

The legal needs and experiences of people living with HIV in Australia

Select findings from Australia's first national study of the legal needs of people with blood-borne viruses

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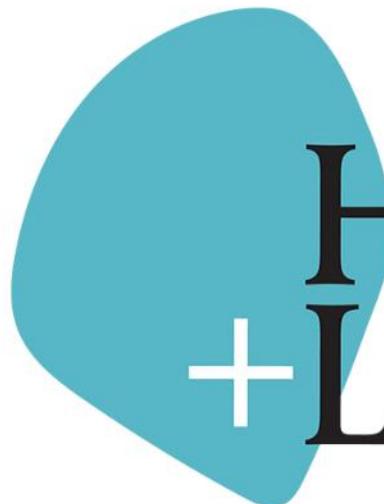


A research partnership to identify and eliminate legal barriers to testing and treatment for people living with hepatitis B and HIV in Australia



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- Ethnic Communities Council of Queensland (ECCQ)
- Hepatitis ACT
- Hepatitis B Voices Australia
- Hepatitis NSW
- Hepatitis Queensland
- Hepatitis SA
- HepatitisWA
- LiverWELL
- Living Positive Victoria (LPV)
- Meridian
- Northern Territory AIDS and Hepatitis Council (NTAHC)
- PEACE Multicultural Services
- Positive Life NSW
- Positive Life SA
- Positive Women Victoria (PWV)
- Queensland Positive People (QPP)
- South Australia Mobilisation + Empowerment for Sexual Health (SAMESH)
- Tasmanian Council on AIDS, Hepatitis and Related Diseases (TasCahrd)
- WAAC



A research partnership to identify
and eliminate legal barriers to
testing and treatment



Health+Law is supported by funding from the Australian Government Department of Health, Disability and Ageing, under the Blood Borne Viruses and Sexually Transmissible Infections Research and Data Program (BBVSS). The contents of this presentation are solely the responsibility of the individual authors and do not reflect the views of the funding body or partners.

The Legal Needs Study (LeNS)

Study aims



- The first study investigating everyday experiences of law among people living with hepatitis B and HIV in Australia.
- Focused on the **nature, prevalence and impact of legal problems** ('justiciable issues') faced by people living with HIV.

Justiciable issues (Genn, 1999). A problem or event experienced by a person that has a legal remedy, regardless of whether the person recognises it as legal or takes any action involving the legal system. (Used sometimes interchangeably with 'legal issue' or 'legal problem')

- LeNS measured:
 - What **the most common and high-impact justiciable issues** are
 - What **areas of the law** they occur in
 - How they **affect people's health and wellbeing**, including whether they act as obstacles to testing, treatment, monitoring and ongoing engagement in care.
 - How people **address or resolve** these issues ('**Access to Justice**')
 - What are people's **understanding** of and **attitudes** towards law and justice ('legal capability' and 'legal consciousness')

LeNS Findings

Type and prevalence of legal issues



Legal Problem Prevalence

- 90% reported at least one justiciable issue during the two-year reference period
- This is almost double the rate reported in recent studies of the Australian general population (42%).

PLHIV experience multiple justiciable issues

- 59% faced five or more distinct legal issues, compared to only 15% of the general population
- 37% reported 10+ legal issues, compared to only 5% of the general population.

LeNS Findings

Type and prevalence of legal issues



The legal problems faced by PLHIV are not confined to a narrow area of life or law

Legal Problem Type	LeNS Survey (PLHIV Australia)	Overall	PULS Survey (Victorian General Population)		
	% reporting at least one justiciable issue		No long-term illness or disability and low/no mental distress	Long-term illness or disability and low/no mental distress	Long-term illness or disability and severe mental distress
Overall	90.3	42.0	35.8	40.4	73.1
Professional services and goods	67.4	20.9	17.9	19.9	28.1
Employment or workplace	51.2	6.9	4.4	3.8	18.1
Debt and money	52.6	4.2	2	3.3	20.3
Housing	46.4	10.5	7.9	9.7	25.7
Government and public services	43.4	3.6	2.1	4.4	14.6
Injury	36.9	3.9	2.1	4.6	19.3
Health or mental health	34.0	-	-	-	-
Government payments	34.0	4.5	2.3	4	19.9
Family	41.2	5.2	3.3	5.2	24.0
Discrimination, not related to work	41.7	-	-	-	-

LeNS Findings

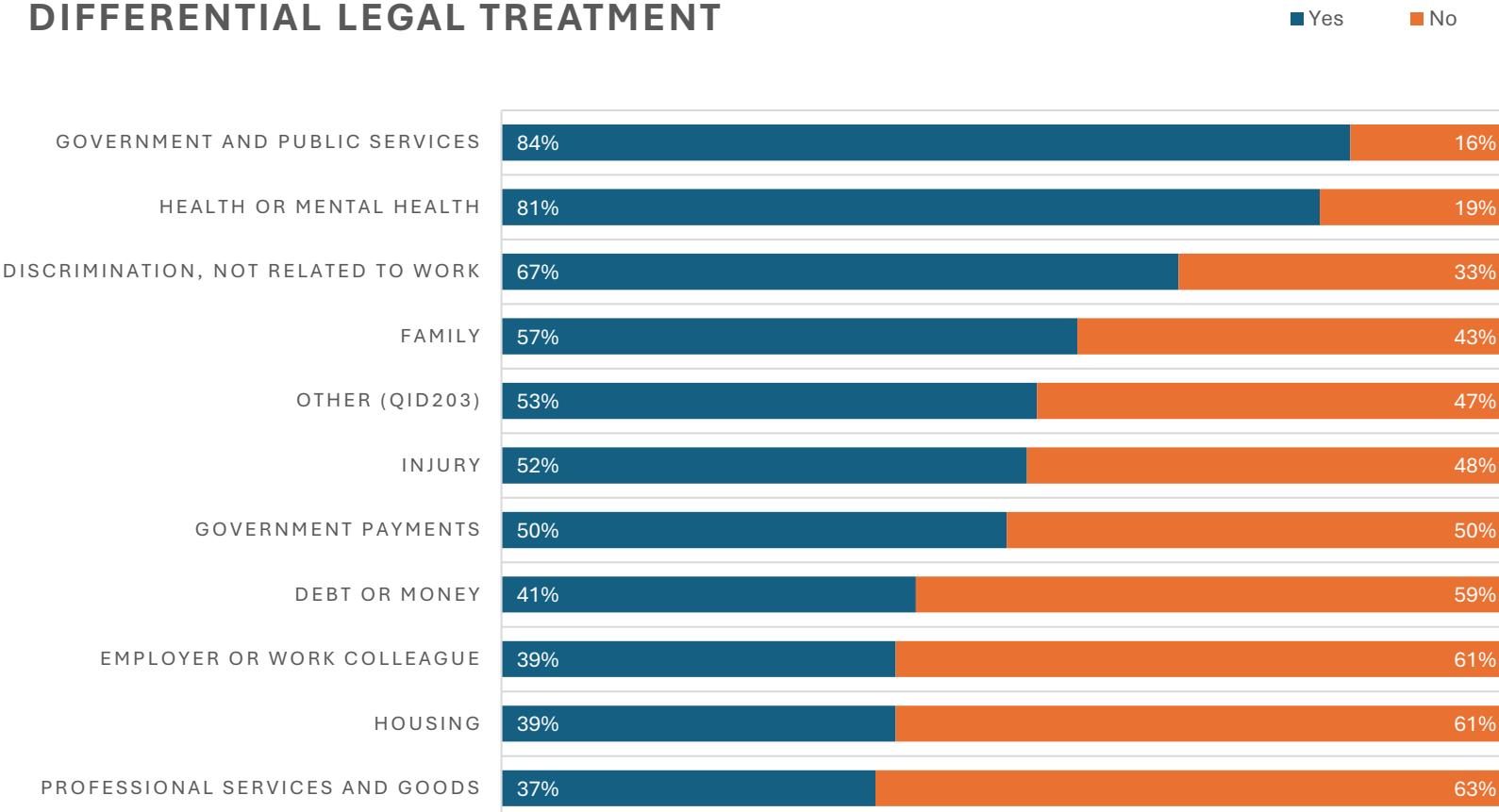
Impact of living with HIV



Legal issues are made worse by living with HIV

- 55% of survey participants living with HIV identified their HIV status activated differential legal treatment in relation to their most severe legal problem
- This proportion varied by broad problem type:

PROBLEM TYPES WHERE HIV STATUS ACTIVATED DIFFERENTIAL LEGAL TREATMENT



LeNS Findings

Impact of living with HIV



Most severe specific justiciable issues where HIV status activated differential legal treatment

Problem Type	Legal Problems Most Frequently Nominated as 'Most Severe' (Descending Order of Frequency)	HIV-Related
Government and public services	Citizenship, residency, immigration or refugee status for you, a family member or partner	89.19%
Discrimination, not related to work	Health status-related discrimination including living with a blood-borne virus like viral hepatitis B, hepatitis C or HIV-related discrimination	80.77%
Health or mental health	Being given a public health order by the health department or government, or detained in relation to an infectious or communicable disease or condition. For example, being told you cannot do certain things because of your HIV or hepatitis status or held in	94.12%
Other	Free Text	52.63%
Family	Violence, coercion, harassment or financial abuse in family relationships Problems or Disputes with Health professionals or service providers.	69.23%
Goods or Services	For example, problems or disputes relating to doctors, pharmacists, nurses, health care support workers.	53.33%
Discrimination, not related to work	Sexual orientation-related discrimination	66.67%
Family	Divorce or separation Problems with mental health treatment, medication or care.	46.67%
Health or mental health	For example, treatment that was inadequate, wrong or against your will. Problems or disputes with housing you rent. For example, problems or disputes regarding rental agreements, a bond, rent payments, rental amount increases, eviction, repairs	63.64%
Housing		33.33%
Injury	An injury or health problem resulting from negligent or wrong medical or dental treatment	71.43%
Injury	An injury at work or health problem resulting from poor working conditions	62.50%
Employer or work colleague	Harassment, bullying, victimisation or mistreatment at work	22.73%
Government payments	Your eligibility for payments or concessions being reviewed	83.33%
Government and public services	Access to, or being excluded from, healthcare services	100.00%

LeNS Findings

Health- related effects of legal issues



Health-related effects of justiciable issues

- **Health services access and quality issues** including:
 - legal problems or disputes with health professionals (24%)
 - exclusion from health services (11%)
- **Treatment quality and safety issues**, including:
 - mental health treatment, medication or care (17%)
 - negligent injury from health care (14%)
- **Health status-based targeting and legal discrimination**, including:
 - workplace (12%) or
 - more generally (24%)
- **Coercive powers**, including problems regarding the use of public health powers (14%).

LeNS Findings

Resolution of issues (‘access to justice’)



‘Access to justice’ refers to the ability of people to get a just resolution of their legal problems and enforce their rights. Sometimes this involves legal services, but not always, as just resolution does not always require lawyers, courts or formal legal processes.

A key focus of legal needs research for multiple reasons, including that it shows where more services or supports are needed, and why people can’t or don’t access those. It is enshrined in art 14 of the International Covenant of Civil and Political Rights (ICCPR).

PLHBV report having:

- **low confidence** in their ability to achieve a fair legal outcome for their most severe justiciable issue
- **low levels of legal capability**, including knowing where to get legal help and information
- **not seeking any assistance** for their most severe legal issue, because they felt seeking help would:
 - be too stressful (61%)
 - make no difference (50%)
 - take too long (49%)
 - cost too much (44%), or
 - they had bigger problems (41%)
- **HBV-related stigma was a barrier to seeking legal assistance** (40%)
- **High reliance on non-legal professionals for legal assistance**, including:
 - Professional, health and community services (30%), including HIV Community Organisations (10%) and healthcare workers (8%)
 - friends and family (11%).



Conclusions

- People living with HIV in Australia experience extremely high levels of justiciable issues across multiple broad problem types, including significantly more justiciable issues than members of the general population not living with HIV
- The Australian legal environment uniquely disadvantages PLHIV by transforming their health status into a significant source of increased exposure to legal problems, with significant consequences for health, wellbeing, rights and community participation
- There remains work to examine and reform laws, policies and legal service delivery across key areas

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