Assessing the experiences of debtors and creditors with practitioners during the personal insolvency process – a market research report for the Australian Financial Security Authority

Submitted 25 May 2017

WHERE TO

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1. Debtors in debt agreements

1.1 Methodology

This report details the findings of a study commissioned by the Australian Financial Security Authority (AFSA) to evaluate the integrity of the personal insolvency administration system from the perspective of creditors, bankrupts and debtors.

The study involved an initial qualitative phase, comprising 15 interviews with creditors and 6 interviews with bankrupts and debtors, and then an n=653 quantitative survey with bankrupts and debtors. Fieldwork was undertaken in January, February and March 2017. Findings reflect the reported testimony of respondents.

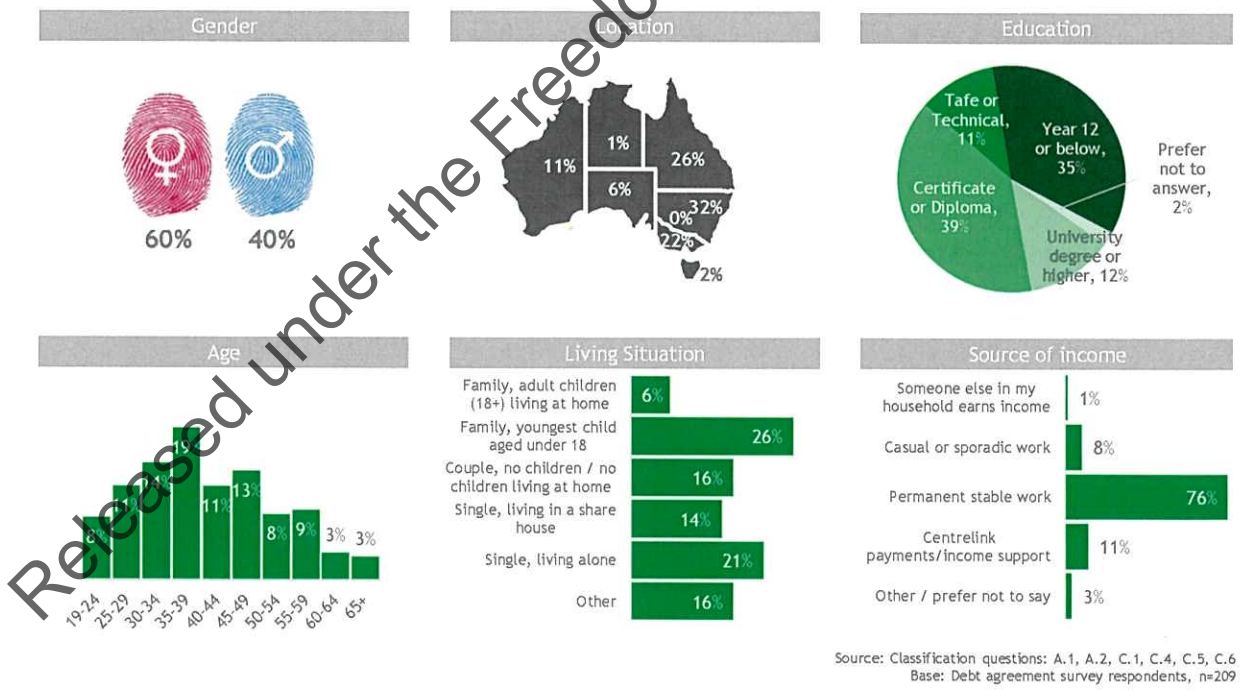
This sub report details findings in relation to debtors in debt agreements.

1.2 Sample characteristics

Two hundred and nine people on debt agreements were interviewed for this study. Their demographic characteristics were as follows:

- gender was skewed slightly to females (60% vs 40%)
- 4 in 5 (80%) were located in QLD, NSW or VIC
- three-quarters (76%) were in permanent, stable work
- 11% were on income support payments, and
- a third (33%) were aged in their 30s.

Figure 1. Debt agreement – Demographic characteristics



1.3 Context: social meaning of bankruptcy

Creditors wondered if the increase in debt agreements could be put down to changing attitudes to insolvency – and in particular to a reduction in stigma. They worried that if this stigma had diminished, then a key deterrent to insolvency had been removed. (Some were concerned about the mooted introduction of the '1-year bankruptcy' in this context.)

However, the deep embarrassment at their predicament expressed by bankrupts and debtors in the survey suggested that strong social norms still operate.

Very few debtors in debt agreements said that their debt was a small or inconsequential matter. 6% of people on debt agreements said they ran up debt on their credit cards because they knew personal insolvency was an option. Across the sample, only 1% agreed with the statement: 'insolvency is not a big deal these days'.

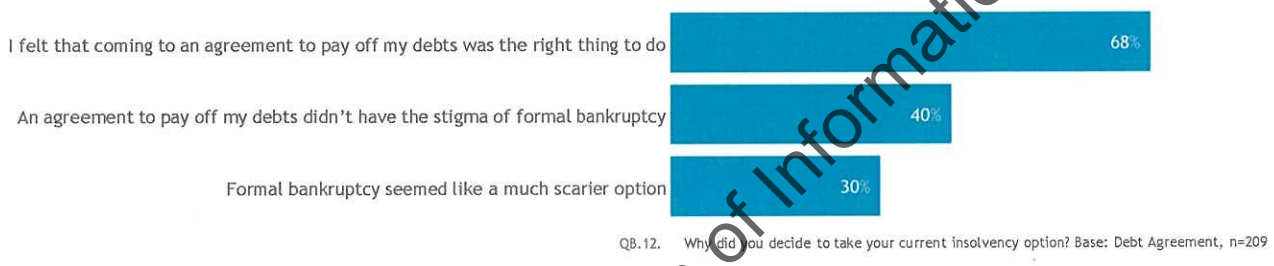
In addition, four in ten debtors (43%) said that they were 'too embarrassed to talk to anyone else and relied on the advice of their insolvency administrator'.

The study indicated that stigma played out differently in relation to debt agreements. 40% of people who had entered into debt agreements said that 'an agreement to pay off my debts didn't have the stigma of formal bankruptcy' and 30% agreed with the statement 'formal bankruptcy seemed like a much scarier option'.

Interestingly, debtors aged 50+ were much more likely to agree with the idea that debt agreements don't have the stigma of formal bankruptcy.

Having said this, a significant proportion of debtors (68%) also believed that paying off their debts represented a way to do the right thing by their creditors.

Figure 2. Debt agreements have a lower bar than bankruptcy, represent the 'right thing to do'



1.4 Circumstances leading to the take-up of insolvency

Respondents in the survey were asked to nominate the factors they saw as contributing to their insolvency – they were able to select more than one option.

Over half of debtors in debt agreements said that their insolvency stemmed from a lack of financial acumen and prioritisation. A total of 57% said that they didn't focus on managing their money and that their bankruptcy 'just happened' and they weren't 'sure why'. This suggested that not all people going into debt agreements were astute money managers or had good financial literacy. They may have needed more coaching and guidance when it came to making good decisions about whether or not a debt agreement was the right option for them, and if the end proposal was in their best interests.

The next most common marker cited by respondents as leading to their insolvency was a life event that had a major impact on financial wellbeing. This suggested a population with little financial 'padding' to deal with adverse or unexpected life events. These events included:

- divorce / breakdown of a relationship (36%)
- loss of employment / business failing (32%)
- one's own illness or disability (15%)
- the illness or disability of a family member (10%)
- the birth of a child (7%), and
- the death of a loved one (6%).

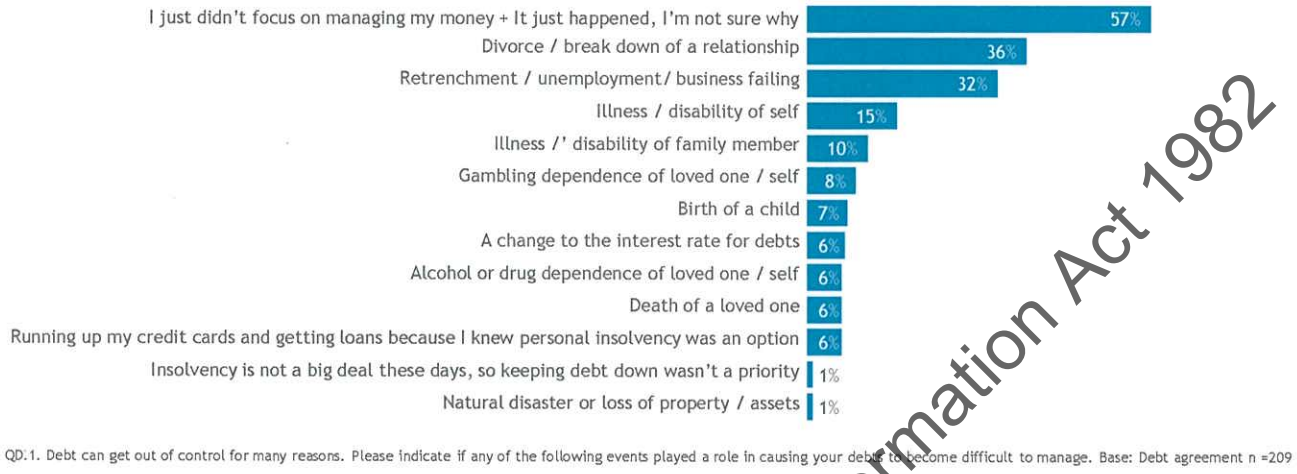
Substance dependence contributed to 6% of debt agreements and gambling dependence to 8%.

There were some demographic skews, indicating that particular drivers were linked to life stage.

Younger people were more likely to agree that they hadn't focussed on money management — 88% of 19-24 year olds and 69% of 25-39 year olds gave this as a reason. 25-39 year olds were also more likely to say the birth of a child contributed to bankruptcy.

Respondents aged 50+ years were more likely to cite illness or disability, either their own (23%) or that of a family member (19%), as a driver of their insolvency.

Figure 3. Reasons for debt becoming difficult to manage



1.5 Emotional decision-making

In the qualitative study, debtors in debt agreements said they felt that they had not always made decisions with respect to personal insolvency while in a cool or rational state.

They said the significant build-up of stress as a result of dealing with debt collectors and trying to juggle income and repayments for multiple debts had left them feeling financially and emotionally precarious. This was reflected in the quantitative research, where 67% said that a key driver of their taking up insolvency was that they just couldn't cope with the stress of debt anymore.

Figure 4. Insolvency as an answer to stress

1.6 Mapping insolvency decision-making

In the qualitative study, both creditors and debtors spoke of circumstances where people had been nudged by unmediated online information and advisors into taking out a debt agreement, including against their own best interests.

The survey provided evidence to support this point of view. It mapped a narrow consideration process, where a significant minority of debtors did not — and were not encouraged to — consider alternatives to insolvency, a range of insolvency providers, or alternative sources of advice.

Not all were told of the full consequences of becoming insolvent with respect to their ability to access credit, or were asked for all the information that would have enabled their debt administrator to put together a realistic proposal.

1.6.1 Not looking to become insolvent

Creditors worried about the extent to which debtors were being convinced to go into insolvency when they were actually seeking debt consolidation.

The quantitative research supported this interpretation. It suggested a funnelled process, where debtors were nudged to consider debt agreements over other options.

A majority of debtors did not begin the process of becoming insolvent with the goal of entering into a debt agreement. The two main reasons debtors gave for driving their search process were looking to consolidate debt (42%) or otherwise generally looking for a way to manage debt (44%). Only 12% had personal insolvency as a clear initial intention.

Respondents in their 40s were more likely to say that they were searching for debt consolidation, and women and respondents aged 50+ were more likely to say that they were 'just looking for a way to manage' their debts.

Respondents on income support payments were more likely to say that they were specifically looking to go into a debt agreement.

Figure 5. Reason for pursuing insolvency

1.6.2 A narrow information gathering process

Respondents in the survey were asked about where they first went looking for, or found, information that led them to taking up insolvency. Their searches were characterised by impersonal advice sources – the internet and advertising.

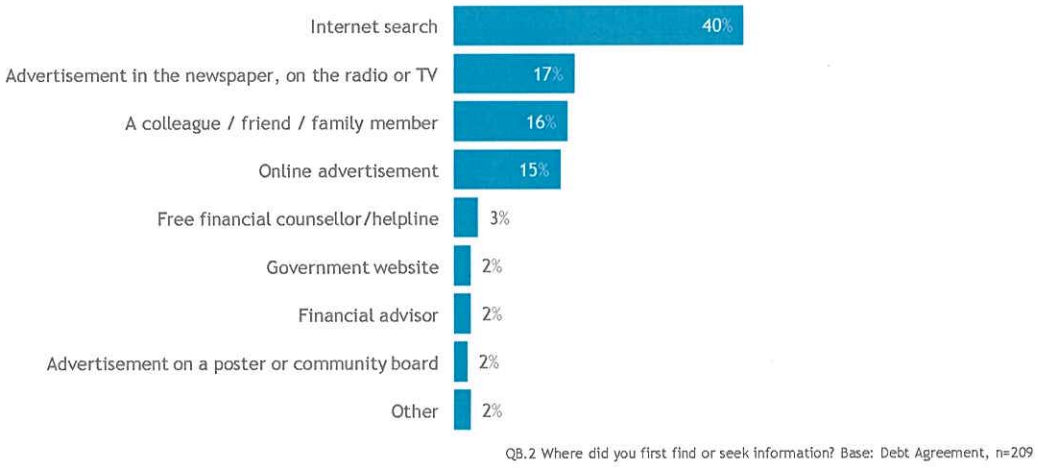
The internet dominated information search channels, with 40% of debtors searching online, 15% being prompted by online advertising and 2% by a government website.

Another 17% responded to more traditional newspaper, radio and TV advertising as well as to collateral materials in the community (e.g. a community noticeboard).

A minority were triggered by an advisor – 16% by a colleague, friend or family member and 2% by a financial counsellor or advisor.

Respondents aged 25-39 years were more likely to use the internet as their first search tool. Women were more likely to notice online advertisements and men advertisements in more traditional media.

Figure 6. First source of information



1.6.3 A substantial minority were not comparing different insolvency administrators

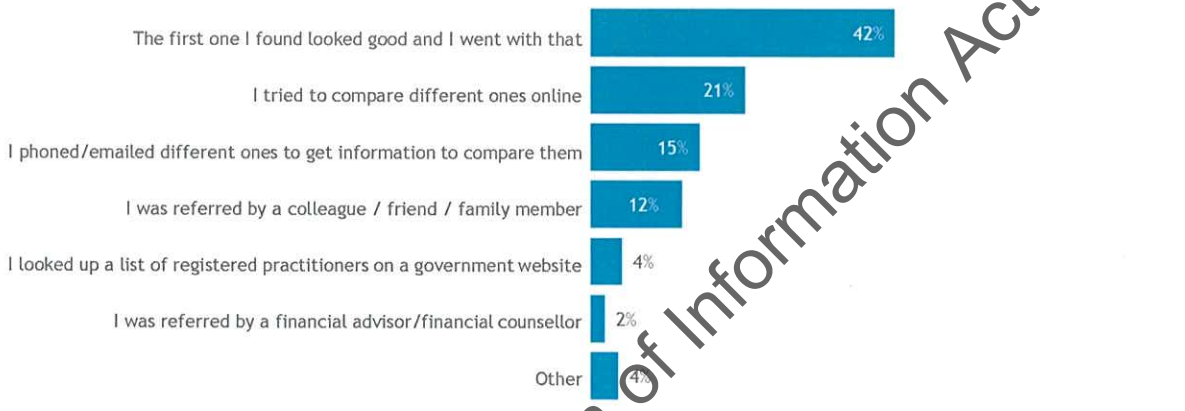
Respondents in the survey were asked how they selected the person or organisation who arranged their insolvency. They were able to select multiple reasons for this.

A substantial number of debtors did not compare insolvency administrators when making their choice — 42% of debtors stated that they used the first insolvency practitioner they came across. Respondents in unstable work and on Centrelink payments were more likely to say that they went with the first company they found.

Others tried to compare different organisations online (21%) or used phone and email to get more information about an organisation (15%).

Some relied on referral in making their decisions — including through colleagues, friends or family (12%), government websites (4%) and financial advisors (2%).

Figure 7. Selecting a debt administrator



QB.3 How did you select the person or organisation who arranged your insolvency? Base: Debt Agreement, n=209

In total, 77% of survey respondents said they dealt with only one company when applying for insolvency. Respondents aged over 50 years were much more likely to say this, as were people in insecure work.

Figure 8. Dealt with single company only

QB.10. Here are some statements which could apply to the information provided to you by your trustee. Please indicate how much you agree or disagree with each of these statements where 1 means completely disagree and 10 means completely agree. Base: Debt Agreement, n=209

Just over half (51%) of debtors said that the organisations they were dealing with provided evidence that they were registered, perhaps indicating a need for further guidance to administrators on best practice in this area.

Figure 9. Proof of registration

QB.10. Here are some statements which could apply to the information provided to you by your trustee. Please indicate how much you agree or disagree with each of these statements where 1 means completely disagree and 10 means completely agree. Base: Debt Agreement, n=209

1.6.4 Consideration of informal alternatives to insolvency

Respondents in the survey were asked if their insolvency administrator had discussed informal alternatives to insolvency — for instance negotiating a repayment plan with creditors, contacting their creditors and/or a creditors' financial hardship officer for help.

Four in ten debtors in debt agreements (40%) said that informal options were discussed, while almost one in five (17%) said their insolvency administrator never mentioned informal options, 12% were only offered informal options in passing, and 11% were offered informal options and advised against it. People in casual or sporadic work were more likely to say that they had been advised against informal options. (Note that this option may have been discussed with another party.)

Figure 10. Consideration of informal options

QB.5 Did your trustee discuss informal options like re-financing your home loan, negotiating a repayment plan with your creditors or contacting your creditors', or contacting your creditors' 'financial hardship officer' for help Base: Debt Agreement, n=209

Only 8% of debtors in debt agreements said their insolvency administrator had told them about emergency relief charities and community organisations that could assist with living expenses.

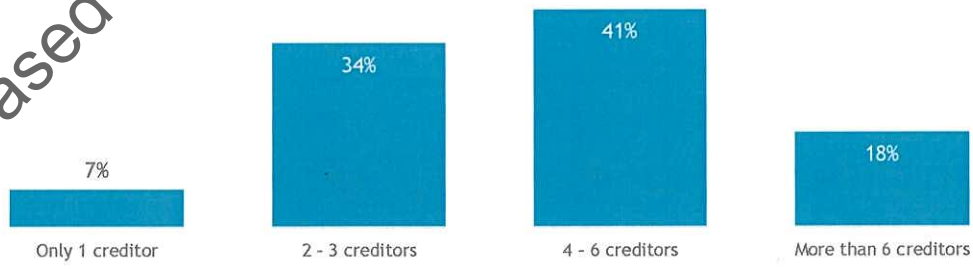
11% agreed with the statement 'looking back, I think I would have been better off phoning my creditors myself and declaring financial hardship rather than following the advice I was given'.

Figure 11. Consideration of alternatives

QB.10. Here are some statements which could apply to the information provided to you by your trustee. Please indicate how much you agree or disagree with each of these statements where 1 means completely disagree and 10 means completely agree. Base: Debt Agreement, n=209

In addition, 7% of respondents had only one creditor, and 34% of respondents had 2-3 creditors, indicating that informal options may have suited them.

Figure 12. Number of creditors



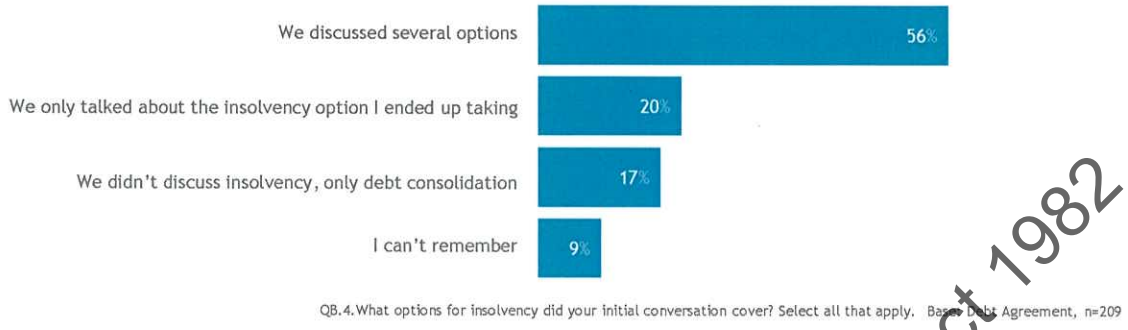
QB.20. At the time that you set up your insolvency, how many creditors did you have? Base: Debt Agreement, n=209

1.6.5 Looking at different insolvency options

More than half (56%) of debtors said that they discussed different insolvency options with their administrator in their initial conversations. People aged 25-39 were most likely, and respondents aged over 50 least likely to say that they had discussed several options.

However, one in five debtors (20%) said that they only discussed the option they ended up taking — people in casual or sporadic work were more likely to say this. 17% said they only discussed debt consolidation — respondents aged over 50 years were more likely to say this.

Figure 13. Options covered in initial conversation



Respondents in the survey were also asked about their reasons for selecting their insolvency option.

Only 28% of debtors in debt agreements said that their reason for selecting their insolvency option was that they 'went through the documentation'. A further 15% said that a debt agreement offered them the option to keep their house and car.

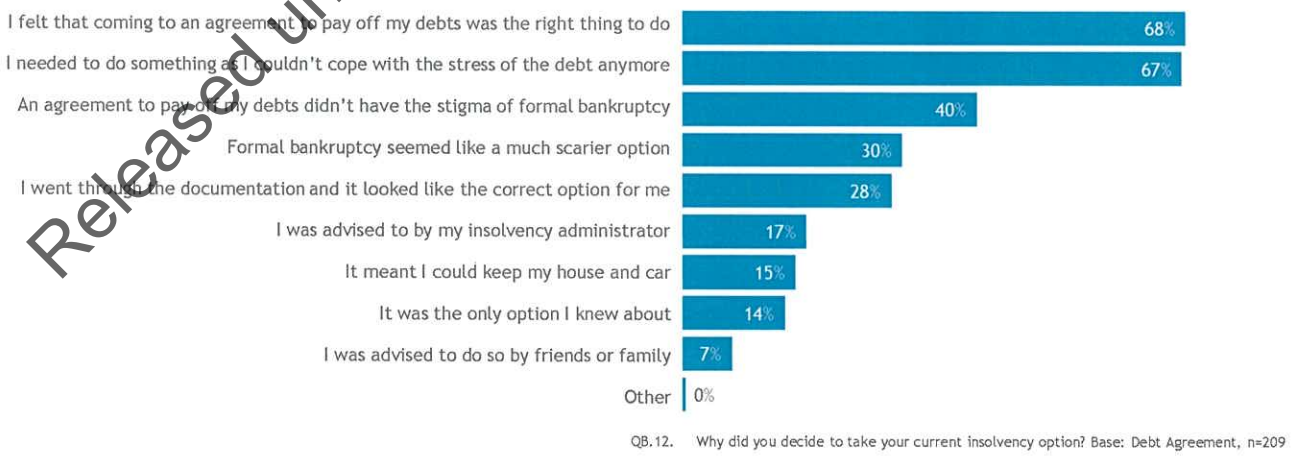
Others said they selected their insolvency option based on more subjective reasons — as the right thing to do (68%), as an alternative to the stress of debt (68%), as a way of avoiding the stigma of bankruptcy (40%) or the fear of formal bankruptcy (30%).

A further 14% said they didn't know of other options or that they relied on the advice of an insolvency administrator (17%) or friends and family (7%) in making their decision.

The quantitative research findings also suggested that not all debtors necessarily understood the option that they had selected. Of the people surveyed as being on debt agreements, 91% identified as being on a debt agreement whilst 8% believed they were in a personal insolvency agreement and 1% thought they had recently undertaken debt consolidation.

The qualitative research offered an illustration of how this situation may have come about. Debtors who were facing debt due to illness said that they didn't necessarily have the energy or physical capability to do due diligence at this stage. One participant in the qualitative study with chronic fatigue said that (due to her illness) she didn't read the paperwork properly, with the result that she had thought she was on a debt consolidation months into her debt agreement.

Figure 14. Reasons for selecting insolvency option



In addition, 11% of respondents on debt agreements relied on Centrelink or unstable income, suggesting that they might find it hard to maintain their agreement.

1.6.6 A pattern of not seeking alternative advice

Respondents in the survey were asked if they were aware that they were able to access the services of free financial counsellors.

10% of debtors in debt agreements had accessed a free financial counsellor. Respondents aged over 50 years were more likely to have done so (17%).

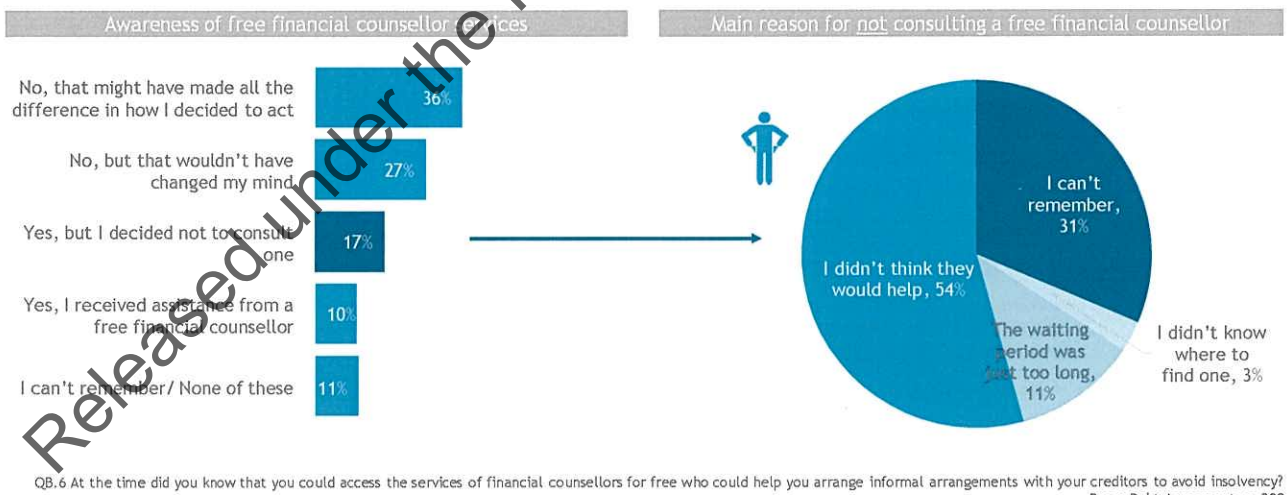
Approximately one in five (17%) debtors were aware of free financial counselling services but decided not to consult them. The main reason they gave for this was a lack of faith that it would have helped (54%).

A substantial proportion of debtors said they couldn't remember why they didn't access financial counsellors (31%), suggesting that their consideration of this service was not very involved.

Approximately two-thirds (62%) of debtors were not aware that they could access the services of a free financial counsellor. Of those who were not aware of this service, 36% said they thought access to a counsellor might have made a difference to their situation. 27% of debtors felt that being able to access a financial counsellor's advice would not have altered their decision-making around insolvency – men were more likely to say this.

I think it would be great if you actually had to speak or contact the free financial counselling service first before you got stitched up by one of the debt reduction companies. when I think back to how I felt at the time I was broken the company representative was ok but really I should have had a financial advisor talk to me about informal agreements with my creditors Maybe that would have been better I don`t know. But really looking back at it now all the debt consolidation companies have to do is sign you up which is not hard as they will stop the harrassment from the banks. They sign you up and make 16 weeks of payments from you pretty easy to do I reckon. I was vulnerable and at my wits end perhaps I still made the right choice I don`t know but I should have spoken with an independant financial counsellor first but when you are at wit`s end and ashamed a person on the phone who tells you this will be much better and the banks will stop calling you seems like a really easy end to the pain. This process needs regulation I could have absolutely used independant help. Maybe if I was forced to do that first it would have negated my shame and guilt... Debtor

Figure 15. Awareness of free financial counsellor services and reasons for not using free financial counsellor services



QB.6 At the time did you know that you could access the services of financial counsellors for free who could help you arrange informal arrangements with your creditors to avoid insolvency? Base: Debt Agreement, n=209

QB.7 What is the main reason that you decided against consulting a free financial counsellor? Base: Did not use free financial counsellor n=35

Answers given by debtors also suggested that they limited their external advice sources due to social embarrassment. This perhaps explains the low number of people seeking advice from their close circle.

1.6.7 What were people told about the consequences?

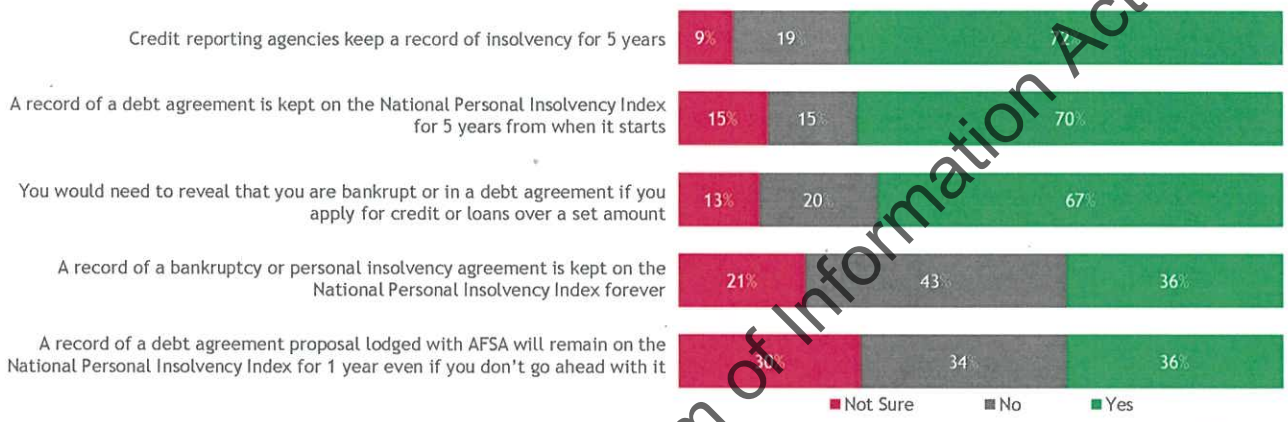
The survey data suggested that while a majority of debtors in debt agreements were told of most of the consequences of personal insolvency, a significant minority felt uninformed or under-informed.

Two-thirds (67%) reported that they were informed that they would need to reveal their debt agreement status when applying for credit or loans over a certain amount.

Approximately one-third (30%) said that they were not told that a record of a debt agreement is kept on the National Personal Insolvency Index forever.

Respondents aged 25-39 were generally more likely to say that they had been informed of each of these consequences (with the exception of having to reveal that they were a bankrupt if applying for credit or loans over a certain amount).

Figure 16. Information provided regarding how insolvency would affect credit rating



QB.11. Please indicate whether the following information was given to you about how insolvency would affect your credit ratings. Base: Debt Agreement, n=209

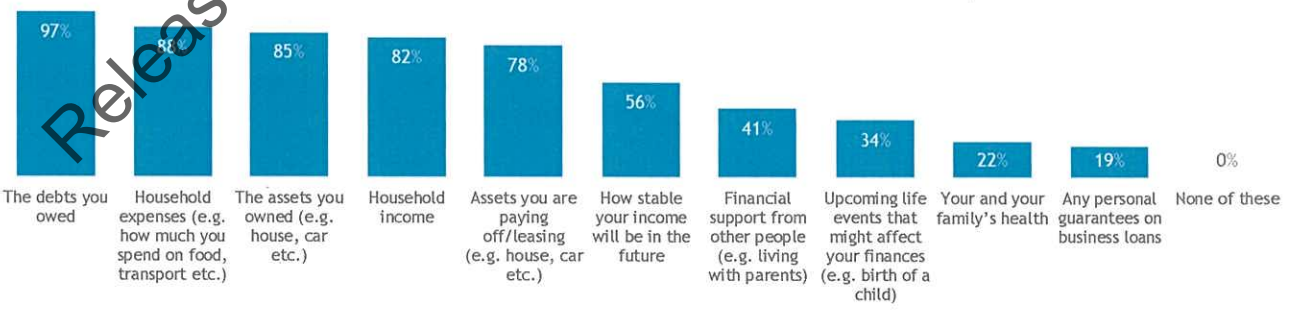
1.6.8 What information were people asked for?

Respondents in the survey were asked about the range of information personal insolvency administrators sought from them.

Most debtors in debt agreements were asked about debts owed (97%), household expenses (88%), assets owned (85%), household income (82%), and assets they were paying off (78%).

A lesser number of debtors were asked about income stability (56%), financial support from other people (41%), upcoming events that might affect their finances (34%), their health (22%) and personal guarantees on business loans (19%). This suggested that debt administrators were typically failing to capture all the information needed to develop accurate and sustainable debt agreement proposals.

Figure 17. Information requested from debtor upon application



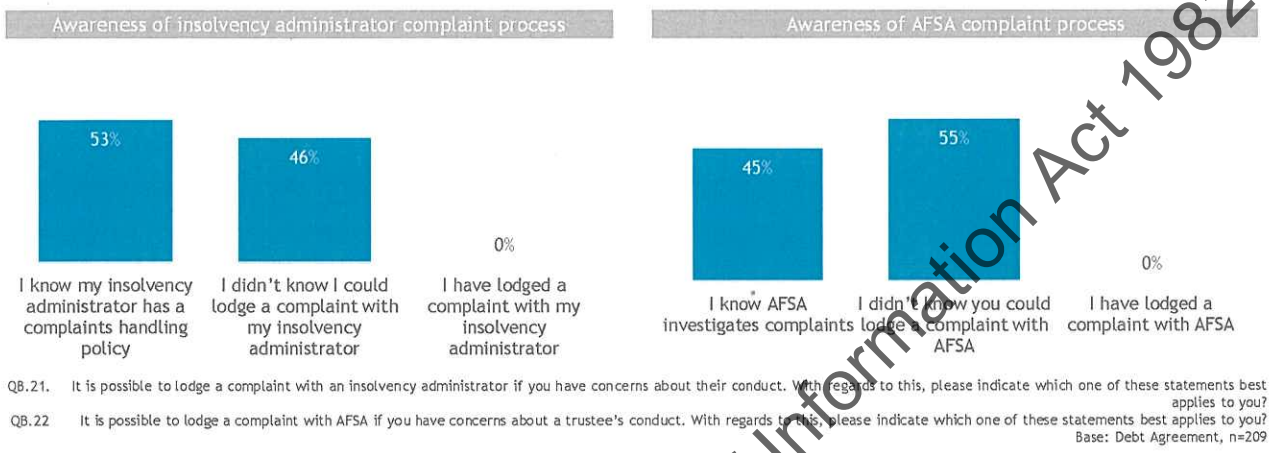
QB.8 When you applied for insolvency, what information were you asked for? Please select all that apply..
Base: Debt Agreement, n=209

1.6.9 Knowledge of the complaints handling process

In the survey, over four in ten debtors (46%) were unaware of their administrator's complaints handling policy, or that they could lodge a complaint with their insolvency administrator. 55% were unaware that they could lodge a complaint with AFSA, but no one had done so. This suggested a significant opportunity to better communicate these options to debtors.

Respondents aged 25-29 were more likely to say that they knew about AFSA's complaints process and men were more likely to say they knew about their administrator's complaints handling process.

Figure 18. Awareness of insolvency administrator and AFSA complaint processes

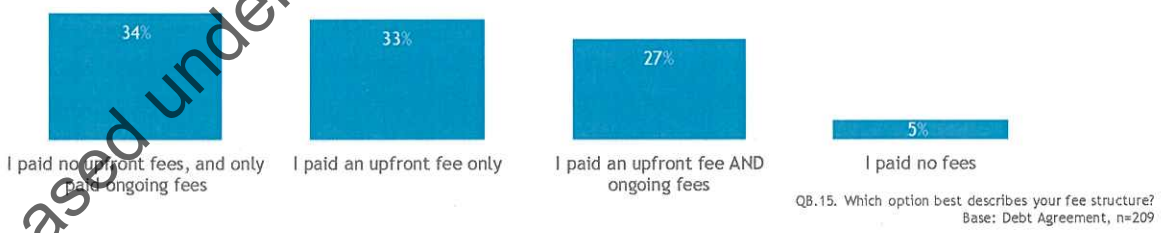


1.7 Fees and debt

The way in which debtors reported their fees and debts suggested that they did not necessarily have a good understanding of their fees — this suggested that the information process was insufficiently disruptive and that it was too easy for debtors to ignore or skim over written information.

33% of debtors said they paid no ongoing fees and 5% said that they paid no fees. (To provide a context, creditors said that both these circumstances were very unusual, which suggested that either the quantitative sample was unusual, or were unclear about the extent to which they had or were paying fees.)

Figure 19. Fee structure



In addition, there was also a disconnect between average fees and average debts reported by debtors with debt agreements in the survey and the typical fee structures observed by creditors.

While the combined average upfront and ongoing fees of debtors in the survey was $400, average debts were at $36,000. Given that creditors said that fees typically were 20-30% of the total debt amount, this suggested that a proportion of debtors may not have been aware of the full amount of the fees they were paying, or were at the least confused about the nature of their fee.

Table 1. Upfront and ongoing fees paid to insolvency administrator to set up and manage insolvency

Fees paid to insolvency administrator to set up and manage insolvency	
	Median fee paid ($)
Upfront amount	$250
Ongoing amount	$150

QB.16. How much was your upfront fee? Please give the number in whole dollars. Base: Debt agreement, did have upfront fees n=127
QB.17. How much was your ongoing fee? Please give the number in whole dollars. Base: Debt agreement, did have ongoing fees n=121

Table 2. Total amount of debt and assets at time of insolvency application

Total $ amount of debt / assets at time of insolvency application	
	Median amount $
Debt	$36,000
Assets	$13,300

QD.2. At the time that you applied for insolvency, what was your total debt? Please give the number in total dollars. Base: Debt Agreement who disclosed total debt, n=181
QD.3. At the time that you applied for insolvency, what were your total assets? worth Please write down the number in total dollars. Base: Debt Agreement who disclosed total assets, n=154

Upfront fees also appeared to be an area where insolvency administrator performance could have been improved. One in five debtors (20%) in the survey agreed that it took time for them to find the money to pay the initial fee to proceed with the application.

Figure 20. Attitudes towards experience of applying for insolvency – Paying the initial fee

QB.14. Here are some statements which could apply to your experience of applying for insolvency. Please indicate how much you agree or disagree with each of these statements where 1 means completely disagree and 10 means completely agree. Base: Debt Agreement, n=209

1.8 Satisfaction with the process and quality of information

1.8.1 Process

74% of debtors in debt agreements in the quantitative survey said they felt that their personal insolvency administrator was 'on my side and trying to help me make a good decision'. Respondents aged over 50 and women were much more likely to say this.

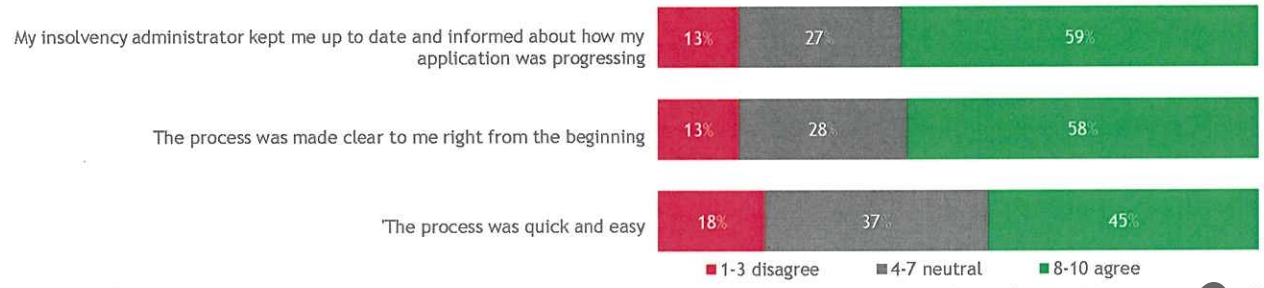
Figure 21. Attitude towards personal insolvency administrator – On my side

QB.10. Here are some statements which could apply to the information provided to you by your trustee. Please indicate how much you agree or disagree with each of these statements where 1 means completely disagree and 10 means completely agree. Base: Debt Agreement, n=209

Approximately 6 out of 10 debtors (58%) believed their experience of the insolvency process was 'clear right from the beginning', and a similar proportion (59%) felt they were kept up-to-date by their administrator. 45% said the process was quick and easy.

People with a highest level of education at the certificate or diploma level were more likely to disagree that the process was made clear or that it was quick and easy.

Figure 22. Attitudes towards experience of applying for insolvency – Ease and clarity



QB.14. Here are some statements which could apply to your experience of applying for insolvency. Please indicate how much you agree or disagree with each of these statements where 1 means completely disagree and 10 means completely agree. Base: Debt Agreement, n=209

1.8.2 Quality of information and advice

Respondents were asked to evaluate the information and advice they received from their personal insolvency practitioner. The survey showed that a high proportion of respondents were dissatisfied with this information and advice.

- 63% agreed that the information provided to them was helpful
- 19% said that they should have been given different information to avoid 'nasty issues' (people with a highest level of education at certificate or diploma level were more likely to say this)
- 15% said they weren't given the best advice
- 8% said they were deliberately given incorrect information, and
- 14% said the documentation was too complex to read properly (people on income support payments were more likely to say this).

Figure 23. Satisfaction with information and advice given

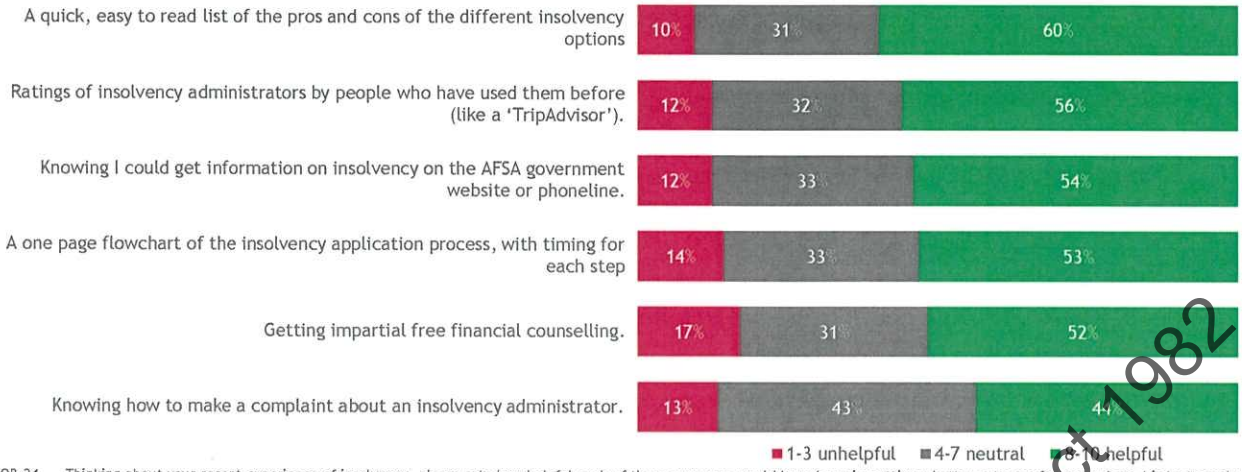
QB.10. Here are some statements which could apply to the information provided to you by your trustee. Please indicate how much you agree or disagree with each of these statements where 1 means completely disagree and 10 means completely agree. Base: Debt Agreement, n=209

1.9 Appetite for more resources

Most debtors felt that there was scope for more resources that would result in better outcomes from the insolvency process. They provide a range of ideas for AFSA to act on to disrupt the insolvency take-up process and persuade debtors to more carefully consider the ramifications of their actions. These included:

- a quick easy list of the pros and cons of the different insolvency options (60%),
- ratings for insolvency administrators by people who have used them (56%)
- knowing about AFSA's website and phoneline (54%), and
- a one-page outline of the insolvency process, with timing for each step (53%).

Figure 24. Helpful resources for the insolvency process



QB.24. Thinking about your recent experience of insolvency, please rate how helpful each of these resources would have been in getting a better outcome for you, where 1 is 'extremely unhelpful' and 10 is 'extremely helpful'? Base: Debt Agreement, n=209

The suggestions in the survey surrounding information and documentation such as a flow chart and time line of events a detailed list of pros and cons etc. would be very helpful and I would have loved to have had this information when I was going through the process. Regular phone calls or written communication with my insolvency adviser would have been very helpful as I often had to call up and ask on the status of my application. I wanted to make sure that I wasn`t paying $130 each fortnight straight to the company without it going against my debt for no reason while they took their time to set up my agreement. I think it is important to have more awareness surrounding how to avoid having to enter the insolvency system in the first place with a bigger focus on educating people on how they can care for their finances and avoid getting into this situation. Debtor

1.10 Creditor point of view

Creditors were asked whether they saw issues in relation to proposal development, fees and voting, dividend payments and reporting and communication for debt agreements. The following sections detail their views in relation to each.

1.10.1 Proposal development (including variations)

There was a large variation in the extent to which creditors did due diligence when reviewing proposals. Creditors with less to gain financially tended not to devote much time and effort — this included creditors who typically dealt with smaller numbers of debt agreements or who dealt with a larger number of very low dividend agreements. However, those with more at stake reported that they put a lot of time and effort into scrutinising debt agreements before they would accept them.

Some had developed detailed frameworks to understand and hand check each proposal, including in relation to setting debt administrator fees. Others were more likely to look for an acceptable return on credit (e.g. over 50% return in the dollar).

> *'We've done our cost benefit analysis and understand the cost of administering, and hence whether we should vote no or yes.'*
>
> *'We will vote to accept anything over 50% [return in the dollar].'*

Debt aggregators noted there were no incentives for creditors who intended to on-sell debt agreements to overly scrutinise these, including in relation to debt administrator fees.

> *'The truth is that a lot of folks in the industry don't pay attention — if they are looking to sell a packaged debt agreement a higher outcome can inflate the sale price...'*

Proposals were generally felt not to be of high quality in relation to four areas:

- fee transparency

  'Fees can be very unclear both to consumers and us, they are baked in as part of debt agreements.'

- the extent to which payment plans were realistic

  'We see more and more debt agreements that are proposed as step up agreements, the consumer pays $50 a week, and then $100, could be 4 or 5 steps, the way that the fees are charged by administrators, they probably don't have as much of an interest in the tail, there is no rationale for supposing that someone is suddenly going to be able to pay more / they are destined to fail.'

- incidents where debtors were encouraged to take out loans to pay for upfront fees, which were then 'baked into' the debt agreement

  'Incentives for administrators to build in an upfront fee and build residual into the DA / rex consumers go to organisations like [redacted] and get payday loans to borrow the amount to pay upfront.'

- lack of detail in change in circumstances forms

  'We would like to see as much detail as possible in these forms — we don't really know what being asked to vote on, if they've done a new budget and what has changed. The information on explanation page doesn't get completed, and there is no proof that the offer is justified.'

1.10.2 Fees and voting

Creditors said there was no consistent reasoning in setting fees on debt agreements, and that these could easily range from 12-28% and did not appear to vary based on the amount of work that a debt administrator or trustee had to do.

'Charging $3,000 to lodge an agreement is not in line with a hardship case.'

They noted that having a fee breakdown similar to what trustees have to provide for bankruptcy would have been helpful.

Creditors accepted the majority vote system — as often as not they were a majority creditor and had some control over the process. However, they also felt that the integrity of the system was weaker than desirable. They noted that this was to their detriment — creditors were not getting as high a return on their debt as they would like to see. Creditors could also see the damage to debtors in circumstances where the latter paid more than 100% of their debts if fees were included, or where their ability to get future credit would be impacted by not paying off their debts in full.

'Debt administrators are getting away with a lot — we're often surprised that AFSA lets so much through.'

'It is relying on creditors to be stringent — it would be good if administrators were held accountable.'

In addition, debt agreement aggregators said they did not vote because this would require them to disclose commercial-in-confidence information (the amount for which they had purchased a debt agreement).

'Case law doesn't require purchase price to be revealed, would like to be able to vote without revealing that information. Costs the administration as they have to seek a vote from somewhere else.'

Creditors noted a number of areas of behaviour where they felt debt administrators were doing the wrong thing, and where they would have liked AFSA to act. These were:

- when a 'dummy creditor' was put in place to enable a low dividend to be accepted
- when debt administrators manipulated the voting process so that certain creditors weren't notified until after a proposal had been accepted
- where unsuitable people were put on debt agreements (who would have been better off on informal arrangements, who were on Centrelink payments etc.)

- ensuring all debts were included in the original proposal, and
- when insolvency administrators rejected or ignored notices of assignment, with the effect that creditors were not able to vote.

1.10.3 Dividend payments

Creditors noted instances where dividends suddenly lowered in amount (a drop which was not always explained). They would like AFSA to provide guidance on when and how it is acceptable to add a new debt to a debt agreement, and the requirement for a formal variation that could be voted on.

> *'A lot of times, a debt comes along that is not part of the original agreement. The new debt could be $60K, you see the dividend value drop from 70 cents to 30 cents... We would have voted against it as unreasonable if it was part of the original proposal — we're not even necessarily getting a variation or notified.'*
>
> *'We ask the administrator for the reason for the return dropping, if the impact is more than 10% they are meant to lodge a formal variation. We have mentioned this to AFSA.'*
>
> *'For us most debt agreements have a drop in returns.'*

1.10.4 Reporting and communication

Creditors raised a number of issues about reporting and communication, which have been dealt with above.

1.11 A vulnerable cohort

A latent class analysis was conducted on the entire bankrupt and debtor sample (n=653).

The aim of this analysis was to segment the bankrupts and debtors surveyed according to risk, and hence better understand what proportion of the debtor / bankrupt population might be classified as vulnerable.

This analysis revealed that 28% of the bankrupt / debtor population surveyed profiled as highly vulnerable.

Below we compare the profile of the 28% vulnerable cohort against the profile of the overall sample. The former are notable for their dissatisfaction with the insolvency information they received and the process they underwent.

In more detail, the 28% vulnerable cohort was:

- more likely than the rest of the sample to enter into the personal insolvency process 'just looking for a way to manage their debts' (46% vulnerable vs 38% overall)
- less likely than the rest of the sample to have discussed several insolvency options with their personal insolvency administrator (31% vulnerable vs 49% overall)
- more likely than the rest of the sample to say that their administrator never mentioned informal options (42% vulnerable vs 23% overall)
- more likely than the rest of the sample to say that accessing free financial counselling services would have made a difference (44% vulnerable vs 22% overall)
- more likely than the rest of the sample to agree that the documentation provided was too complex to read properly (29% vulnerable vs 16% overall)
- more likely than the rest of the sample to agree that their personal insolvency administrator should have raised issues to prevent nasty surprises later on (40% vulnerable vs 16% overall)
- more likely than the rest of the sample to agree that they weren't given good advice (36% vulnerable vs 15% overall)
- more likely than the rest of the sample to agree that their insolvency option was the only one they knew about (18% vulnerable vs 11% overall)

- less likely than the rest of the sample to agree that the process was made clear from the beginning (29% vulnerable vs 64% overall) or that their administrator kept them up to date and informed (22% vulnerable vs 54% overall), and
- less likely to have known that AFSA investigates complaints (31% vulnerable vs 52% overall).

Unfortunately, there were not many demographic skews to enable easy targeting of this audience. There were no skews to particular bankrupt / debtor types. The key demographic differences between this segment and the rest of the population were:

- They were less likely to be in permanent stable work (43% vulnerable vs 53% overall).
- A third were on income support payments.
- They were more likely to say that personal illness or disability contributed to their insolvency (29% vulnerable vs 21% overall)

However, they still presented a strong rationale for AFSA to ensure that significantly vulnerable group can access information that they more easily understand, and access financial counselling and other forms of alternative advice.

2. Appendix - questionnaire

A. SCREENING QUESTIONS

Please answer the following questions so we can make sure we are speaking to a good mix of people.

ASK ALL

A.1. In which state or territory do you currently live?
(SINGLE RESPONSE)

NSW	1	CHECK QUOTAS
VIC	2	CHECK QUOTAS
ACT	3	CHECK QUOTAS
QLD	4	CHECK QUOTAS
NT	5	CHECK QUOTAS
WA	6	CHECK QUOTAS
SA	7	CHECK QUOTAS
TAS	8	CHECK QUOTAS
None of these	9	TERMINATE

ASK ALL

A.2. Which of the following age ranges do you fall into?
(SINGLE RESPONSE)

Under 16	1	TERMINATE
16-18	2	TERMINATE
19-24	3	CONTINUE
25-29	4	CONTINUE
30-34	5	CONTINUE
35-39	6	CONTINUE
40-44	7	CONTINUE
45-49	8	CONTINUE
50-54	9	CONTINUE
55-59	10	CONTINUE
60-64	11	CONTINUE
65+	12	CONTINUE

ASK ALL

A.3. Please indicate which of the following applies to you.
(SINGLE RESPONSE)

I am in a personal insolvency agreement	1

I am in a debt agreement	2
I have declared bankruptcy	3
I am not in a formal agreement, but have arranged an informal agreement to resolve my debts	4
I have recently undertaken debt consolidation	5
None of these apply to me.	6

B. UNDERSTANDING THE PROCESS

ASK ALL

B.1 Thinking back to the beginning of the process that lead to you becoming insolvent, were you initially: (SINGLE RESPONSE)

Looking for a way to consolidate debt	1
Specifically looking to declare bankruptcy	2
Specifically looking to go into a debt agreement or personal insolvency agreement	3
Just looking for a way to manage your debts	4
Other (Specify)	9

ASK ALL

B.2 Where did you first find or seek information?
(SINGLE RESPONSE. ROTATE ORDER)

Internet search	1
Online advertisement	2
Financial advisor	3
Advertisement in the newspaper, on the radio or TV	4
Advertisement on a poster or community board	5
Government website	6
A colleague / friend / family member	7
Free financial counsellor/helpline	8
Other	9

ASK ALL

B.3 How did you select the trustee who arranged your insolvency?
(SINGLE RESPONSE)

I tried to compare different ones online	1
I phoned/emailed different ones to get information to compare them	2
The first one I found looked good and I went with that	3
I looked up a list of registered practitioners on a government website	4
I was referred by a colleague / friend / family member	5
I was referred by a financial advisor/financial counsellor	6
Other (Specify)	99

Now let's talk about your trustee

ASK ALL

B.4 What options for insolvency did your initial conversation cover? Select all that apply.
(MULIPTLE RESPONSE)

We only talked about the personal insolvency option I ended up taking	1
We discussed several options	2
We didn't discuss personal insolvency, only debt consolidation	3
I can't remember.	4

ASK ALL

B.5 Did your trustee discuss informal options like re-financing your home loan, negotiating a repayment plan with your creditors or contacting your creditors', or contacting your creditors' 'financial hardship officer' for help?
(SINGLE RESPONSE)

Yes we discussed informal options, but I decided against it	1
Yes we discussed informal options, but they advised me against it	2
They mentioned informal options in passing but I didn't really consider it	3
No, they never mentioned it	4
I can't remember	5

ASK ALL

B.6 At the time did you know that you could access the services of financial counsellors for free who could help you arrange informal arrangements with your creditors to avoid insolvency?
(SINGLE RESPONSE)

No, but that wouldn't have changed my mind	1
No, that might have made all the difference in how I decided to act	2
Yes, but I decided not to consult one	3
I received assistance from a free financial counsellor	5
I can't remember/ None of these	9

ASK IF SELECTED CODE 3 IN B6

B.7 What is the main reason that you decided against consulting a free financial counsellor?
(SINGLE RESPONSE)

I didn't think they would help	1
The waiting period was just too long	2
I didn't know where to find one	3
I can't remember	9

ASK ALL

B.8 When you applied for insolvency, what information were you asked for? Please select all that apply.
(MULTIPLE RESPONSE)

The assets you owned (e.g. house, car etc.)	1
Assets you are paying off/leasing (e.g. house, car etc.)	2
The debts you owed	3
Household income	4
Household expenses (e.g. how much you spend on food, transport etc.)	5
Financial support from other people (e.g. living with parents)	6
Upcoming life events that might affect your finances (e.g. birth of a child)	7
Your and your family's health	8
How stable your income will be in the future	9
Any personal guarantees on business loans	10
None of these	99

ASK ALL

B.9 How did you communicate with your trustee? Please select all that apply.
(MULTIPLE RESPONSE)

By telephone	1
By e-mail	2
In person	3
Other	99

ASK ALL

B.10 Here are some statements which could apply to the information provided to you by your trustee. Please indicate how much you agree or disagree with each of these statements where 1 means completely disagree and 10 means completely agree.

(SINGLE RESPONSE PER STATEMENT. ROTATE.)

	Disagree completely									Agree completely
The information provided was helpful.	1	2	3	4	5	6	7	8	9	10
The documents were too complex to read properly	1	2	3	4	5	6	7	8	9	10
Looking back, I don't think I was given the best advice.	1	2	3	4	5	6	7	8	9	10
I think there were some issues that they should have talked to me about to prevent nasty surprises later.	1	2	3	4	5	6	7	8	9	10

I was deliberately given incorrect information.	1	2	3	4	5	6	7	8	9	10
I felt like they were on my side, and trying to help me make the best decision.	1	2	3	4	5	6	7	8	9	10
Looking back, I think I would have been better off phoning my creditors myself and declaring financial hardship than following the advice I was given.	1	2	3	4	5	6	7	8	9	10
I relied on the advice from my trustee as I was too embarrassed to talk to anyone else.	1	2	3	4	5	6	7	8	9	10
I dealt with just one company when applying for insolvency.	1	2	3	4	5	6	7	8	9	10
All the people who gave me advice and completed the paperwork were careful to prove that they were registered.	1	2	3	4	5	6	7	8	9	10
The trustee told me about emergency relief charities and community organisations that could assist me with living expenses.	1	2	3	4	5	6	7	8	9	10

ASK ALL

B.11 Please indicate whether the following information was given to you about how insolvency would affect your credit ratings.

(SINGLE RESPONSE PER STATEMENT. ROTATE.)

Were you told that...

	Yes	No	Not sure
.. you would need to reveal that you are bankrupt or in a debt agreement if you apply for credit or loans over a set amount?	1	2	3
... credit reporting agencies keep a record of personal insolvency for 5 years? (This may affect your ability to get a new phone or switch energy companies).	1	2	3
...a record of a debt agreement is kept on the National Personal Insolvency Index for 5 years from when it starts or 2 years from when it ends, whichever is later?	1	2	3
...a record of a bankruptcy or personal insolvency agreement is kept on the National Personal Insolvency Index forever?	1	2	3

ASK ALL

B.12 Why did you decide to take your current insolvency option?
(MULTIPLE RESPONSE)

It was the only option I knew about	1
I was advised to by my trustee	2
I'd been trying to pay off my loans by myself for too long - I couldn't do it anymore	3
I was advised to do so by friends or family	4

I went through the documentation and it looked like the correct option for me	5
I needed to do something as I couldn't cope with the stress of the debt anymore	6
I had few assets and lots of debt so bankruptcy was the best option for me.	9
Other	10

We would now like to ask about the process of submitting the relevant forms.

NB. B. 13 was deleted

ASK ALL

B.14 Here are some statements which could apply to your experience of applying for personal insolvency. Please indicate how much you agree or disagree with each of these statements where 1 means completely disagree and 10 means completely agree.

(SINGLE RESPONSE PER STATEMENT. ROTATE.)

	Disagree Completely									Agree completely
The process was quick and easy.	1	2	3	4	5	6	7	8	9	10
It took me some time to find the money to pay the initial fee to my trustee before I could go ahead with the application.	1	2	3	4	5	6	7	8	9	10
The process was made clear to me right from the beginning.	1	2	3	4	5	6	7	8	9	10
My trustee kept me up to date and informed about how my application was progressing.	1	2	3	4	5	6	7	8	9	10

ASK ALL

B.15 Which option best describes your fee structure?

(SINGLE RESPONSE)

I paid an upfront fee only	1
I paid an upfront fee AND ongoing fees	2
I paid no upfront fees, and only paid ongoing fees	3
I paid no fees	4

ASK ONLY IF CODE 1 OR 2 WAS SELECTED IN B15

B.16 How much was your upfront fee ? Please give the number in whole dollars.

ASK ONLY IF CODE 2 OR 3 WAS SELECTED IN B15

B.17 How much was your ongoing fee? Please give the number in whole dollars.

ASK ALL

B.18 Besides the insolvency administrator, did you pay fees to any other person for setting up your insolvency? If so, how much was the fee?
(SINGLE RESPONSE)

Nothing, I paid only my insolvency administrator	1
Yes, I paid a fee under $ 1000	2
Yes, I paid between $ 1000 - $ 5000	3
Yes, I paid an amount above $ 5000	4

ASK ALL

B.19 Did anyone encourage you to take out any additional loans (e.g. payday loans) to cover their upfront fees?
(SINGLE RESPONSE)

Yes	1
No	2

ASK ALL

B.20 At the time that you set up your insolvency, how many creditors did you have?
(SINGLE RESPONSE)

Only 1 creditor	1
2 - 3 creditors	2
4 - 6 creditors	3
More than 6 creditors	4

ASK ALL

B.21 It is possible to lodge a complaint with a trustee if you have concerns about their conduct. With regards to this, please indicate which one of these statements best applies to you?
(SINGLE RESPONSE)

I didn't know I could lodge a complaint with my trustee	1
I know my trustee has a complaints handling process	2
I have lodged a complaint with my trustee	3

ASK ALL

B.22 It is possible to lodge a complaint with AFSA if you have concerns about a trustee's conduct. With regards to this, please indicate which one of these statements best applies to you?
(SINGLE RESPONSE)

I didn't know you could lodge a complaint with AFSA	1
I know AFSA investigates complaints	2
I have lodged a complaint with AFSA	3

ASK ONLY IF CODE 3 WAS SELECTED IN B222.

B.23 You mentioned that you lodged a complaint with AFSA. What was the outcome?
(SINGLE RESPONSE)

I was satisfied with how my issue was resolved	1
I was not satisfied with how my issue was resolved	2
AFSA is working on my issue, but it has not been resolved yet	3

ASK ALL

B.24 Thinking about your recent experience of personal insolvency, please rate how helpful each of these resources would have been in getting a better outcome for you, where 1 is 'extremely unhelpful' and 10 is 'extremely helpful'?

(SINGLE RESPONSE PER STATEMENT. ROTATE.)

	Extremely unhelpful									Extremely helpful
A one page flowchart of the bankruptcy application process, with estimated timing for each step	1	2	3	4	5	6	7	8	9	10
A quick list of the pros and cons of the different insolvency options.	1	2	3	4	5	6	7	8	9	10
Ratings of trustees by people who have used them before (like a 'TripAdvisor').	1	2	3	4	5	6	7	8	9	10
Knowing how to make a complaint about a trustee.	1	2	3	4	5	6	7	8	9	10
Getting impartial free financial counselling.	1	2	3	4	5	6	7	8	9	10
Knowing I could get info on bankruptcy on the AFSA government website or phoneline.	1	2	3	4	5	6	7	8	9	10

DEMOGRAPHICS

We have a few questions to understand the range of people we're speaking to a bit better.

ASK ALL

C1. Please indicate whether you are...
(SINGLE RESPONSE)

Male	1
Female	2
Other / prefer not to say	3

ASK ALL

C2. Which of the following best describes your household?

(SINGLE RESPONSE)

Single, living alone	1
Single, living in a share house	2
Couple, no children / no children living at home	3
Family, youngest child aged under 18	4
Family, adult children (over 18) living at home	5
Other	99

ASK ALL

C3. Please type in your home postcode below:

ASK ALL

C4. Which of the following best describes your chief source of income
(SINGLE RESPONSE)

Centrelink payments/income support	1
Permanent stable work	2
Casual or sporadic work	3
Someone else in household earns our income	4
Other / prefer not to say	5

ASK ALL

C5. What is your personal annual income after tax?
(SINGLE RESPONSE)

Up to $20,000	1
$20,000 to $39,999	2
$40,000 to $59,999	3
$60,000 to $79,999	4
$80,000 to $99,999	5
$100,000 to $119,999	6
$120,000 to $149,999	7
$150,000 or more	8
Don't know/Prefer not to answer	99

ASK ALL

C6. What is the highest education level you have completed?
(SINGLE RESPONSE)

Year 12 or below	1
TAFE/Technical	2

Certificate or Diploma	3
University degree or higher	4
Prefer not to answer	99

DEEP DIVE INTO DEBT

ASK ALL

D1. Debt can get out of control for many reasons. Please indicate if any of the following events played a role in causing your debts to become difficult to manage Please select all that apply. (MULTIPLE RESPONSE)

Retrenchment / unemployment/ business failing	1
Divorce / break down of a relationship	2
Illness /' disability of family member	3
Illness / disability of self	4
Death of a loved one	5
Birth of a child	6
Natural disaster or loss of property / assets	7
Alcohol or drug dependence of loved one / self	8
Gambling dependence of loved one / self	
A change to the interest rate for debts	9
Running up my credit cards and getting loans because I knew personal insolvency was an option	10
I just didn't focus on managing my money	11
Insolvency is not a big deal these days, so keeping debt down wasn't a priority.	12
It just happened, I'm not sure why	13

D2. At the time that you applied for insolvency, what was your total debt? Please give the number in total dollars

(PROGRAMMER: ALLOW 'REFUSED OPTION)

D3. At the time that you applied for insolvency, what were your total assets worth Please write down the number in total dollars.