%) and consumer (5%) issues.

VLA Legal Help Line – Types of legal needs



(Calls to VLA Legal Help Line from Brimbank LGA, 2012-13)

³ Calls from Melbourne LGA were excluded from these calculation because Melbourne LGA was also used as a default location for callers who did not state a location.

Four:

Community West Client Survey

Our client survey asked Community West's adult education clients questions regarding the:

- types of legal needs they have experienced in a twelve month period;
- nature of assistance sought; and
- factors influencing the choice of assistance.

The survey was designed to capture the experiences of members of the community who are not already directly engaging with a legal assistance service. Surveys were distributed in class and facilitated by teaching staff. Survey respondents either spoke a language other than English as their first language (85%) or were attending the education programs due to low language and literacy skills.

There were 270 respondents to the survey, living or working in St Albans, Sunshine and Deer Park. Income of \$0 to \$30,000 a year was reported for 92% of respondents. Of these, 80% depended on a Government payment. The majority (79.9%) of respondents were aged 35 to 65, and 14% of participants reported living with a disability.

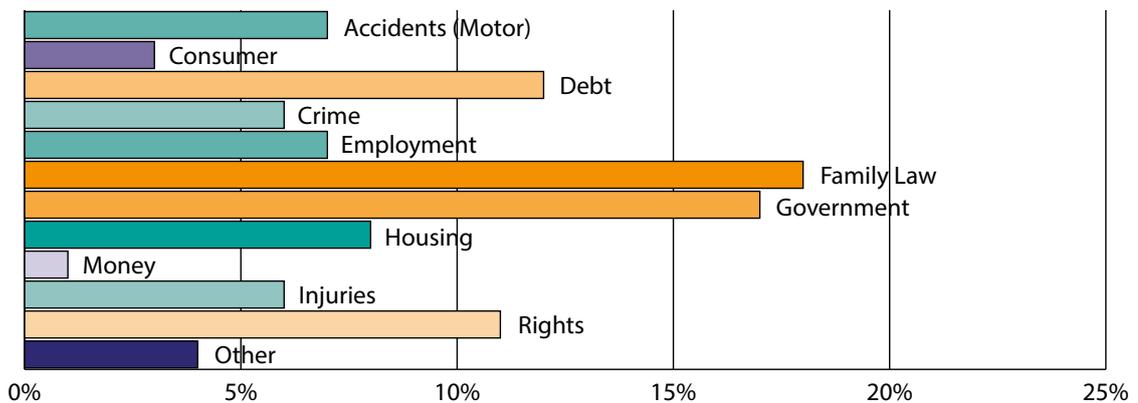


Experiencing Legal Needs

TYPES OF LEGAL NEEDS

The most common legal needs related to family law and government. At least 40% of respondents who experienced a legal need categorised their need as falling within either of these areas, closely followed by credit/debt and rights.

Types of Legal Needs



The significant family law need is consistent with the figures for family law advice and casework in the CLSIS database for BMCLC. The majority of family law needs reported in the survey were for divorce and separation followed by family violence incidents. The high number of government related legal needs were distributed between fines/infringements, Centrelink or Office of Housing matters. Two thirds of credit/debt legal needs concerned utility bill debts. In the category of rights, the legal needs related to disability, allegations of discrimination or difficulties with the police.

IDENTIFYING LEGAL NEEDS

While the survey was designed for respondents with low English literacy skills, staff facilitating the surveys reported that respondents had difficulties comprehending the concept of a legal need and identifying a legal event as a legal need.

Only 34.5 % of respondents reported experiencing a legal need in the past twelve months. This sample is far lower than expected. In contrast, the *LAW Survey* (Coumarelos et al. 2012, p.57) found 48.4% of Victorians are expected to experience a legal need. Together with the observations of survey facilitators, these findings suggest a lower understanding of what is a legal need among survey respondents.



Accessing Legal Assistance

Participants were asked where or how they sought assistance for a legal need, what influenced their decision, and their experience with the assistance sought. The sample of responses below provides a snapshot of clients' considerations and experiences.

"I go to BMCLC because they are very friendly and helpful."

"Friends and relatives [are my first point of assistance]."

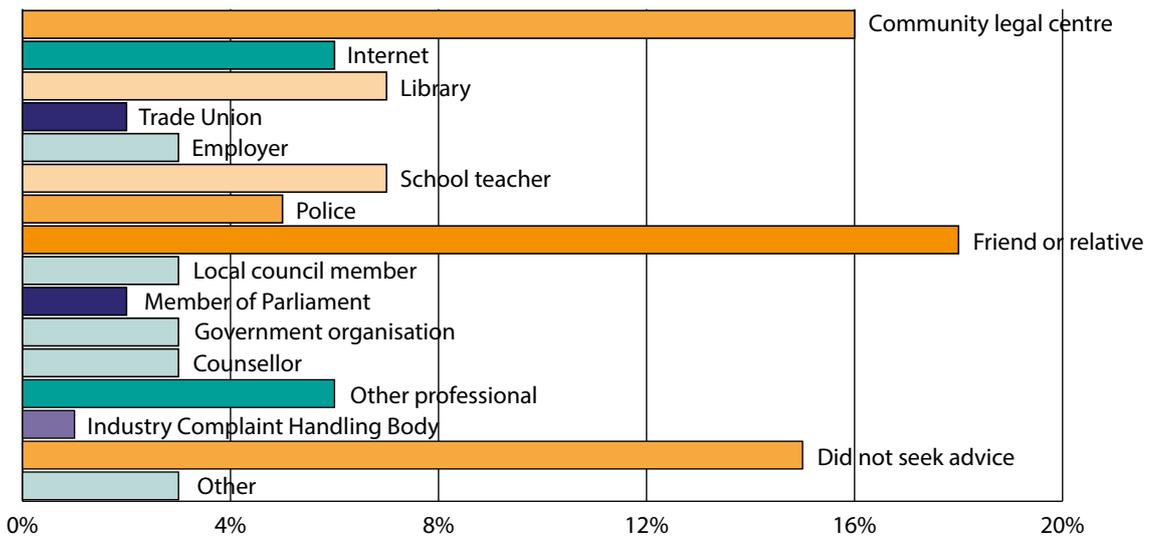
"I like going to Community Legal Centres because they help me [with] everything."

"I don't like Community Legal Centres because the waiting period is too long."

"I don't want friends and relatives [to know about my legal problems]."

The most prominent source of advice sought by survey respondents was from friends or family (30%), followed by community legal centres (25%) and not seeking advice at all (23%). Assistance was also provided by teachers, the public library, the internet, police and other non-legal professionals. No respondents sought assistance from private law firms. Of respondents who sought advice, 75% reported that the advice received was helpful.

Assistance Sought



Respondents sought advice from friends or family primarily due to their accessibility. Some respondents went on to seek further advice from other sources but the majority did not. A small percentage sought assistance via the internet (22%), or public library (15%). Respondents indicated their choice of internet and library resources was informed by their accessibility and privacy.

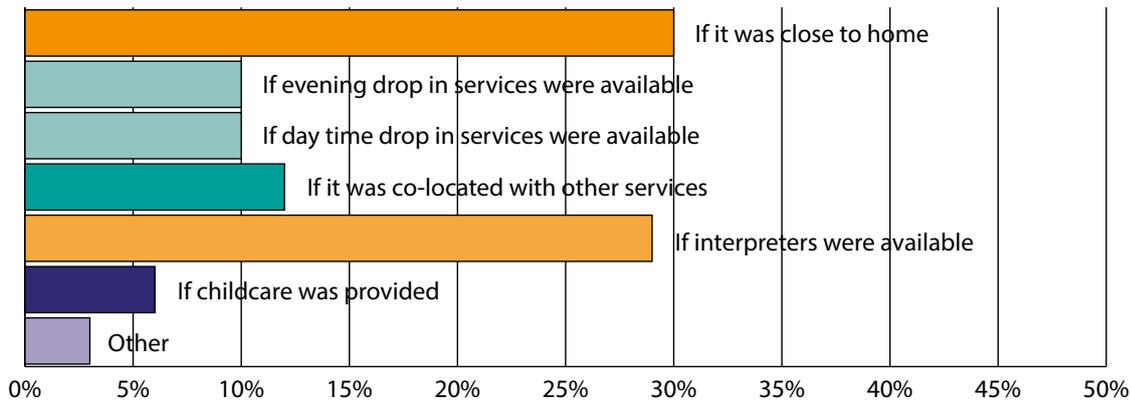
A community legal centre was the second most accessed form of assistance, reflecting the demand for community legal assistance in Brimbank, particularly among socio-economically disadvantaged members of the community. While distributing the survey within Community West (which also operates a community legal centre) may have influenced results, 54% of respondents stated they were unaware of legal information or a community legal centre in Brimbank. Lack of awareness of legal services is one of the first barriers to accessing the legal system, particularly since respondents who did access a community legal centre valued the quality of assistance and relevance of service delivery. Respondents also stated they would not have the means to access other forms of legal assistance largely due to the high costs.

PUBLIC INFORMATION

Respondents identified public information as an important resource to address a legal need, particularly information via the internet and public libraries. Public information is valuable at multiple stages of legal needs – in identifying or clarifying a need, providing advice on how to proceed or referrals for further assistance. It also helps to remove some access barriers. It can alleviate distance and transport issues, language barriers and hesitancy in speaking about a legal need. However, there are limitations and risks to publicly available information, as it can be misinterpreted, inaccurate or lack detail.

Survey respondents were asked to explain motivating factors in their choice of assistance pathways and what enhanced or inhibited accessing assistance. ‘Close proximity to place of residence’ and ‘availability of interpreters’ were the most frequently stated factors. Mobility considerations were also important in accessing services in Brimbank, where large distances and limited access to transport, particularly public transport, emerged as a significant barrier to accessing services. Respondents also indicated a desire for co-location with other services, the need for daytime and evening drop-in services and additional practicalities, such as the provision of childcare.

Influencing Factors in Seeking Assistance



Five: Experiences of Community Service Providers in Brimbank

Community lawyers at BMCLC, local stakeholders in the justice system and community service providers were consulted to provide further insight into the complexity of legal needs and barriers to accessing the justice system in Brimbank. The findings in this section are based on consultation undertaken between June and August 2013 with the key organisations and service providers acknowledged at the beginning of this report.



Areas of Legal Need

FAMILY LAW

- People with family law needs often have additional legal and non-legal needs in other areas. For example, the high number of applications for divorce and separation in Brimbank are often accompanied by further legal needs in family disputes, family violence or intervention orders. During a separation, legal needs in property settlement, child custody, credit/debt, housing, immigration and criminal law matters are also common.
- In family law matters, a holistic understanding of client circumstances is critical. Legal decisions or outcomes have deep implications and often involve a longer-term process of implementation. A separation may be a non-complex legal matter, however, it can have complex non-legal outcomes that impact children and adults alike and raise possible additional legal needs. Support is often required to implement intervention orders and supervised child visits.

There is high demand for family services in Brimbank. Our services are a critical component of the family law process as they facilitate compliance with legal processes and provide a complementary space that delivers a holistic approach to family law issues.

– Community West Community Strengthening Program

Clients in financial hardship have legal needs beyond their direct credit/debt needs, including in family law, fines and infringements, property and housing. Financial hardship makes it extremely difficult to effectively address legal needs.

– Good Shepherd Financial Counselling Services

CREDIT/DEBT

- Credit/debt and financial matters are consistently identified as a major legal need and are compounded by the severe socio-economic disadvantage in our community. Credit/debt issues range from utility debts, mobile phone, credit card and personal loan debts to larger mortgage matters.
- Credit/debt issues impact both on individuals and those close to them. Repossession of family homes, cars and bankruptcy have profound implications, both short and long term, which lead to further legal and non-legal needs.
- It is not uncommon for initially minor credit/debt legal needs of Brimbank community members to quickly develop into substantial legal needs due to insufficient access to the justice system.
- It is difficult to pursue legal remedies for credit/debt matters in Brimbank. Certain lending practises, informal lending arrangements, abuse of trust and excessive interest rates are some areas in which difficulties arise. Legal needs in these areas require leadership in advocacy, education and law reform in our community.
- A legal resolution may not fully address a credit/debt issue. In this regard, we also advocate for financial literacy and financial counselling in Brimbank. Financial education can assist in prudent decision-making and more effective engagement with legal processes. The use of casework and collaboration with financial counselling services also acts to increase the effectiveness of legal process for substantial credit/debt matters.

There are substantial legal need and access to housing issues in Brimbank. Tenants are often unaware of their legal rights or in a vulnerable position, which makes it difficult for them to assert their rights.

– Salvation Army Social Housing Services

HOUSING, TENANCY AND HOMELESSNESS

- Landlord-tenant legal needs require an understanding of rights and obligations as a tenant. It is also common for tenants to avoid raising issues with landlords for fear of the consequences on living arrangements.
- Informal tenancy arrangements, shared accommodation and rooming houses present specific tenancy-related legal needs in Brimbank.
- People living in these informal housing arrangements often experience additional legal needs. For example they may have experienced a separation, family violence or have been recently released from prison. These circumstances place additional pressures on individuals, reducing their ability to address either housing or additional legal needs.
- Housing legal needs are often at the intersection between at risk of homelessness and homelessness. Homelessness is a severe circumstance for any member of the community and can lead to its own related legal needs.

We primarily assist our clients to avoid evictions into homelessness and to deal with fines and infringements. The majority of our clients face multiple legal needs and multiple forms of disadvantage. We believe there is a huge gap created by the current focus on provision of legal services in isolation from the range of real world social issues experienced by our clients.

– Justice Connect, Homeless Law

We assist young Brimbank residents with infringements and summary criminal charges. An area of need we find is not being effectively addressed is tenancy issues for young people. We believe community legal education and ensuring services are available to young men and women are two priorities in Brimbank.

– Sunshine Youth Legal Centre

INFRINGEMENTS

- Fines and infringements, particularly related to public transport, are identified as a substantial issue for young, severely disadvantaged or culturally and linguistic diverse members of the Brimbank community. Cost is often a primary factor in members of the community receiving fines and infringements, where people otherwise struggling to meet daily expenses are unable to fully meet the costs of public transport (particularly given the relatively high cost of V/Line and outer-suburban public transport fares).
- Information and knowledge about ticketing, concession cards, compliance and dealing with fines and infringements is another prevalent issue for young or culturally and linguistic diverse members of the community.

MOTOR VEHICLE ACCIDENTS

- Clients with legal issues arising from motor vehicle accidents regularly present at BMCLC for assistance. Many clients seek help with preparing letters of demand for property damage arising from motor vehicle accidents.
- The majority of these incidents involve at least one party without any insurance.
- BMCLC clients are also commonly being pursued by debt collectors (acting for insurers) in relation to motor vehicle accidents, creating further credit/debt legal needs.

ADDITIONAL UNMET LEGAL NEEDS

- Immigration law is an area of high demand but an area of need where access to assistance is difficult. Immigration law is a politically sensitive area and additional professional standards prevent community legal centres practising in this area. This is an important unmet legal need as immigration law can have profound implications on a person's life and is relevant to other legal issues with which clients present at legal centres.
- Assistance with property law is in high demand, and particularly for senior citizens and victims of domestic violence. Community legal centres generally do not practice in this area and it is challenging to find appropriate referrals where a client has an asset but no cash flow.
- BMCLC and many other community legal centres do not assist with wills. Yet wills can be a significant legal need for many members of the community.

Targeted legal education programs are an important legal service, increasing public knowledge about rights and responsibilities. However, it is necessary that these programs are developed after a process of consultation.

– Victorian Aboriginal Legal Service

Accessing Assistance in Brimbank

IDENTIFYING A LEGAL NEED

- The first step towards effective engagement with the justice system is identification of a legal need. Community service providers and members of the justice system emphasise the need for information, education and knowledge about legal needs and how to engage with and access the justice system.
- The need for legal information is relevant for both new and existing members of our community, which indicates a need for education across cultures and languages.

COST

- Cost remains a substantial barrier, preventing many members of our community from effectively accessing the justice system. This applies to both the cost of legal processes (such as court filing fees) and of legal assistance.
- Asset-based means assessments, used to determine a person's ability to meet legal costs, can misrepresent an individual's circumstances. People with low or no income flows but who have non-current assets are disadvantaged by cost assessments. For example, this is a particular problem in Brimbank, for seniors, unemployed or those transitioning between jobs who do not have income flows but own their home and may be forced to use this primary asset to meet legal costs.

NON-LEGAL EVENTS

- Those experiencing socio-economic disadvantage in Brimbank must often prioritise non-legal life events over engagement with the legal system. This reality can be detrimental to the person's ability to reach an effective outcome.
- Stress and anxiety are frequently associated with a legal need. Stress and anxiety can arise as a result of the legal process and access difficulties and/or can be present before assistance is sought, acting to immobilise individuals.
- Late engagement in the legal process, due to anxiety, insufficient knowledge and cost is frequent in Brimbank and a factor that exacerbates legal needs.

Clear and visible information about legal services and process is important for effective community engagement. Strong organisational relationships also assist in creating working referral pathways and enhanced capacity to deliver services.

– Northwest Migrant Resource Centre

EXPERIENCE AND PERCEPTIONS OF THE JUSTICE SYSTEM

- Negative perceptions and experiences with the law among people in the Brimbank community can restrict effective engagement with the legal system.
- There is a degree of disenfranchisement with the legal system among young and middle aged Brimbank residents. Disenfranchisement comes from negative experiences with the legal system, discrimination, harassment among youth and diverse groups of the community and through failures of the system to recognise the specific circumstances of Brimbank community members.

ACCESSING THE COURT SYSTEM

- The court system is highly complemented by additional community legal services and additional or alternative non-legal services. There are successful programs running in partnership with or independently from the Sunshine Magistrates' Court in relation to certain areas of family law, family violence, tenancy and mental health. The Sunshine Magistrates' Court welcomes further initiatives and finds such programs are best delivered as a targeted response to a legal need or barrier.
- Targeted information and knowledge about the court system processes can increase effective access to the court system.
- An increase in self-representation creates obstacles for the individual representative and the court itself. It is difficult for a self-representing individual, unfamiliar with the court system, to process the large amount of information required to effectively access the court system.

REFERRAL PATHWAYS

- Referral pathways are critical to both engagement with the legal system and effectively addressing all aspects of a legal need.
- Referral pathways impact all stages of a person's legal journey. They allow the most effective information and assistance to be provided and can help to address all aspects of a legal need.
- A number of factors impact on referral pathways in Brimbank: knowledge of legal processes and service providers, strength of relationships between organisations and capacity to respond.
- 'Cyclical referrals', where a client is referred from organisation to organisation, can complicate a legal need or see the need go unaddressed. The process causes client fatigue and loss of hope with the legal system.



Innocent until Proven Guilty:

Fighting the Pressure to Plead due to Inability to Afford a Lawyer

Mr A was a young adult refugee who arrived in Australia a few years ago after spending years in a refugee camp. Since coming to Australia, he has been the financial provider for his family and relatives in a conflict zone, refugee camps, and in Australia.

Mr A faced seven charges of assault and did not qualify for legal aid. After analysing the evidence, BMCLC lawyers found significant deficiencies in the police investigation.

The police had failed to use an interpreter during the interview with Mr A, and failed to obtain CCTV footage that Mr A had referred to during the interview as demonstrating his innocence. BMCLC represented Mr A

three times, and undertook extensive case conferencing with the prosecution. After the first two mentions at court, the prosecution suggested withdrawing six charges if Mr A would plead to one. Mr A maintained his innocence; however the pressure to plea was strong given that he would not qualify for a grant of legal assistance to fund his representation at a contested hearing. BMCLC agreed to continue acting for Mr A throughout the case so that he was not pressured to plead guilty due to his financial resources.

At the contest mention hearing, the prosecution agreed to withdraw all seven charges.

Door-to-Door Debts Waived

Mr J attended our office regarding numerous debt matters. He was in receipt of a disability support pension, had severe depression and was illiterate. As a result of Mr J's social, economic and medical problems he often found himself in the position of financial hardship struggling to put food on the table in order to keep up with repayments to various companies.

Mr J explained that he would often be persuaded to sign up to new contracts by door-to-door sales agents promising cheaper services. As a result, Mr J often found himself signing on-the-spot contracts he did not understand. Mr J struggled to keep up with

repayments and was eventually pursued for large amounts of debt owed to various telecommunications services for products he was no longer connected to or using.

BMCLC managed to convince the telecommunications companies to waive all of Mr J's debt due to his vulnerability and circumstances which significantly affected his capacity to make a voluntary and informed decision about purchasing or using a telecommunications service, or about the financial implications of such a purchase.

BMCLC also managed to connect Mr J with other free community services such as a financial counsellor.

Findings

1. demand for legal assistance in Brimbank LGA is among the highest in the State;
2. demand for legal assistance is experienced across all areas of law, most significant in family law, credit/debt, crime, money, government and housing;
3. Victoria Police statistics of reported crimes against the person and crimes against property, as well as incidents of family violence, are above the Victorian average;
4. a large proportion of Brimbank community members face substantial barriers that prevent effective access to the justice system;
5. high socio-economic disadvantage in Brimbank is apparent in key indicators and this directly impacts upon legal needs and access to justice. The indicators include above average unemployment, large numbers of people on low-incomes, below average education attainment, significant mortgage and rental stress, and high rates of homelessness;
6. strong cultural and linguistic diversity in our community must be considered in all aspects of legal service delivery in Brimbank;
7. a lack of legal knowledge among members of the Brimbank community reduces their ability to identify a legal need and address that need through the justice system; and
8. legal needs do not occur in isolation. Consultation with service providers in Brimbank highlights that with high prevalence of legal needs and low socio-economic indicators, there is often a two-way connection between legal and non-legal needs which demands a holistic approach to service delivery.



Recommendations

This report makes a select number of recommendations for legal service delivery, which take into account the nature of our community, demand for legal assistance and the substantial barriers to accessing the justice system in Brimbank.

It is recommended that:

- A range of legal assistance provisions be utilised to address specific areas of unmet legal needs. This includes ongoing high quality service delivery in providing information, advice and undertaking casework. The use of community legal education, law reform and systemic advocacy is also recommended.
- Leadership be shown in innovation and delivery of legal programs that focuses on reducing barriers inhibiting access to justice in the Brimbank community, including cost, access, language and cultural barriers.
- Legal services be delivered in partnership and collaboration with services providers. A collaborative approach can provide holistic service delivery, effective referral systems and utilise existing capacity of program providers in the Western region.
- BMCLC commits to building the capacity of its legal staff through ongoing professional development, research and community engagement to meet the current and future legal needs of our Brimbank community.



Community Legal Education

Based on the findings in this report, community legal education (CLE) is recommended as a key response to addressing difficulties identifying legal needs, accessing appropriate information and services and for the community to engage with community legal services.

CLE is found to increase a person's capacity to effectively address a legal need (Coumarelos et. al. 2012; Genn 1999; Kirby 2011). It does so by equipping a person to more competently identify an event as a legal need and, following identification, address the legal need through informed engagement with the legal system and avenues for assistance. It also recognises that a person's rights under the law are reliant on proper knowledge of one's legal rights and the processes through which to exercise them.

Consultation with key members of the justice system and service providers in Brimbank identified a need for CLE in overall knowledge of the legal system and legal processes, credit/debt, motor vehicle accident, insurance and rights, among others.

CLE divorce workshops run by BMCLC family lawyers have experienced high demand. The workshops have proved to be a successful means of delivering information on all stages of the divorce process and how to independently pursue a divorce application. BMCLC now delivers the workshops in Vietnamese at the Sunshine Library every three months.

Community West is undertaking a detailed analysis of the benefits of CLE in a Victoria Law Foundation funded pilot program, *Learning Law in Our Land* (Community West, unpublished). Preliminary findings from the project identified low levels of knowledge in fundamental areas of the law. The project aims to use professional development programs to enable adult educators to incorporate basic legal knowledge and referral pathway information into their classrooms for low, medium and high literacy groups. It focuses on early intervention that empowers adult educators and learners alike through streamlined legal information, learning experiences and referral pathway guides. This approach to CLE seeks to demonstrate the contribution improved connection between the education and legal sector can make to address legal needs in the west.

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Appendix

Classification of types of legal needs

The classification of legal needs used in this report is set out below. It draws on the classification used by Coumarelos et al. (2012) to allow for consistent comparison across studies. One main difference is the separation of family violence from the category of criminal matters. The list below shows examples of specific issues and dispute, which are covered by each category.

ACCIDENTS

- Motor vehicle (no injury)

CONSUMER

- Buying and selling goods
- Provision of services

DEBT

- Creditors
- Credit rating refusal
- Bankruptcy

CRIME

- Criminal offences
- Victims of crime

EMPLOYMENT

- Unfair dismissal
- Employment conditions

FAMILY LAW

- Children
- Relationships
- Family violence

GOVERNMENT

- Fines or infringements
- Government payments
- Local government
- State and Federal government
- Immigration

HEALTH

- Provision of health services

HOUSING

- Owners or tenancy
- Public housing
- Neighbourhood disputes
- Homelessness

MONEY

- Wills and estates
- Powers of attorney
- Business and investments

PERSONAL INJURIES

- Motor Vehicle
- Work related
- Other negligence

RIGHTS

- Discrimination
- Unfair Police treatment
- Disabilities

OTHER CIVIL

- Other civil actions
- Complaint against independent body

*The Brimbank Melton Community
Legal Centre has offices in
St. Albans and Melton*

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St. Albans, Vic. 3021

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Email: legal@communitywest.org.au

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