

TOWARDS A FAIRER LEGAL SYSTEM

Outcomes of the Means Test Review

EXECUTIVE SUMMARY



The means test review committed to working with VLA's partners in the legal and community sectors to deliver these reforms in a collaborative and transparent way.

This report and the actions are the result of the ideas of the legal and community sector and the experience of our clients and other people in need.

Without your expertise and engagement in this review, we would not have been able to build a means test that better meets the needs of the community.

SHAPING THE FUTURE OF LEGAL ASSISTANCE



Who we are

Access to publicly funded legal assistance is an essential element of a fair and accessible justice system.

Victoria Legal Aid provides grants of legal assistance to people with certain legal problems.

The means test is a measure we use to decide if someone qualifies for one of these grants.

Without a lawyer, access to justice is harder

Not being able to access timely legal assistance can lead to:

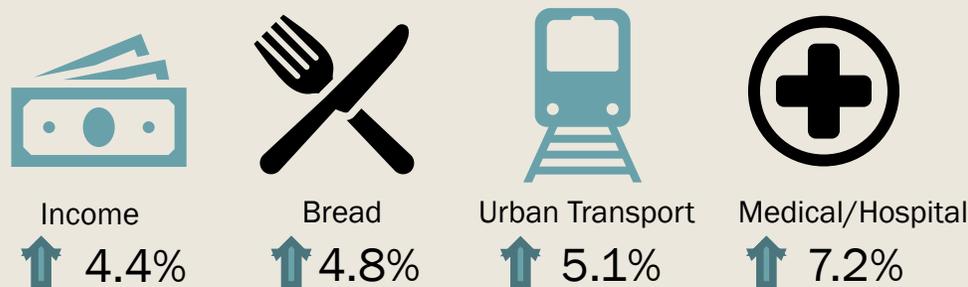
- More self-represented litigants, leading to a justice system that faces increasing delays and costs
- Litigants being less satisfied in the outcome of their legal matter
- Legal problems escalating and resulting in a higher chance of reoffending
- Community safety being compromised

SINCE OUR MEANS TEST WAS DEVELOPED... THE WAY WE LIVE NOW HAS CHANGED

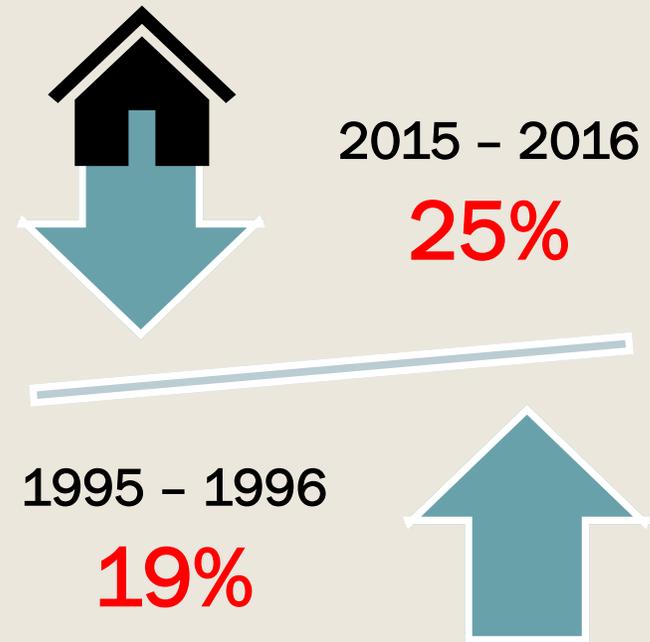
Household liabilities and average household disposable income have not increased at the same rate



Annual increase in cost of living since 1984



Households renting from a private landlord also increased



MAKING THE MEANS TEST BETTER



THE REVIEW'S PURPOSE

1

We commenced a review of our means test in 2016, for the first time in two decades.

2

Our purpose was to review our test so we could help more people in legal need.

3

We developed 43 changes to our test that will help the test become fairer and more accessible. Of these 13 are being implemented now.

Deciding who can get legal assistance because there are limited funds

We wanted to take into account the experiences of people who are missing out on legal assistance.

We wanted to create a test that centered the experience of its users. This meant finding out what the consequences of missing out on legal assistance were.

Our goal was to create a revised means test that is simple to understand, efficient to administer and financially sustainable.

We haven't been able to achieve all of this – and will not be able to achieve it all without help.

Who we spoke to

People who told us they hope to see a real difference made to what is considered to be an outdated means of determining eligibility.

We received over 1,000 contributions from a range of groups, including:

Social service organisations like VCOSS, the Jesuit Social Services and the Homeless Persons Legal Clinic

People who have missed out on legal assistance, as well as the general community

Community legal centres such as CommUnity Plus, Inner Melbourne Community Legal and the Aboriginal Family Violence Prevention and Legal Service

The legal profession including the Law Institute of Victoria, the Supreme Court and many private practitioners.

What we learnt

Through consultation over the past 12 months, we now know that:

the cost of living (including debt) has increased since our means test was last updated. Income and benefits have not kept pace with the increased cost of living

people use all of their savings to get help for their legal problem, leaving them at increased risk during an emergency

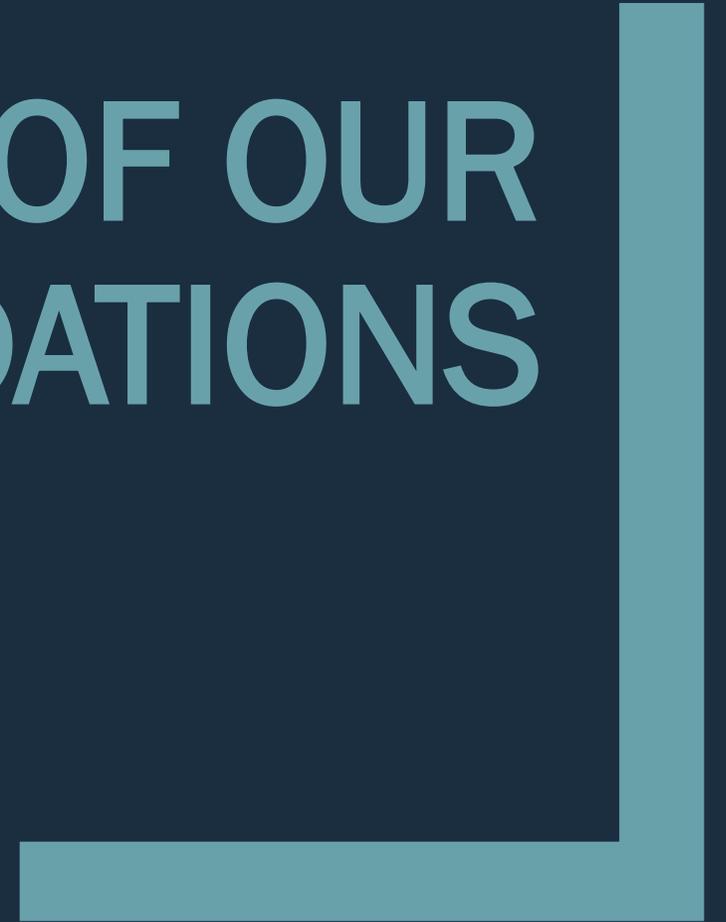
our means test does not account for a wide range of essential living expenses and does not reflect a person's true ability to pay privately for a lawyer

we are not transparent around the decisions we make and what factors are taken into account when assessing a person's financial means

contributions are often applied in situations where they are unlikely to be recouped, placing unnecessary pressure on people receiving a grant of legal assistance while creating an administrative burden on VLA

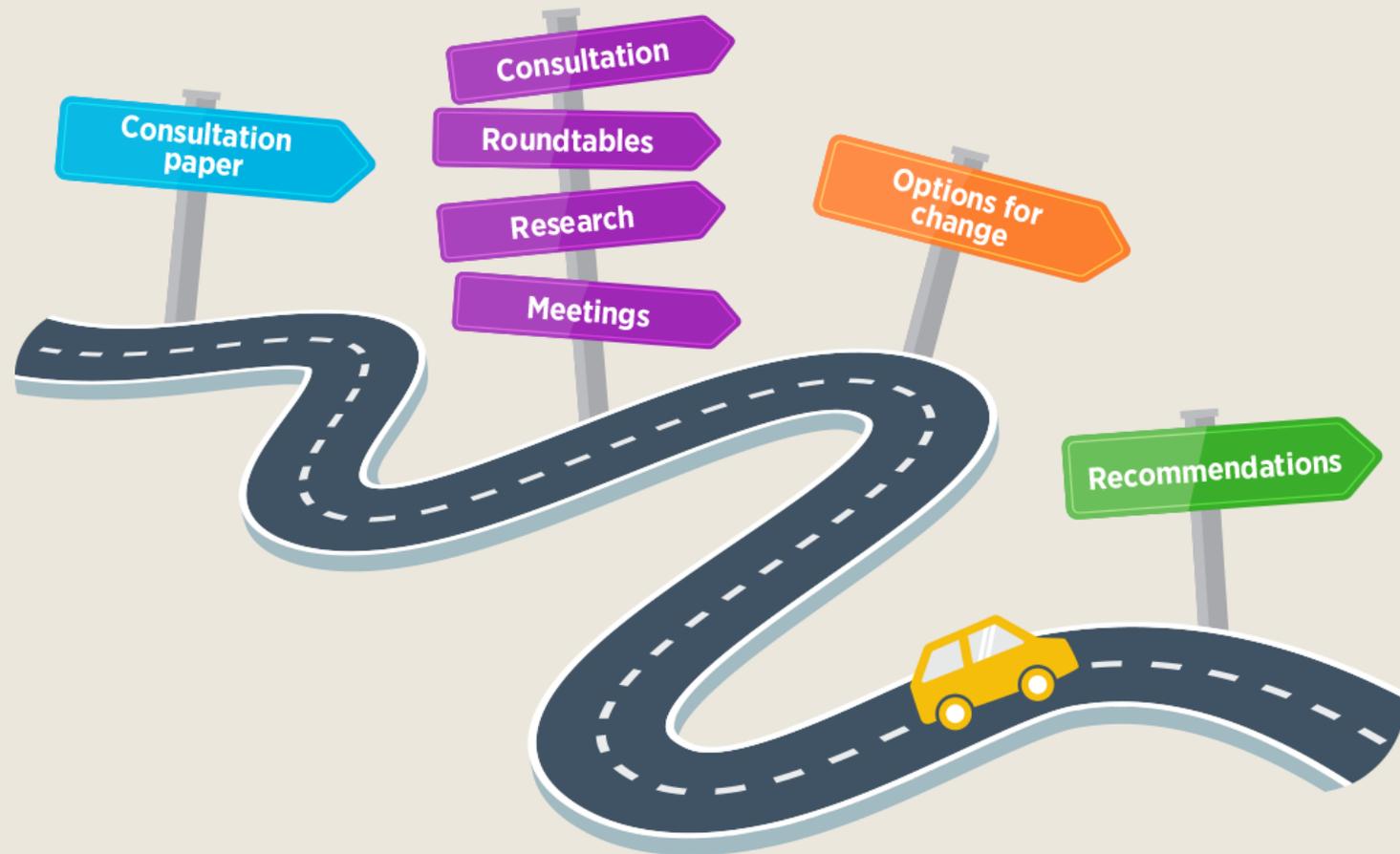
elements of our means test are difficult to understand, especially documentary proof of means requirements and when a person can ask for VLA to exercise discretion

EVOLUTION OF OUR RECOMMENDATIONS



How we arrived at our new means test

VLA developed our changes to the means test through the following process:



Who our changes are focused on

The means test recommendations focus on two groups of people. The VLA Board has approved changes that affect the first group:

The people who **used** to be our clients - our means test hasn't kept up to date with existing cost of living measures. This means that people who have previously always been eligible for assistance are now missing out.

The people who **should** be our clients - there are marginalised groups of people who satisfy our priority client framework, but are still not eligible for a grant of legal assistance. We can't action these changes without additional government funding.

We made a means test that is:

Simpler

- *by rewriting our test so that everyone can understand how it works*

More
transparent

- *by publishing more written guidance on how we assess applications for legal assistance*

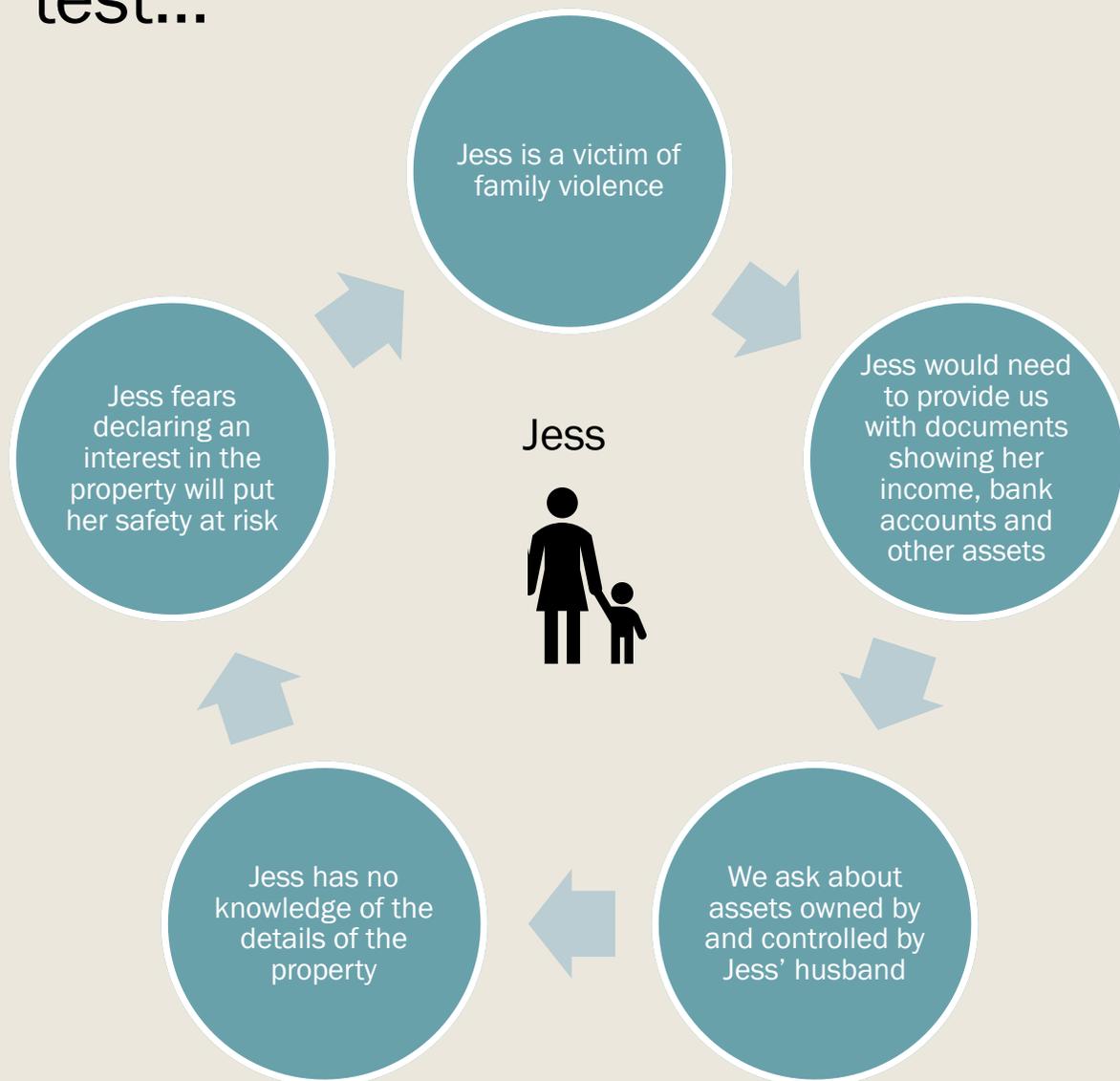
More accessible

- *by providing training to non-legal organisations that our clients are likely to be in contact with*

**TARGETING CHANGES TO
HELP THOSE MOST
DISADVANTAGED**



Under our old means test...



Under our new means test...

- Jess will only need to tell us how much she is earning and how much money is in her bank account. She will not need to give us pay slips, bank statements or evidence of ownership of assets.
- This will make the process of applying for help a little bit easier for Jess and other applicants like her who are going through a crisis.



Janelle is 21 and was renting a flat with her boyfriend and their son, Samuel, until they broke up.



She and Samuel move back home to live with her parents temporarily while she saves up to live on her own.



Janelle has applied for a grant of legal assistance for family law proceedings relating to the custody of Samuel.

Under our old means test...



We would ask for the financial information of Janelle's parents. As they both work, we would expect them to pay for her legal fees and she would not be eligible for legal assistance.

Under our new means test...

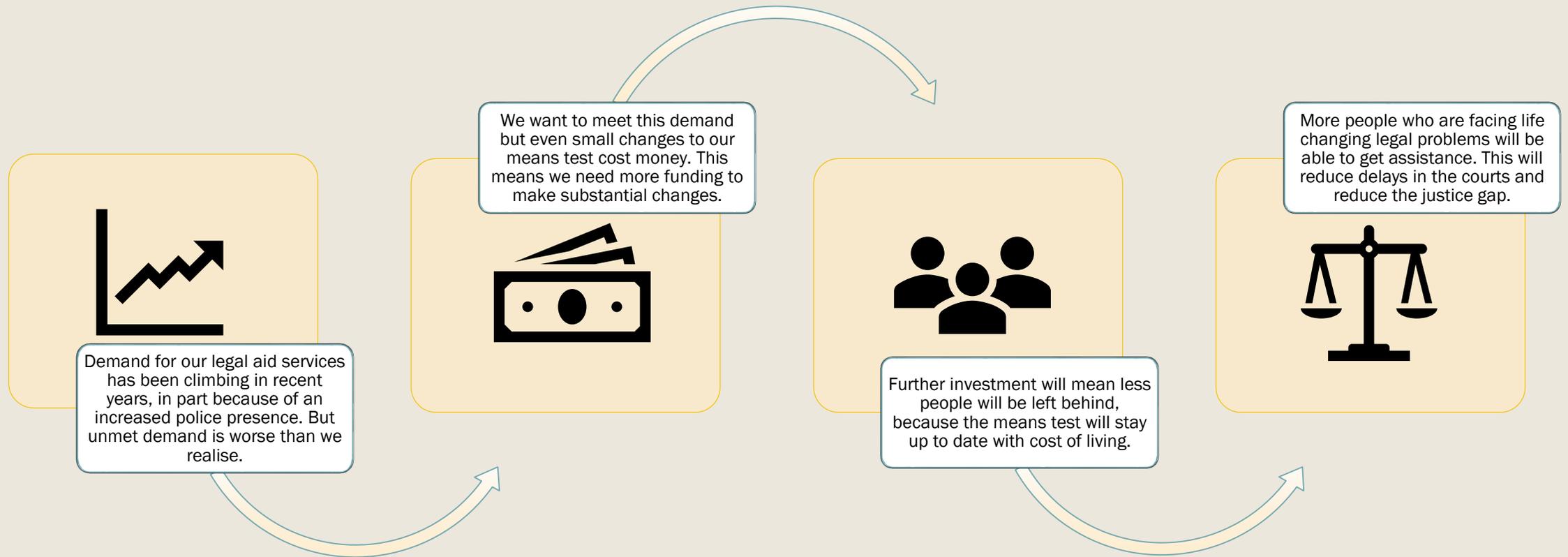


We would not ask for this information. This is because we know that asking other family members to assist with expensive legal costs can lead to relationship breakdown and stress.

BUILDING A SUSTAINABLE MEANS TEST



Increasing demand on our services



More to be done



The 13 changes were approved because they modernise our means test and can be implemented within existing resources.

The remaining changes are also essential to disadvantaged groups of people, like the working poor, but cannot be actioned without funding.

Streamlining access to a grant from duty lawyer services

Waiving our means test for some priority clients

Taking into account a person's medical and health expenses

Reviewing our estimates of the cost of legal matters

How will we achieve this?

- The means test changes have focused on making it easier for people who are eligible for legal assistance to access our help.
- Without a substantial update to our means test, we risk leaving behind others who also need our help but don't qualify.
- More financial investment from government is necessary if we want more people to access our services.
- This requires an additional phase to our Review which will be focused on strategic advocacy.
- We will engage in discussions with the Commonwealth and State governments about how additional funding will assist us to close the justice gap.
- We will also be working with key partners in the justice and community sector to assist with these lobbying efforts.

What's next?

We have begun implementing the 13 changes endorsed by the Board.

Details about when the changes will come into effect will be published on our website.

To find out more about the means test review, visit our website:

<https://www.legalaid.vic.gov.au/information-for-lawyers/how-we-are-improving-our-services/means-test-review>