



## Who is the ‘other side’ in legal problems and disputes in Australia?

**Abstract:** *This paper summarises findings from the Legal Australia-Wide (LAW) Survey concerning the ‘other side’ in legal problems and disputes in Australia. A wide variety of people and organisations were identified by respondents as the other side and varied according to the type of legal problem. The findings further reinforce the fundamental role of access to justice in facilitating effective resolution of the wide range of problems people commonly experience and in promoting well-being throughout the community.*

### Source

This paper is a simplified excerpt from the report, **Legal Australia-Wide Survey: Legal need in Australia** by Christine Coumarelos, Deborah Macourt, Julie People, Hugh M. McDonald, Zhigang Wei, Reiny Iriana and Stephanie Ramsey (Law and Justice Foundation of NSW, 2012).

### About the LAW Survey

The LAW Survey provides a comprehensive assessment of a broad range of legal needs on a representative sample of the population. It covered 129 different types of civil, criminal and family law problems. It examined the nature of legal problems, the pathways to their resolution and the demographic groups that struggle with the weight of their legal problems.

With 20,716 respondents across Australia, including over 2000 in each state/territory, the LAW Survey allows for in-depth analysis at both the state/territory and national level. The major findings were published in a series of nine reports, with a report on Australia as a whole and each state/territory. Some key findings were:

- legal problems are widespread and often have adverse impacts on many life circumstances
- disadvantaged people are particularly vulnerable to legal problems
- many people do nothing to resolve their legal problems and achieve poor outcomes
- most people resolve their legal problems without using lawyers or the formal justice system.

The nine LAW Survey reports are available at:

[www.lawfoundation.net.au](http://www.lawfoundation.net.au)

**Legal needs surveys have demonstrated** that legal problems<sup>i</sup> are ubiquitous and have broad implications for physical, emotional and social well-being. A web of law governs many of the transactions and interactions people routinely have in their everyday public, civil and private lives. The types of problems people commonly experience, such as consumer, debt, employment, family, health, housing and injury problems, are nested within legal rights and obligations. Accordingly, the range of people and organisations that people may potentially have legal problems and disputes with is also broad, and spans many areas of life. Survey research demonstrates that although legal problems are common, they are not distributed uniformly within populations. While the prevalence of legal problems varies with legal problem type as well as with demographic characteristics, people are also more likely to have certain types of legal problems or disputes with particular types of ‘other sides’.

### Measuring the other side of legal problems

A representative sample of 20 716 respondents across Australia aged 15 years or over were interviewed. The LAW Survey examined 129 different types of civil, criminal and family law problems, which were further categorised into 12 problems groups – accidents, consumer, credit/debt, crime, employment, family, government, health, housing, money, personal injury and rights. Respondents were asked whether they had experienced each type of problem in the 12 months prior to interview.

Respondents who reported experiencing legal problems were asked a series of in-depth questions about up to three of their most serious questions, including who the problem (or dispute) was with.

### Other side of legal problems

There was considerable variation in the prevalence of different types of legal problems. The types of legal problems with the highest prevalence were consumer (21%), crime (14%), housing (12%) and government (11%) problems. The next most prevalent legal problems were accidents (8%), personal injury (7%), credit/debt (6%), employment (6%), money (6%), and health (3%) problems.

As shown in Table 1, a wide range of people and organisations were nominated by respondents as the other side, including both personal contacts, such as family, relatives, friends and neighbours, and an array of professionals, service providers, organisations.

The LAW Survey also examined the other side by legal problem group. The other side was found to broadly fit with the type of legal problem. For example, 68 per cent of problems where the other side was a legal professional fell within the consumer problem group and predominantly related to problems with consumer services from a lawyer.

When the other side was local government, the problem usually fell within the government problem group (90%) and related to issues such as home building works, or local amenities or services. Government departments or agencies were also predominantly nominated as the other side for government problems (66%), including problems concerning government payments, taxation, fines, citizenship, residency and immigration, and for family problems (10%). The problems where the police were nominated as the other side were dominated by rights problems (51%), which typically related to unfair treatment by police. However, the police were also the other side for government problems (25%) such as fines, and for crime problems (23%) such as being charged, arrested or questioned in relation to criminal matters.

The majority of legal problems where the other side was a health or welfare provider fell within the health problem group (84%) and most commonly involved clinical negligence issues.

Table 1: Other side in legal problems

| <i>Other side</i>                  | <i>N</i>      | <i>%</i>     |
|------------------------------------|---------------|--------------|
| <b>Legal</b>                       | 184           | 1.0          |
| <b>Government</b>                  |               |              |
| Local government                   | 974           | 5.1          |
| Police                             | 435           | 2.3          |
| Government agency                  | 1 030         | 5.4          |
| <b>Health or welfare</b>           | 501           | 2.6          |
| <b>Financial</b>                   |               |              |
| Bank/building society/credit union | 675           | 3.5          |
| Insurance company/broker           | 445           | 2.3          |
| Other financial                    | 294           | 1.5          |
| <b>Business</b>                    |               |              |
| Manufacturer/retailer              | 1 079         | 5.6          |
| Telecommunications                 | 1 622         | 8.5          |
| Utilities company                  | 505           | 2.6          |
| Other business                     | 767           | 4.0          |
| <b>Employment</b>                  |               |              |
| Employer/boss/supervisor           | 1 307         | 6.8          |
| Other employment                   | 310           | 1.6          |
| <b>Education</b>                   | 422           | 2.2          |
| <b>Housing</b>                     |               |              |
| Neighbour                          | 1 520         | 7.9          |
| Landlord or landlord's agent       | 327           | 1.7          |
| Other housing                      | 354           | 1.9          |
| <b>Family/friend</b>               |               |              |
| Spouse/partner or ex               | 1 088         | 5.7          |
| Other relative                     | 595           | 3.1          |
| Friend/acquaintance                | 438           | 2.3          |
| <b>None/stranger</b>               |               |              |
| No other side or no dispute        | 713           | 3.7          |
| Stranger (identity known)          | 1 759         | 9.2          |
| Unidentified person                | 1 571         | 8.2          |
| <b>Other<sup>a</sup></b>           | 205           | 1.1          |
| <b>All problems</b>                | <b>19 123</b> | <b>100.0</b> |

a E.g. other sides that were unclearly defined by the respondent and other sides not classified elsewhere.

Note: N=19 123 problems. Data were missing for 265 problems.

When the other side was a financial or business-related professional or organisation, the problems tended to be consumer issues (e.g. problems with consumer contracts, services or faulty goods), credit/debt issues (e.g. problems with loans, credit refusal and creditors’ actions) or money issues (e.g. problems with business or investment).

In about two-thirds of cases, employers, bosses or supervisors tended to be the other side for matters such as work-related discrimination, harassment, victimisation and problematic employment conditions. They were also the other side for some personal injury problems (21%), particularly work-related injury. In addition, employment-related people and agencies, such as work colleagues, were often the other side for employment problems (62%) and were sometimes linked to money problems (15%), such as issues related to being a business owner.

Educational institutions, staff and students tended to be nominated as the other side for rights problems (86%), which most commonly concerned student bullying/harassment and unfair exclusion from education.

The majority of problems where the other side was a neighbour or landlord fell within the housing problem group (86–90%).

Where the other side was a partner or ex-partner, the majority of legal problems fell within the family problem group (74%) and related to divorce or separation, division of assets, and child-related issues, such as child support, custody and contact. Some problems involving partners or ex-partners were crime problems (16%), such as domestic and non-domestic assault. Problems where the other side was another family member or relative included money problems (37%), such as wills/estates, power of attorney, loan and money repayment issues; crime problems (20%); and family problems (24%), such as child/grandchild issues. Problems where the other side was a friend or an acquaintance included crime (42%), credit/debt (16%), rights (10%), personal injury (9%) and money (9%) problems.

Understandably, most of the problems where there was no other side, or where the other side was a stranger or an unidentified person, tended to be accidents problems (i.e. injury-free motor vehicle accidents), crime problems or personal injury problems (e.g. motor vehicle injuries or work-related injuries).

## Conclusion

The LAW Survey findings show that respondents routinely experience legal problems or disputes with a wide range of other sides, spanning many areas of life. Many of the problems people commonly experience as a consequence of being consumers, borrowers of money, employers and employees, having neighbours and so on, are nested within legal rights and obligations. The LAW Survey results show that the ‘other side’ tended to vary with the type of legal problem. Thus, the LAW Survey reinforces the fundamental role of access to justice in promoting well-being throughout the wider community and highlights the importance of promoting a justice system capable of facilitating effective resolution of the wide range of legal problems commonly experienced by the community.

## Reference

Genn, H 1999, *Paths to justice: what people do and think about going to law*, Hart, Oxford.

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<sup>1</sup> The term ‘legal problem’ is used throughout this paper for easy reference to a problem that is ‘justiciable’ in that it raises legal issues with the potential for legal resolution, regardless of whether the respondent recognised this or took any action involving the justice system (cf. Genn 1999).