



financial
counselling
australia

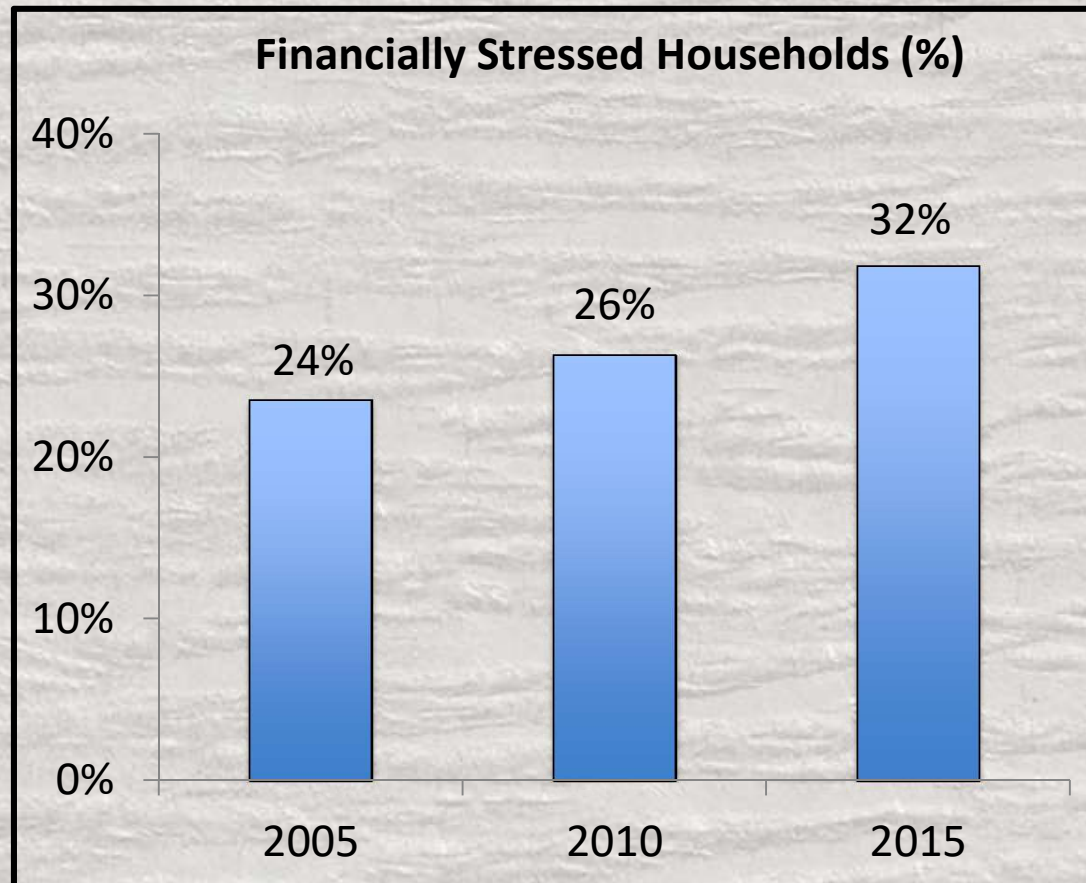
The Out of Money Experience: Who to Turn To

Mary McLean

The size of the problem



Size of the Problem – Financial Stress

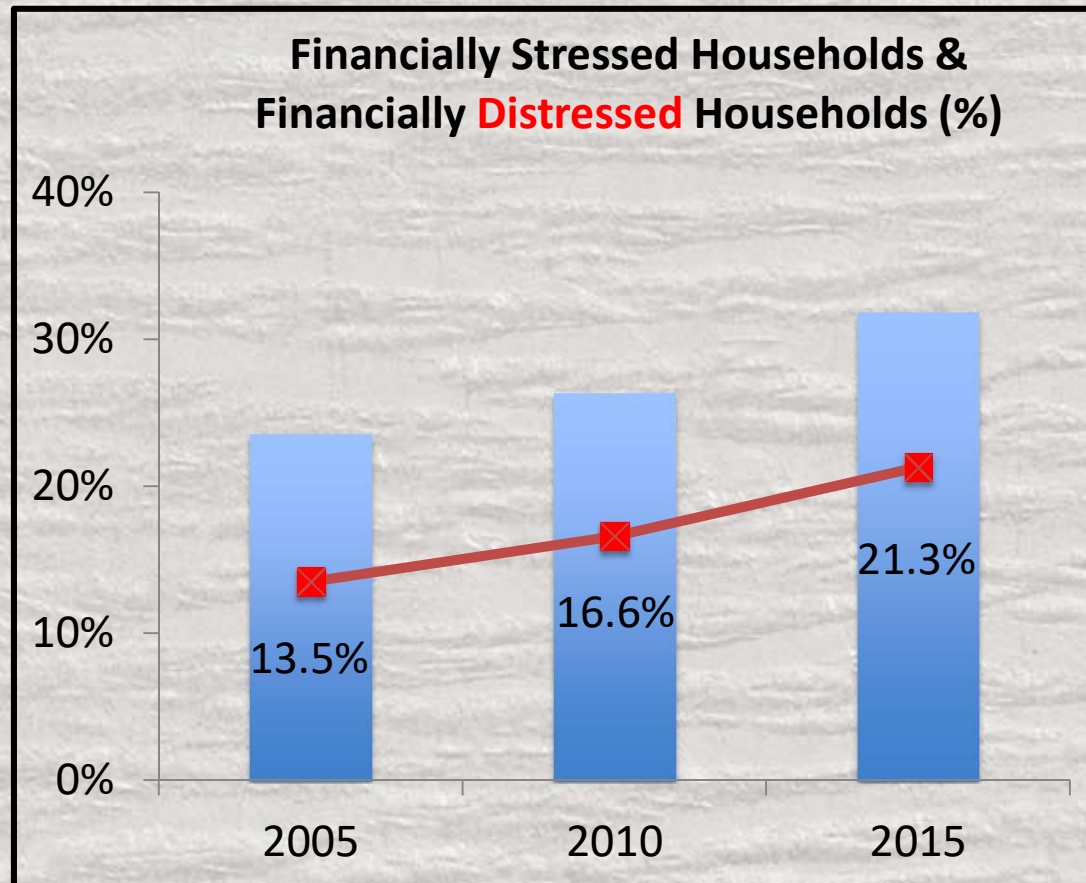


Financially stress = not meeting financial commitments as they fall due:

- Mortgage default, struggling to pay
- Behind with other loan payments
- Declined some form of credit
- Borrow again to pay an existing loan
- Seek debt counselling or credit repair
- Difficulty getting/keeping a bank account
- Bankrupt or deed of arrangement

Source: Digital Finance Analytics and the Monash University Centre for Commercial Law and Regulatory Studies, The stressed household finance landscape report 2015, p7 <http://digitalfinanceanalytics.com/reports.html>

Size of the Problem – Financial **Distress**



Financially **distress** is a subset and defined as:

- In financial stress
PLUS
- Repeat borrowers
- Limited credit options
- Chronic insufficient cash income
- Unable to find \$2K in 7 days
- No/limited access to banking facilities

Source: Digital Finance Analytics and the Monash University Centre for Commercial Law and Regulatory Studies, The stressed household finance landscape report 2015, p7 <http://digitalfinanceanalytics.com/reports.html>

Size of the problem

Financial stress affects high income households too

- High incomes, high assets – and high levels of debt (18% of households)
- Above average users of pawnbrokers, payday lenders and debt rescue companies

Source: Australian Government, Department of Families, Housing, Community Services and Indigenous Affairs, Occasional Paper No. 36

Many of us are close to the edge

- 13% of the population unable to raise \$2,000 within a week for something important
- 19% of the population had at least one cash flow problem in the last 12 months (such as being unable to pay an electricity, gas or telephone bill on time).

Source: Australian Bureau of Statistics, 4159.0 General Social Survey

Poverty

- 2.5 million people or 13.9% of the population live below the poverty line.
- Of this group, 630,000 are children.

Source: Australian Council of Social Service, Poverty in Australia 2014



The good, the bad and the ugly

For profit businesses

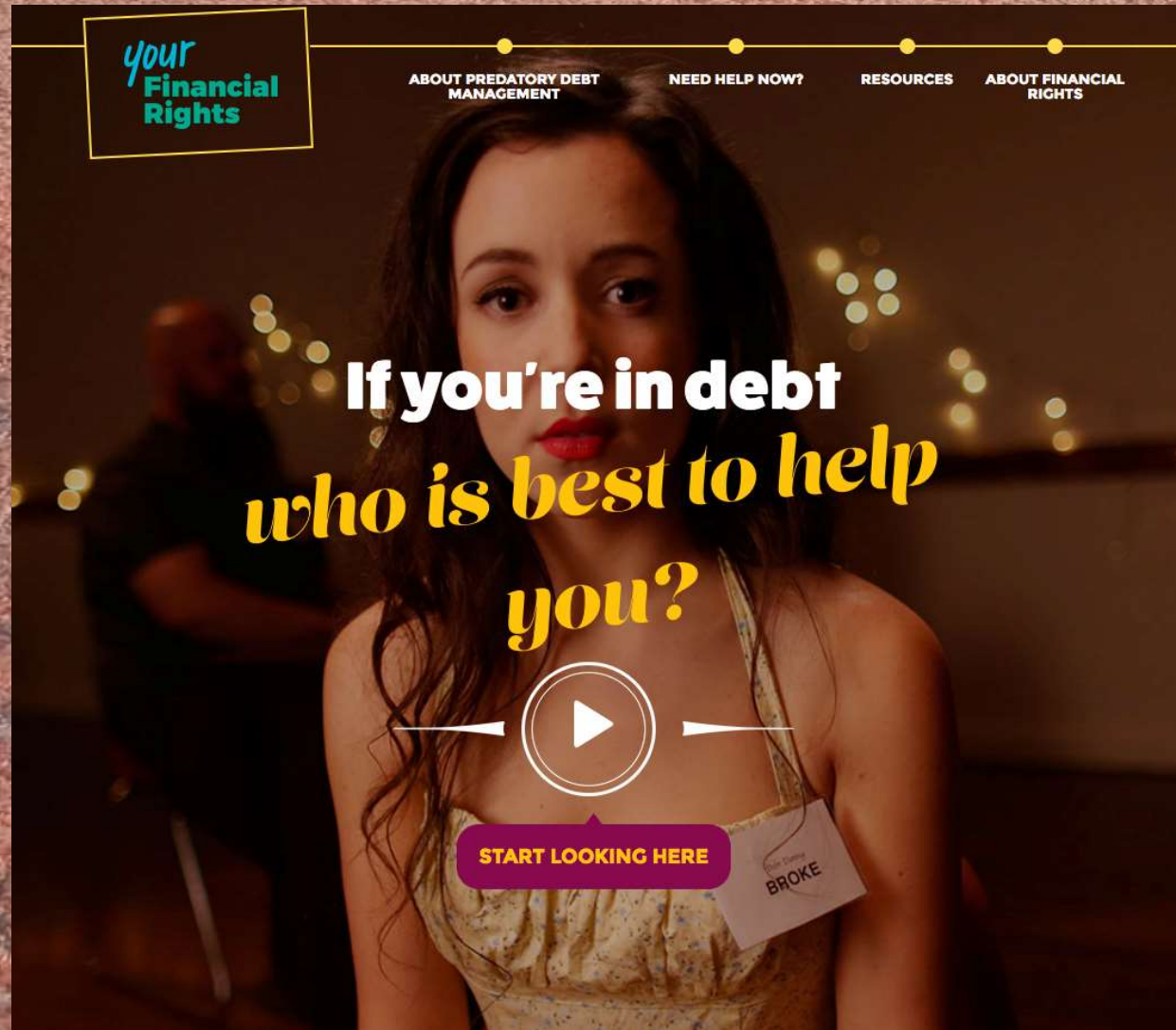
A conceptual image featuring a zipper that diagonally splits the frame. The top-left portion of the zipper is closed, revealing a dark, ominous sky with heavy, grey clouds and several bright, jagged lightning bolts. The bottom-right portion of the zipper is open, revealing a bright, clear blue sky with fluffy white clouds and a shining sun in the upper right corner. The zipper itself is a dark, metallic color with visible teeth and a pull tab.

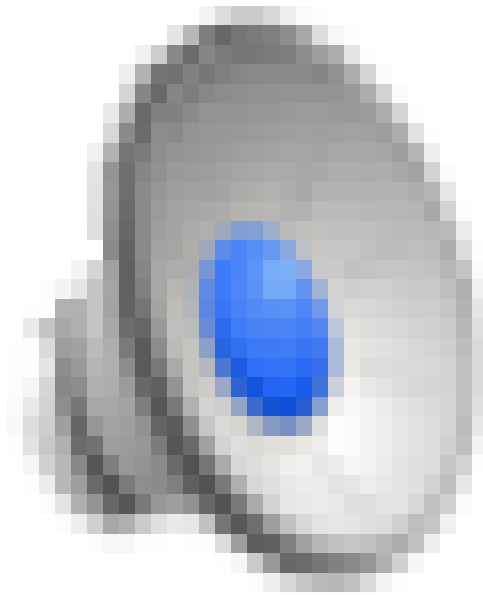
You see a problem . . .

**I see an
opportunity**

For-profit financial difficulty businesses

Welcome to Debt Dating





Who are the debt management firms?

- Debt agreement administrators (and brokers)
- Credit repair
- Budgeting services
- Debt negotiators
- Bankruptcy advice

What ASIC Says (2016)

What ASIC did

- Looked at marketing material, surveyed external dispute resolution bodies and banks, shadow shop

What they found

- **Fees**
 - opaque, high and front loaded
- **Sales techniques**
 - high-pressure
- **Risks**
 - very little information about important risks
- **Compliance**
 - some firms had a poor understanding of the law
- **Is this the best option?**
 - Very few referrals to free, alternative sources of help eg financial counsellors, hardship departments

Fixing the Problem

- Rules-based statutory regime
 - No upfront fees
 - Clear disclosure – especially of fees
 - Must inform people about free debt advice at first contact
 - Enforceable rights for clients, including the right to a refund or compensation
 - A duty to act in the client's best interest
- Licensing

**What does a
financial
counsellor do?**



HELPING CLIENTS IN financial hardship

THE COMPLEMENTARY ROLES OF
Emergency Relief Services,
Financial Counsellors
and Consumer Lawyers

COMPLEMENTARY ROLES

The diagram opposite shows the complementary roles played by emergency relief workers, financial counsellors and consumer lawyers in helping clients in financial difficulty. While each profession has its own particular skill set, they may overlap. The distinction between them is not black and white, and depends on the complexity of a particular client's issues (for example, if there are complex legal issues).

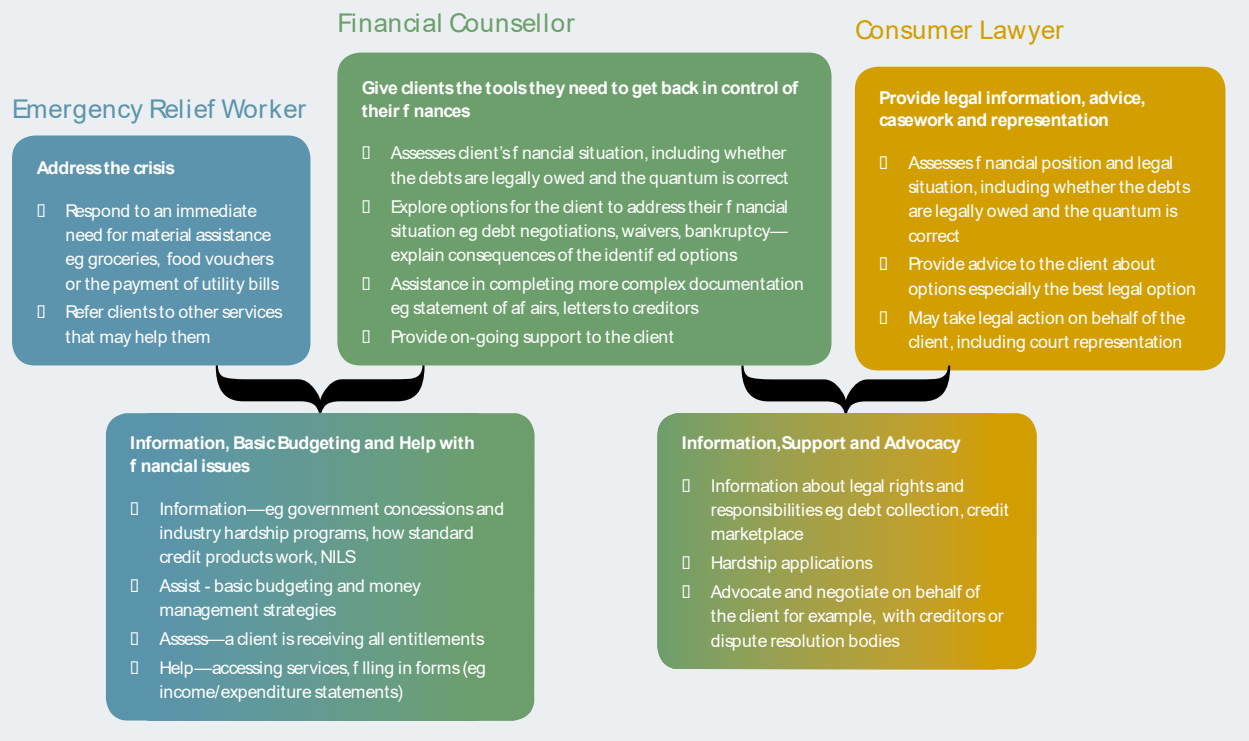
A good example is that both financial counsellors and consumer lawyers may negotiate with creditors on behalf of a client. Similarly, both emergency relief workers and financial counsellors may assist a client with developing a budget.

There is a common misconception however that the main role of a financial counsellor focuses on budgeting only. In fact, financial counselling is much more about complex money and debt management strategies, including legal issues relating to credit and debt, and bankruptcy.

WHAT ARE THE GAPS? HOW DO WE IMPROVE LINKAGES?

Suggestions for improving the way emergency relief workers, financial counsellors and consumer lawyers work together, include:

- providing ongoing training for emergency relief workers so they can offer basic money management and budgeting services;
- developing a simple checklist for all workers to identify when they should refer to each other;
- giving more financial counsellors access to 'brokerage' money so could address immediate financial needs when they saw a client;
- ensure that staff have up to date knowledge about the services in their local areas.



REFERRAL POINTS

It is important that workers know when to refer clients. Broadly, for emergency relief workers, referrals are needed where debt collection activity has commenced and/or there is a need to negotiate with creditors or other agencies, such as government housing bodies, the Australian Taxation Office or Centrelink.

For financial counsellors, they need to either refer clients—or seek advice on the case from a lawyer—where is any uncertainty about whether the debt is owed, where there are assets at risk and enforcement activity has commenced or where there may be a defence to a statement of claim. Financial counsellors may also refer clients to emergency relief services.

Consumer lawyers will refer clients to financial counsellors in a range of situations, including where the client needs assistance in completing forms for bankruptcy, developing a budget, negotiating a debt waiver or payment plan or negotiating with government agencies, such as Centrelink, the Child Support Agency, or where the client is under a lot of emotional stress.

The risks in not making an appropriate referral when indicated could be serious. These include that debts continue to mount, legal action escalates and assets may be at risk.

Emergency Relief Worker



- **Address:** the crisis
- **Respond:** to an immediate need for material assistance eg groceries, food vouchers or the payment of utility bills
- **Refer:** clients to other services that may help them

Financial Counsellor



- **Assess:** Client's financial situation, including whether the debts are legally owed and the quantum is correct
- **Explore:** options for the client to address their financial situation eg debt negotiations, waivers, bankruptcy – explain consequences of the identified options
- **Assist:** in completing more complex documentation eg statement of affairs, letters to creditors
- **If needed:** provide on-going support to the client

Consumer Lawyer

- **Provides:** Legal Information, Advice, Casework and Representation
- **Assesses:** financial position and legal situation, including whether the debts are legally owed and the quantum is correct
- Provide advice to the client about options especially the best legal option
- May take legal action on behalf of the client, including court representation

Overlaps

Emergency Relief and Financial Counsellors

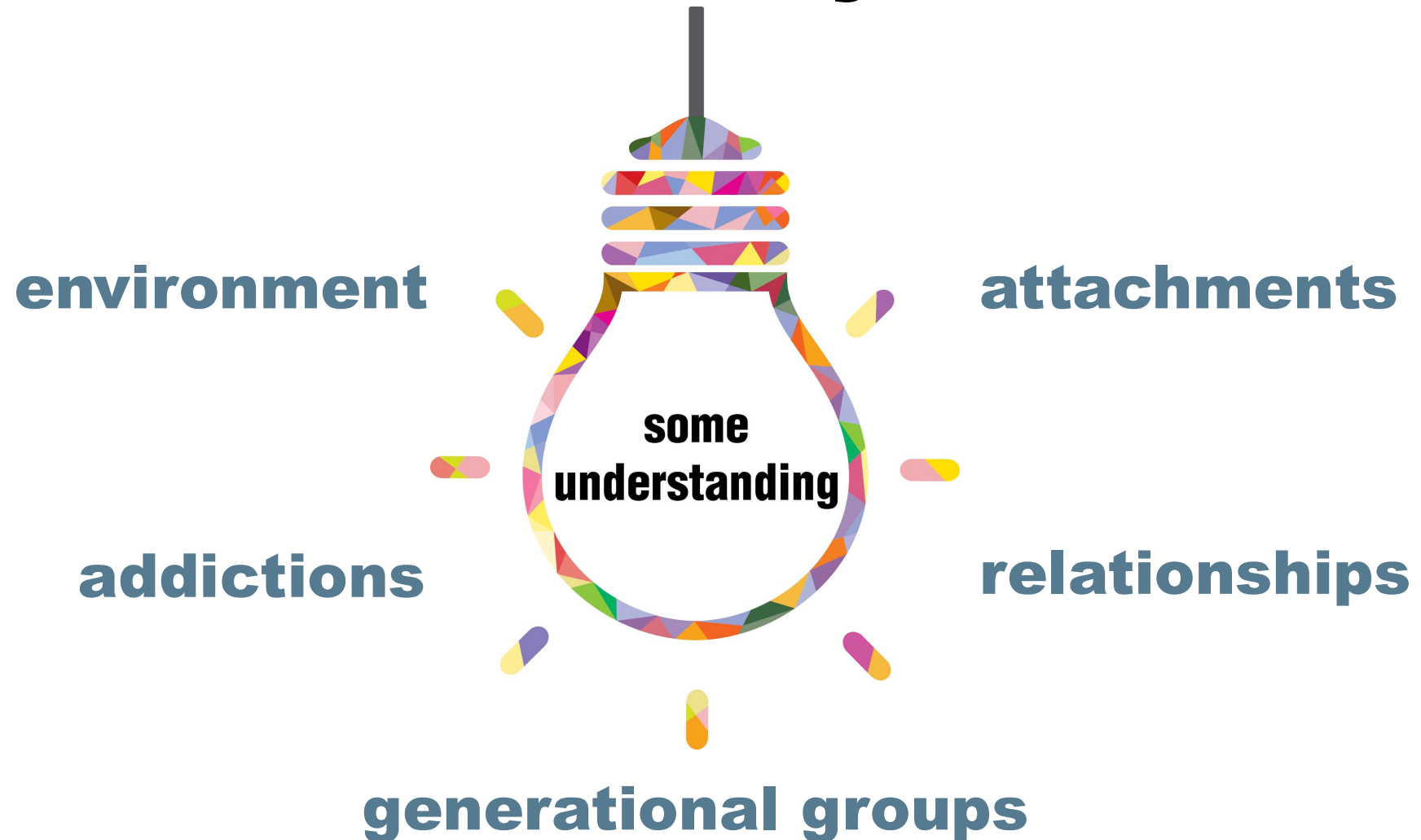
- Explain government concession frameworks
- Assess if client is receiving all entitlements
- Basic budgeting skills
- Help in filling in forms

Financial Counsellors and Consumer Lawyers

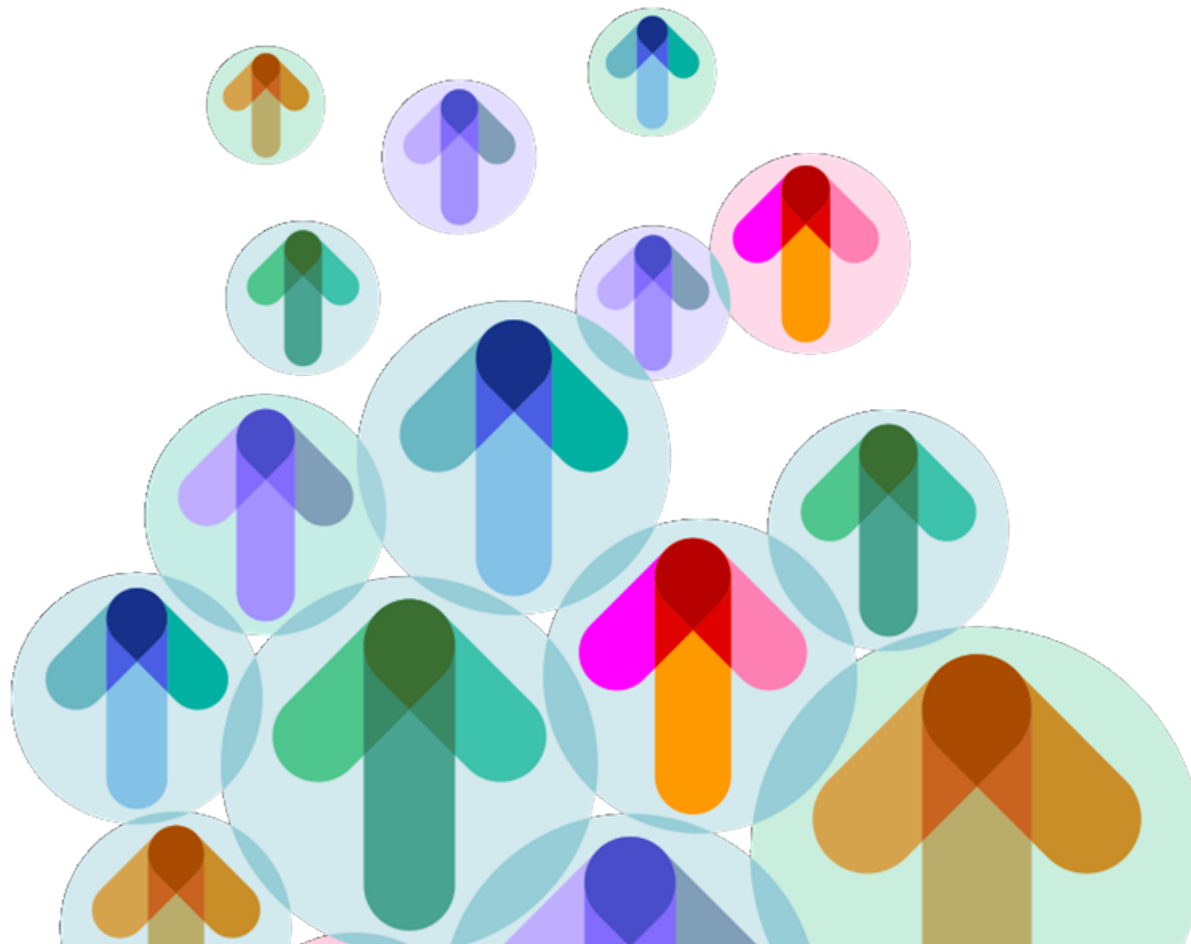
- Providing information, support and advocacy
 - Eg legal rights and responsibilities (debt collection, how credit works)
 - Hardship applications
 - Advocate with creditors
 - Disputes to EDR schemes




Why do people get into difficulty?



Increasing Access



In case you want to tell them about this ... very useful referral option

A banner for the National Debt Helpline. It features a woman with long brown hair, wearing a dark green long-sleeved shirt, sitting outdoors with her arms crossed. The background is a blurred green landscape. In the top left corner, there is a green circular logo with a white telephone handset icon, followed by the text "NATIONAL DEBT HELPLINE 1800 007 007" in green and white. Below the logo, the text "OVERWHELMED? NOT SURE WHAT TO DO WITH YOUR DEBTS?" is written in large, bold, white capital letters. Underneath this, in smaller white capital letters, is "GET BACK ON TRACK WITH FREE FINANCIAL COUNSELLING". At the bottom left, there is a white rounded rectangular button with the text "DISCOVER HOW ↓" in black capital letters.

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SEO