



AUSTRALIAN COLLECTORS &
DEBT BUYERS ASSOCIATION

AUSTRALIAN COLLECTIONS INDUSTRY

The Australian debt collection and debt buying industry has matured over the past decade to be a modern, compliant and responsible partner in the Australian economy. A snapshot of this industry, its composition, operations and scope is provided to assist industry observers, regulators and stakeholders to gain a factual and accurate understanding of the modern industry.

April 2011

Executive Summary

Like many industries, the Australian collections & debt buying industry is vastly different today in shape and form than compared to 10 and 20 years ago.

These dramatic changes are very obvious to those within the industry. To assist in improving the understanding and expectations of those dealing with the modern day realities of the industry this document presents a snapshot of the current shape and form of the industry.

A stronger, more professional collections industry has emerged in Australia as a result of changes to the environment it operates in over the past 10 to 20 years. Those changes include technological impacts on collections practices, industry consolidation, regulatory developments and increased government usage of debt collection services.

The increased compliance expectations on the industry has led to the formation in 2009 of the Australian Collectors & Debt Buyers Association (ACDBA) to represent the interests of the leading companies¹ involved in collecting and buying debt and focus on improving the collections environment (legislative and regulatory).

The majority of ACDBA members are large corporations, some of which are listed on the Australian Stock Exchange and most work in multiple jurisdictions. The professionalism of our members is unaffected by jurisdictional differences in licensing regimes. This professionalism is evidenced by an extremely low rate of complaints against members. Any incidents that arise are resolved promptly and efficiently, as evidenced by the absence of enforcement action by regulators against the industry

The business functions of contingent debt collections and debt purchasers are exactly the same. The only difference between them relates to the ownership of the debt. Apart from the ownership distinction, the collection processes are the same, with members adhering to the ASIC/ACCC Debt Collection Guidelines as part of their ACDBA membership obligations.

ACDBA members are in a competitive market where they must protect not only their own brand through quality service provision, but also their clients' brands. Standards in the industry are high given the contractual and legislative obligations with which our members comply.

The sophistication, maturity and size of the Australian collections and debt buying industry which increasingly functions on a multi-jurisdictional basis and its significant overall contribution to the Australian economy warrants a national approach to regulation removing costly, artificial and antiquated regulatory requirements.

¹ See Annexure A, being a list of current members of Australian Collectors & Debt Buyers Association.

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1. Environmental changes

The Australian industry has dramatically changed over the past 10 to 20 years due to a variety of environmental changes. The responses by industry participants to such changes have contributed significantly to the maturity of the industry.

Environmental changes have included:

a. Corporatisation

As a result of the massive increase in household debt levels over the past 15 years more sophisticated means of collection management techniques and tools have been introduced to the Australian market.

A natural consequence of this trend saw debt collection move from a niche back office activity to a fundamental aspect of most business models and a key driver in the profit performance of the industry. Sophistication drove the development of outsourcing to the collection industry greatly increasing volumes and values assigned to it. This sophistication brought mainstream investment and management practices into the industry and as a result it has moved from entrepreneurial to professional over the past decade.

With the influx of investment and expertise came the introduction of debt sale to the market just over 10 years ago. This has further attracted capital to the industry and has meant that most of the major players in the industry are now public companies or owned by professional investors including financial service providers and private equity investors.

The specific fiduciary demands of independent directors and major corporations have meant that collection methods, compliance structures and risk management strategies have become fundamentally imbedded with the organisations. Combined with the expectations of a more demanding market, industry participants have had to improve their governance and compliance systems or lose the custom of the major vendors and suppliers.

b. Specialisation

With the corporatisation of debt collection and debt buying, the traditional “collections industry” has split into two very separate and distinct elements, being:

- **debt collection/debt purchase functions** characterised by high volume telephone based activity completed from large call centres leveraging the latest contact technology and software; and
- **field call, repossession and process service functions** which are characterised by low volume activity involving direct interaction with the debtors in the field managed by small businesses and executed extensively by independent contractors.

This shift in specialisation has seen the traditional industry 'separate' and the creation of two industries reflecting the unique characteristics of their specific fields. This is underlined by the evolution of the ACDBA to represent the views of the debt collecting and debt buying industry; with the Institute of Mercantile Agents (IMA) representing the position of the field service industry.

The specialisation of service delivery by the two separate industries shall be discussed later in this paper.

c. Technological advances

Improvements in technology have allowed the debt collection and debt buying industry to deliver services with no face to face contact with debtors. The investment in technology has required very significant capital investment by industry members and has also contributed to the consolidation of the industry.

Technology has facilitated the delivery of services across multiple jurisdictions without the need for a physical presence in each jurisdiction.

Among the technology advances contributing to industry change are:

- Improvements to industry software leveraging off new technologies especially communications;
- Telephone call recording linked to industry specific software to verify collector and debtor communications and allow greater transparency in the event of any issue arising;
- Improvements to communications, including:
 - Digital telephony;
 - Improved broadband speed and reliability;
 - Improved telephony systems supporting computerised answering, navigation and queuing;
 - SMS messaging;
 - Customer Information Management technology to manage blended voice, email and web-based communications to improve efficiency of collectors by:
 - Automated dialling to eliminate manual repetitive dialling tasks;
 - Allowing the proving of a telephone number;
 - Facilitating the ability to conduct conference calls between a debtor and his/her appointed third party;
 - Ensuring a correct first party or third party contact;
 - The system allowing the debtor to navigate the call to:
 - a professional credit consultant/collector;
 - a cashier if it is a payment;
 - a disputes negotiator if a dispute; or
 - a help assistant for other needs.

- Online portals allowing:
 - Clients to independently access their account information including adding new matters and receiving reports securely;
 - Debtors to access their account to:
 - attend to repayments;
 - seek verification of the account being due;
 - approve the use of SMS and email messages on the account;
 - complete and submit a financial statement of position;
 - complete, submit and receive adoption of a repayment plan;
 - complete, submit and implement a “Hardship Application“;
 - message the collector; and
 - Agents to work remotely to deliver services.
- Improved secure data transfer technology; and
- Improved auto payment systems.

d. Compliance obligations

Compliance obligations for the industry have increased over the years although some outside of the collections and debt buying industry might not be fully aware of the actual reach of the obligations imposed on the industry nor of the significant level of duplication and conflict across the state and national jurisdictions under which the industry operates.

Currently, the industry faces compliance obligations which include:

- The ASIC/ACCC Debt Collection Guidelines (Guidelines) and the Consumer Affairs Victoria Guidelines for Debt Collection both of which provide the industry with clear guidances on appropriate debt collection practices.

Some observers wrongly downplay the effectiveness of the Guidelines on the contention they are guidelines only rather than being “black letter” law. However, the industry finds such contentions unfounded as:

- Compliance with the Guidelines is usually part of the contractual agreement between industry members and their clients; and
- Compliance with these Guidelines routinely provides the framework in which members base all their collection activities with debtors.
- ASIC and the ACCC both have extensive regulatory powers which allow them to access company sites and files, review activity and compliance systems and negotiate enforceable undertakings or seek penalties or incarceration through the courts.

The impact of these powers is that the industry certainly treats its obligations under these guidelines as law and structure its compliance systems with these guidelines at the centre.

- The industry works under a variety of State and Territory industry regulation² depending upon where offices are located.
- The Queensland Property Agents and Motor Dealers Act 2000 (PAMDA) under Section 348 and specifically under the Queensland Property Agents and Motor Dealers (Commercial Agency Practice Code of Conduct) Regulation 2001 provides a Code of Conduct for Commercial Agents in that State.

Aspects of the Code of Conduct for Commercial Agents in Queensland under PAMDA are similar to but not entirely consistent with the Guidelines.

- The Australian Privacy Act, 1988 regulates how the industry and its clients can collect, use and disclose credit and personal information.
- Debt buyers as assignees are obliged to comply with the Banking and Credit Union Codes of Practice and the Consumer Credit Code for consumer credit debt, where relevant, in addition to their contractual obligations to the assignors.
- Debt buyers since January 2011 hold an Australian Credit Licence pursuant to the National Consumer Credit Protection Act, 2009 and as part of such licensing regime are members of an approved External Dispute Resolution Scheme, being either:
 - Financial Ombudsman Service; or
 - Credit Ombudsman Service.
- ACDBA members are subject to strict legal agreements with their creditor clients which cover legal compliance, collection conduct and dispute resolution processes in addition to other contractual arrangements.

e. Contractual arrangements - clients

Additional to the compliance obligations within the legislative environment indicated above, the corporate clients of ACDBA members have strict service agreements in place which specify conduct and account management standards.

Service agreements generally include the following clauses:

- Performance standards, including quality management systems;
- Duties, obligations and warranties;

² See Annexure B, a table detailing the current regulatory framework of the industry from States and Territories legislation.

- Compliance with relevant legislation – including the Trade Practices and Fair Trading Acts, Consumer Credit Code, Privacy Act and ASIC/ACCC Debt Collection Guidelines;
- Dispute resolution procedures;
- Reporting obligations; and
- Auditing requirements.

These business to business contractual arrangements indicate the high service delivery standards agreed between members and their clients. The agreed obligations are broader than debt collection specific legislation.

ACDBA members are in a competitive market where they must protect not only their own brand through quality service provision, but also their clients' brands.

Standards in the Australian collections and debt buying industry are high given the contractual and legislative obligations with which our members comply.

2. Service delivery

As detailed in the preceding section, the traditional “collections industry” in Australia has developed into two very separate elements, being:

- **Collectors** – tasked to debt collection functions, with no face to face debtor contact; and
- **Field Agents** – tasked to attend to field call, repossession and process service functions – with face to face debtor contact.

As noted earlier in this paper, ACDBA’s focus is on collectors and debt buyers, being the industry which undertakes debt collection functions with no face to face debtor contact.

The separation of the modern industry into two very separate elements, collectors and field agents is significant but possibly not widely understood by those outside the industry. For this reason, it is appropriate in this paper to provide additional information on the whole of the industry’s services so as to give clarity to what is being discussed when the modern collections and debt buying industry is referred to.

a. Collectors

Collectors act for a range of clients involving government, commercial, utilities and consumer debts. The collection work is undertaken either as:

- **Contingent collections:**
Agencies collect debt on behalf of the original creditor under a “principal and agent” agreement for an agreed fee (either as a percentage of the debts recovered or as a flat fee per file or activity). The debt is owned at all times by the original creditor.
- **Debt purchase collections:**
Debt buyers are involved in purchasing charged off or non-performing accounts being debts where the credit provider has been unable to collect and where no further credit will be extended. The credit provider generally writes the debts off and assigns its rights to the debt buyer.

The business functions of contingent debt collections and debt purchasers are exactly the same. The only difference between them relates to the ownership of the debt.

As noted earlier, industry members have responded to opportunities afforded by technology advances some of which required very significant capital investment. Member businesses operate from professional offices which include dedicated call centres.

The specialist industry software adopted by the specific business generates and determines the workflows for their staff. Employees of member firms are unlikely to have any face to face contact with debtors unless the debtor elects to attend the member's office to resolve their account.

There is no standard collection process adopted across all portfolios of accounts or by the industry, instead the specific strategy adopted by collection firms for the recovery of individual debts is dependent upon a variety of factors including but not necessarily limited to:

- The size and age of the account;
- The basis of collections, whether being undertaken on a third party or first party basis; and
- The instructions of the specific client.

The main methodologies adopted are:

- Issuing written demands for payment;
- Contacting the debtor by telephone to demand payment; and
- Instigating legal action to recover payment.

Each activity includes an invitation to the debtor to discuss/explore opportunities with the collector to resolve payment of the outstanding account. Negotiation commences with a clear courteous demand for immediate payment of the account in full.

When a debtor is first contacted in relation to an outstanding account, a collector will have the following objectives:

- i. To make contact with the correct debtor and confirm proof of identity details;
- ii. To demand payment;
- iii. To assess the intent and capacity of the debtor to pay;
- iv. To discuss and explore any issues with the debtor in relation to the account including the debtor's financial state; and
- v. To assess the viability for legal action in the event the debtor does not pay.

In situations where immediate full payment cannot be made by the debtor, a general negotiation follows and typically progresses through the options of:

- A request to pay the full amount immediately or soon;
- An invitation to pay an immediate lump sum payment with a short payment arrangement period in the event of genuine financial difficulty; and
- Assessing the debtor's capacity and intent to pay prior to the collector considering longer term arrangements – this last option is based upon confirmation the debtor is willing but unable to pay in full.

The processes followed in the collection of an account can be multi-faceted and are ultimately dependent upon the responses or otherwise from the debtor when contacted.

As there are no standardised collection models adopted across the industry, it will be useful in understanding the potential processes typically involved in collection activities to refer to:

- Annexure C - a sample collection model prior to the commencement of any legal action;
- Annexure D – a sample collection model which includes instigating legal action; and
- Annexure E – a summary of typical enforcement options available post Judgment (names, timelines and processes will vary according to jurisdiction where proceedings commenced).

Annexures C & D are only samples however the models adopted by individual collection firms will mostly be a variance of those sample processes dependent upon the factors relating to the specific account portfolio.

To perform the collection functions requires a contact address and details for the specific debtor. However, debtors are often not located at the address or contact supplied by the client, nor is it necessarily straightforward that a new address and contact details for a debtor can be gathered.

In such circumstances, it is then necessary for skiptracing³ to be undertaken by collectors to review what is known about a debtor and to examine publicly available databases and information in an attempt to gather an updated address or contact details.

In some jurisdictions⁴ industry licensing provides that collectors who generally hold commercial agent or sub-agent licences can undertake enquiries to ascertain the whereabouts of a debtor. In other jurisdictions, it is necessary for the collector to also hold a licence as a private investigator/enquiry agent in order to undertake skiptracing enquiries related to collection matters.

b. Field agents

Businesses engaged in field agency work use a variety of descriptors including: mercantile agents, field agents, process servers and repossession agents. Such businesses are represented by the IMA and ACDBA members generally outsource these activities to IMA members.

³ Skiptracing is widely used in the industry to mean the task of “locating missing persons or security goods”.

⁴ In NSW as an example Section 4 of the Commercial Agents & Private Inquiry Agents Act, 2004 provides the functions of a commercial agent includes “an activity that involves finding the third person or requesting, demanding or collecting from the third person money due under the debt”.

This document includes details of the general activities of the Field industry for the purposes of information only. ACDBA does not seek to represent the views of the Field industry nor to bring that industry within the perspective of the debt collection and debt buying industry.

The industry in Australia in its early years comprised mainly of businesses which acted as general practitioners to deliver a “one stop” range of services including debt collection, process serving, repossessions and skiptracing.

Over time, the expectations of clients on the industry matured and this coupled with increased regulatory compliance obligations led to the industry adjusting to the new environment by adopting specialisation of service delivery.

Within regional and country locations, it is still the case that businesses in the industry continue to act as general practitioners offering a range of services to their clients, however increasingly and especially in city locations businesses are specialists in one aspect of field agency activity.

Given the work requires physical attendance at addresses together with the geographic spread of the Australian population, it is a common aspect of this part of the industry that agencies when receiving instructions from clients are routinely required to on forward these instructions to another agency servicing the specific location to attend to the task and report and invoice back to the original field agency for later reporting to the client.

Field agency activities include:

- **Field calls**

Acting on behalf of principals (original credit providers or their intermediaries such as collection agencies) to attend at an address to speak directly with a named individual or business debtor.

The purpose of field calls varies and includes:

- Confirming the residential or business address or other contact details of a debtor as a pre-cursor of the principal commencing legal proceedings;
- Making a demand for payment of an overdue account and collecting a whole or part payment of the account, including issuing a receipt for the monies collected;
- Interviewing the debtor to ascertain his intentions in respect to payment of an overdue account;
- Interviewing the debtor to establish the capacity to repay an overdue account by completing a Statement of Financial position; and
- Discussing with the debtor proposed terms of settlement of an account and to seek the debtor’s agreement to those terms.

In the event the named individual or business debtor is no longer at the nominated address, the field agent is required to make enquiries of the current occupant at the address to establish any forwarding address for the individual or business concerned.

The field agent is required to make contemporaneous notes of his attendance and outcome of his activities. A report is subsequently issued to the client.

Field calls are usually remunerated on a “fee for service basis” and rarely have any commission based component. The field agent is paid a fee to attend the address which is not dependent upon the field agent being able to speak to the named individual or business debtor.

▪ **Process serving**

Acting on behalf of principals (original credit providers, insurers, law firms or intermediaries such as other collection and/or field agencies) to attend at an address upon a named individual or business for the purpose of effecting service of court process in accordance with the service requirements of the specific court jurisdiction.

The parties to be served include: parties to the proceedings (plaintiffs, defendants, third parties) and witnesses.

The requirements for service vary widely dependent upon the capacity of the party to be served, the type of document to be served and the court jurisdiction of issue of the document and can include:

- Delivery to the named individual after proper identification;
- Delivery to a person apparently over the age of 16 years and apparently resident at the party's usual place of abode;
- Delivery to a person apparently over the age of 16 years and apparently employed by the party at the party's usual place of business;
- Affixing the document to premises or leaving it in a mailbox at the premises.

In the event the named individual or business debtor is no longer at the nominated address, the process server is required to make enquiries of the current occupant at the address to establish any forwarding address for the individual or business concerned.

The process server is required to make contemporaneous notes of his attendance and outcome of his activities. In the event of service having been effected the process server provides an affidavit of service which accompanies a report issued to the client.

Process serving is remunerated on a “fee for service” basis and does not include any commission based component. The process server is paid a fee to attend the address which is not dependent upon the process server being able to effect service upon the individual or business concerned.

- **Repossessions**

Acting on behalf of principals (original credit providers or their intermediaries such as collection agencies and field agencies) to attend at an address to speak directly with a named individual or business debtor with the purpose of effecting repossession of a specific asset for which the original credit provider holds a security interest including items such as: motor vehicles, commercial equipment, industrial equipment, office equipment, aircraft and marine equipment.

In the case of repossession of such security assets as detailed above, the instructions to the repossession agent are via a written Repossessions Authority and are usually in the form *“collect by way of cash or bank cheque the amount of the arrears and costs on the specific account from the debtor and if the debtor is unable to make such payment effect repossession of the named security item”*.

If the arrears and costs are collected, the repossession agent issues a receipt for the monies.

In the general course of their work, repossession agents do not drive or tow repossessed motor vehicles – instead their responsibility is to speak to the debtor in an attempt to obtain payment of the arrears and costs on the account and failing that effect repossession including engaging an independent towing contractor to attend to secure the vehicle and tow it to an auction or storage facility approved by the credit provider. Once the vehicle is towed away from the address, the repossession agent’s responsibility for the item ceases.

Upon repossession of a security asset, the repossession agent is required to complete an inspection report for the financier and to take photographs evidencing the condition of the item at the time of repossession.

In the event the named individual or business debtor is no longer at the nominated address, the repossession agent is required to make enquiries of the current occupant at the address to establish any forwarding address.

The repossession agent is required to make contemporaneous notes of his attendance and outcome of his activities.

The majority of repossession assignments in Australia involving motor vehicle finance are handled by specialist agencies acting as approved Repossession Syndicate Managers for the specific credit provider.

Australia's largest credit provider of motor vehicle finance requires the staff and approved contractors of its Syndicate Managers to complete its online training to verify their competence.

Syndicate Managers are parties to binding detailed contracts with the credit provider detailing the manner in which repossession assignments are to be handled. In turn, the Syndicate Managers instruct direct employees to attend to the specific repossession assignment or else engage and supervise an independent repossession agent approved by the credit provider to attend to the specific assignment.

In the case of land and buildings, a repossession agent is engaged after court proceedings have been instigated and it has been determined that title for the security premises are to pass to the original credit provider following a breach of the credit agreement.

The typical situation of a repossession of land or a building is the repossession agent acts as the agent to the credit provider to sign for possession of the property from a court appointed Sheriff or Bailiff who is responsible for first ensuring all occupants have been evicted from the premises. After signing for the premises, the repossession agent completes an inspection of the premises and supervises an independent locksmith to change all locks and secure the premises.

Upon completion of a repossession instruction, the agent provides a detailed report together with the inspection report and photographs to his client.

Repossession agents are remunerated on a "fee for service" basis - such fees do not include any commission based component. The repossession agent is paid a fee to attend the address which is not dependent upon being able to effect the repossession – the fees are generally then apportioned on a scale to account for the actual time engagement of the agent to either collect and process a payment or alternatively to engage and supervise the independent towing contractor to remove the vehicle from the address.

- **Skiptracing**

To perform the functions of a field agent necessarily requires the agent to locate a specific individual or business – the subject party.

It is often the case that the individual or business is no longer located at the address supplied by the client. As noted earlier, as field agents go about their functions attending specific addresses, if it is discovering the specific individual or business is no longer located there, the field agent will make enquiries of the current occupants at the address in an attempt to locate a forwarding address for the subject party.

In most cases, clients require the field agent to report back that the subject party has decamped and pass on any forwarding address – the client will then issue if appropriate instructions to the agent to attend any updated address.

Of course, it is not always straightforward that a new address for a subject party can be gathered. In the situation that the current whereabouts of a party or security items are not known, the client must determine whether skiptracing efforts are to be undertaken.

Some field agency businesses operate as specialist skiptracers or offer skiptracing services as one of its services.

The work of skiptracing involves reviewing what is known about a subject party and examining publicly available databases in an attempt to gather an updated address.

In some jurisdictions⁵, the industry licensing provides that field agents who generally hold commercial agent or sub-agent licences can undertake related enquiries to ascertain the whereabouts of a person or security item. However, in other jurisdictions, it is necessary for the agent to also hold a licence as a private investigator/enquiry agent in order to undertake skiptracing enquiries.

Agents who undertake skiptracing are generally remunerated on a “fee for time” basis - such fees do not generally include any commission or success based component.

⁵ In NSW, Section 4 of the *Commercial Agents & Private Inquiry Agents Act, 2004* provides that the functions of a commercial agent includes “an activity that involves finding the third person or requesting, demanding or collecting from the third person money due under the debt”.

3. Training

Training obligations for the debt collection and debt buying industry across the State and Territory jurisdictions vary from the Code of Conduct approach taken in Queensland, which places a positive onus on businesses to ensure a commercial agent has a reasonable knowledge and understanding of PAMDA and the Code⁶ to no specific requirements, as is currently the situation in Victoria.

In NSW⁷, collectors are required to complete modules from the Financial Services (Mercantile Agents) Certificate III qualification. The ACDBA thinks this requirement is excessive, counter-productive and severely restricts the ability for the industry to employ staff in that state.

From the wider industry perspective, it is appropriate that training regulations be relevant and cost effective and further that any prescribed training be accessible, especially given the issue of staff turnover. ACDBA members have indicated new staff turnover in NSW can range from a minimum of 35% to in excess of 60% of any intake.

Putting aside the regulatory requirements which vary across jurisdictions, the industry embraces effective training of its workforce, based upon compliance, quality and performance management outcomes. Our members believe effective training should:

- Be tailored to specific job roles and competency levels;
- Be inclusive of client specific training materials in respect to major account portfolios;
- Be strongly linked to performance management; and
- Concentrate heavily on compliance obligations.

Considerations as to the level of training which is appropriate for each new employee include: pre-existing skills at the commencement of employment; job role; and the career aspirations of the individual employee.

Training materials developed and used by our members in training their employees include information relating to industry relevant Australian legislation and best practices.

At the commencement of employment with our members, new recruits typically undertake induction training which includes:

- I. Orientation providing
 - The history and service ethos of the employer;
 - Workplace expectations;

⁶ *Queensland Property Agents and Motor Dealers (Commercial Agency Practice Code of Conduct) Regulations 2001, reg. 5.*

⁷ *See Annexure F which details the current training obligations pursuant to the NSW Commercial Agents & Private Inquiry Agents Act, 2004*

- The employer’s core values and performance management systems; and
- An overview of the employer’s systems and processes.

II. Initial compliance training on:

- Australian legislation relevant to the employee’s role;
- The role of ASIC and the ACCC;
- Harassment;
- Coercion;
- Misleading and deceptive conduct;
- Unconscionable conduct;
- Identifying debtors in special circumstances, with special needs or in financial hardship; and
- Collection ethics.

Dependent upon the size and nature of the member’s business, new recruits typically start within a call centre environment, which is structured to provide significant support to new employees. A feature of working in such an initial role is that the work is less demanding than general collection or account management roles.

Such training is reinforced by workplace mentors and supervisors who provide significant one-to-one training in such matters as system use, procedures, adherence to scripts and client specific requirements. Employees are provided regular and informal performance feedback.

As employees complete their probationary period mentors, supervisors and managers generally complete a probation completion report, allowing the opportunity for additional training needs and retraining to be identified.

Typically, within 6 to 9 months of commencing to work in a collections environment, a new recruit will have had sufficient exposure to basic tasks such as reminder calls and at this point employers turn to providing strategy training to address:

- Communication techniques;
- Negotiation strategies;
- Litigation process overviews;
- Managing aggression;
- More detailed complaint handling training; and
- Revision of prior training.

An employee progressing to work as a Collections Officer, typically after 12 months or so of commencement of employment is required by the employer to undertake and successfully complete customised training units dealing with:

- Collecting debts;
- Customer service; and
- Client specific requirements.

The determination of whether the employee has satisfactorily completed the training is based upon written assessment(s) and direct observation assessment(s).

In addition to the training provided as employees enter new job functions, our members at a frequency of no less than annually require their employees to attend a refresher collection and compliance training session as a minimum – dependent upon the work function, determination of whether such refresher training has been successfully completed may include written assessment.

It is appropriate to point out the actual modern collections environment of our members embraces compliance monitoring and quality management as integral parts of operating processes and as a consequent employees are subject to regular direct observation assessment and/or call monitoring and file reviews.

In our view, responsibility for the delivery of appropriate training sits with the directors or principals of our member business entities. The requirement to deliver any industry/regulator approved training can be incorporated into the national registration regime and/or in a national Code of Conduct.

Such an approach will provide a more reasonable, responsible and appropriate training regime for collectors to achieve outcomes of higher standards and regulator and consumer confidence than the current regimes across the various jurisdictions.

4. Demographics

The environmental changes detailed earlier have contributed to the significant changes in the landscape of the Australian collections and debt buying industry. ACDBA has recently completed a data survey⁸ of its membership, allowing a snapshot of the modern industry.

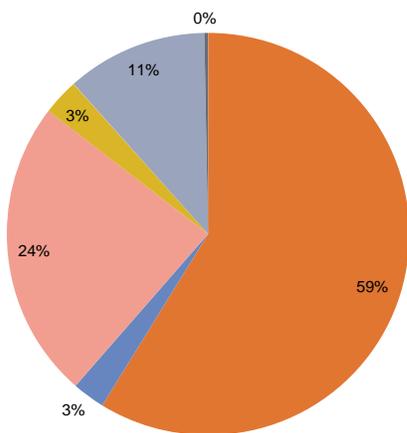
a. Shape and form

Total value of debts under collection by ACDBA members by type of debt:

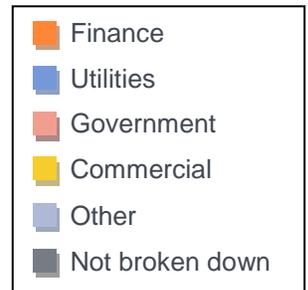
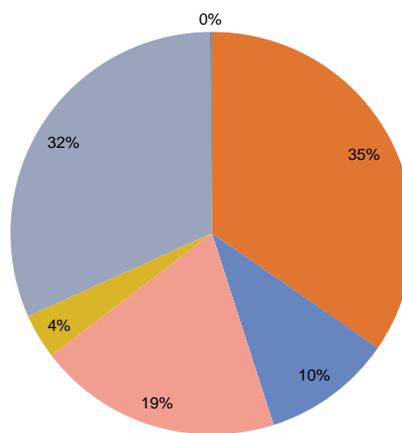
Type of Debt	Snapshot at 30/06/2009		Snapshot at 30/06/2010		Trend comparing 2010 against 2009	
	Debt \$ value	No. of files	Debt \$ value	No. of files	% Change of Debt \$ value	% Change No of files
Finance	\$4,933,308,019	1,216,583	\$5,542,690,549	1,281,454	12.4%	5.3%
Utilities	\$301,040,919	495,244	\$247,220,977	384,269	-17.9%	-22.4%
Government	\$572,769,981	290,620	\$2,266,431,510	724,416	295.7%	149.3%
Commercial	\$244,433,315	130,349	\$275,393,485	133,906	12.7%	2.7%
Other	\$719,491,505	884,748	\$1,067,872,257	1,170,003	48.4%	32.2%
Not broken down	\$12,895,398	2,961	\$28,016,366	4,670	117.3%	57.7%
Total	\$6,783,939,137	3,020,505	\$9,427,625,144	3,698,718	39.0%	22.5%

In percentage terms as at 30 June 2010 this represents:

Debt \$ value



No. of files



⁸ The ACDBA Member Data survey was conducted by ACDBA's Auditors, Thomas Simpson Partners of Newcastle with all responses de-identified and aggregated prior to release to ACDBA.

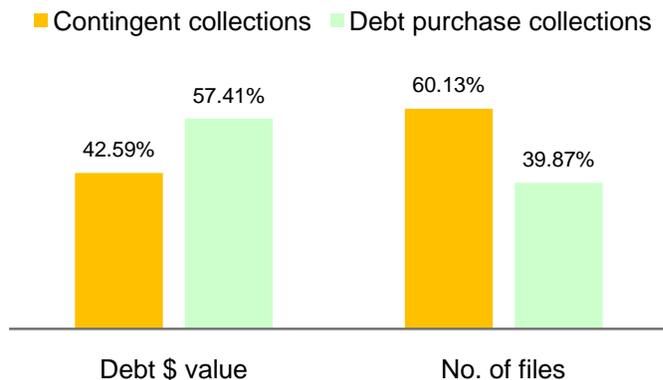
ACDBA membership is estimated to represent approximately 70% of the Australian collection and debt buying industry. Extrapolating this for the entire industry suggests as at 30 June 2010 the industry was actioning in excess of \$13.468 billion in debt represented by 5.2 million files.

As the above debt data reveals ACDBA members collect for a range of clients involving government, commercial, utilities and consumer debts. As noted earlier, the collection work is undertaken either as contingent collections or debt purchase collections.

Debts under collection by ACDBA members by type of collection were:

Type of Collection	Snapshot at 30/06/2009		Snapshot at 30/06/2010	
	\$	No. of files	\$	No. of files
Contingent collections	30.48%	50.50%	42.59%	60.13%
Debt purchase collections	69.52%	49.50%	57.41%	39.87%
Total	100.00%	100.00%	100.00%	100.00%

Collection types as at 30 June 2010 were:



Under contingent collections, the debt remains owned by the original credit provider and the collector acts strictly under an agency agreement to the credit provider. As noted earlier there are service agreements in place between the credit provider and the agent collector specifying the required conduct and account management standards to be maintained by the collection company.

Under assignment agreements between credit providers and debt buyers, contractually debt buyers are only responsible for conduct post the assignment from the lender. Given the volumes of assigned debts per annum, the originating credit provider retains all the documentation generated up to the point of assignment.

There are a range of reasons for this, both legal and practical, including Privacy Act compliance, protection of commercially sensitive assessment and decisioning processes and document retention obligations under a range of legislation including the Credit Code and the Anti-Money Laundering and Counter Terrorism Financing Act.

On a practical basis, the costs involved in transferring huge amounts of data from original credit provider to the debt buyer cannot be justified particularly where liability is rarely disputed.

Our members purchase millions of charged off accounts per annum. Of these, up to 75% of the contact details are incorrect, resulting in significant time and expense in locating the debtors involved. On average, 35% of debtors are never located. This results from debtors relocating but failing to update their contact details with their credit providers.

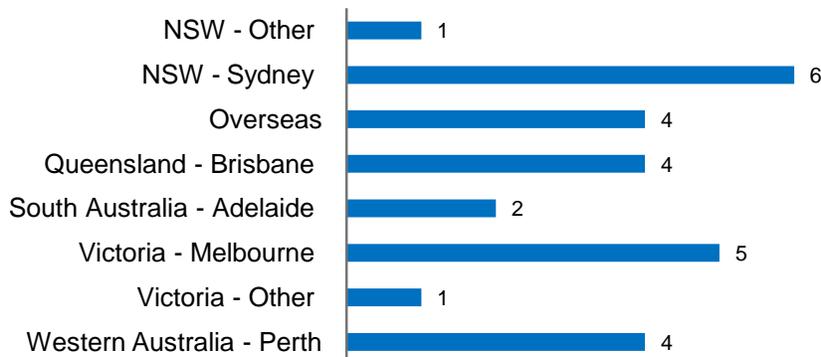
Debt buyers undertake debt recovery processes relating to charged off or non-performing accounts either directly or through related entities which are licensed as commercial agents under State and Territory licensing regimes.

ACDBA members as at 30 June 2010⁹ collectively had 35 offices across Australia and 4 overseas offices with a total workforce comprising 1835 employees.

Number of employees in terms of collection type:

Type of Collection	Snapshot at 30/06/2009		Snapshot at 30/06/2010	
	Number	%	Number	%
Contingent collections	817	51.0%	944	51.4%
Debt purchase collections	786	49.0%	891	48.6%
Total	1,603	100.0%	1,835	100.0%

The locations of member offices are as follows:



⁹ ACDBA data survey

Collecting debts involves a range of communication activities with individual debtors and/or their representatives. Collective member data¹⁰ revealed in the 12 months to 30 June 2010, there were a total of 27.6 million contacts made in respect to a total of 3.2 million accounts involving a number of communication methods:

Contact via:	12 months to 30/06/10
Telephone calls	56.5%
SMS/text messages	3.9%
Letters	39.0%
Emails	0.6%
Total	100.0%

b. Incidents

Member statistics indicate a very low level of confirmed complaints against industry members.

Incidents recorded as part of each members Internal Dispute Resolution (IDR) process are considered to be any matter relating to alleged unsatisfactory professional conduct and lodged as requiring investigation. These unsubstantiated incidents should not be confused with genuine requests made by debtors for additional information to understand the terms of an account, the balance outstanding or the history of payments made.

In the 12 months to 30 June 2010, ACDBA members reported logging a total of 2,548 incidents in respect to 27.6 million contacts made for a total of 3.2 million accounts – this represents an incident rate of 1 per 10,800 contacts or 1,250 accounts under management or 0.009% per total contacts per annum.

It should be noted that the majority of incidents investigated do not meet the threshold to be considered a valid complaint through the IDR process.

Recognising that collections deal exclusively with distressed debt where often the responses received to demands for payment are emotionally charged, an incident rate as low as 0.009% per total contacts per annum is outstanding and would no doubt be envied by many other industries and government departments in respect to their public dealings.

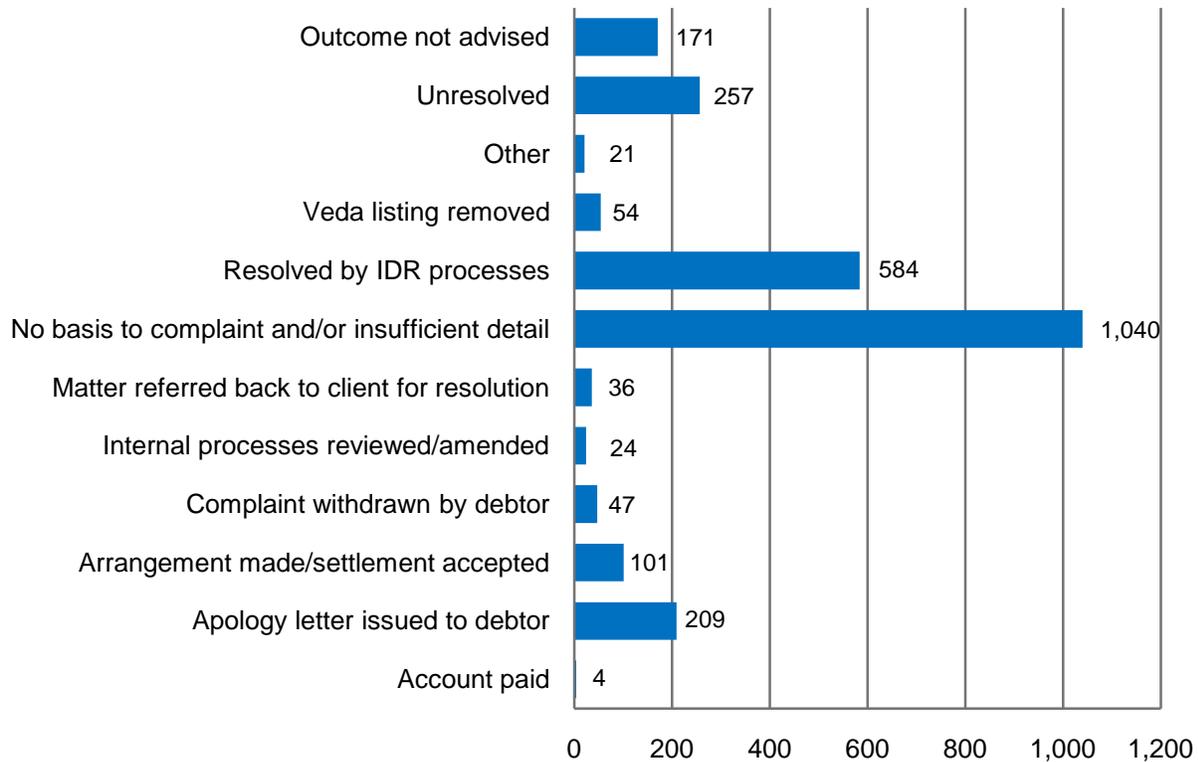
¹⁰ Respondents to the ACDBA data survey were requested to provide data to allow detailed analysis of communication activities and complaints in relation to accounts actioned - due to data limitations, the collected data allowing such analysis was limited to 3,214,768 accounts with a total debt value of \$8,154,542,414 as at 30 June 2010.

This low level of incident rate experienced by the Australian collections & debt buying industry is consistent with US industry experience.¹¹

Incidents logged by ACDBA members were handled via IDR, External Dispute Resolution (EDR) or Regulators as detailed in the table below:

Incidents handled via:	12 months to 30/06/10
IDR	2,130
EDR	352
Regulators	66
Total	2,548

The outcomes of those incidents were:



¹¹ See online article on complaints experience in the US industry at <http://www.insidearm.com/opinion/the-ftc-confirmed-that-collection-complaints-are-a-fraction-of-total-arm-contacts/>

From our members' perspective when considering how incidents are dealt with the following observations are true:

- IDR is more efficient than EDR processes in addressing incidents.
- EDR processes are very slow - the delays generally will result in consumers under collections activity being in a worse financial position.
- Incidents raised during collections/enforcement processes most generally refer to how the consumer entered the contract or some other aspect of contract management rather than the actual collections/enforcement process itself.
- Hardship and enforcement postponement applications are not disputes, simply the consumer exercising rights under the Credit Code.

Industry experience reveals it is common with collections and enforcement matters for consumers to raise contract entry or account conduct issues during the collections process. Such incidents are unrelated to collections conduct.

To allow prompt and proper resolution of disputes, ACDBA members supports the requirement that incidents are recorded and investigated through the member's IDR scheme in the first instance:

- If the dispute involves contract entry or account conduct, the complaint should be referred to the credit provider; and
- If it involves debt collection conduct, then it should be resolved by the debt buyer or collector.

Separate to incidents received from debtors via regulatory authorities and included in the collated incidents above, our members were asked in the survey to provide details of any formal notifications received from industry regulators alleging any breaches of statutory compliance obligations for the 12 months to 30 June 2010.

Members advised a total of 37 such notifications - the outcome following regulatory investigation of those notifications is detailed in the table below:

Outcome	12 months to 30/06/10
No finding of breach / dismissed	36
Written warning for not producing documents to regulator	1
Total	37

Enforcement action against collections and debt buying industry members by regulators pursuant to State and Territory licensing legislation is rare. As the majority of our members work in multi-jurisdictions, the absence of the need for enforcement action, combined with the complaints data detailed earlier further evidences the professionalism of our members, unaffected by jurisdictional differences in licensing regimes.

5. Regulation of the industry

Much of the existing state based legislation covering debt collection was enacted many decades ago, based on a premise that the industry of the day was one attractive to people of ill repute and as such it focused on two main goals:

- Protect the client (creditor) from the theft of funds by the debt collector of monies collected from debtors; and
- Protect the debtor from the potential of assault and battery from the collector during a personal visit.

While the intentions of those protections were noble, both have always been directly covered under the criminal codes in each jurisdiction dealing with assault and fraud and so the legislation was, generally speaking unnecessary.

Victoria has recently amended its legislation to reflect the reality of the industry in the current time, moving to a negative licensing regime. The ACDBA strongly supports the adoption of the Victorian approach through national legislation and/or regulation or failing that by way of nationally consistent legislation adopted across all States and Territories.

6. Future Consultation

The ACDBA welcomes the opportunity to discuss with industry stakeholders and observers the form and shape of the Australian collections industry - please contact:

Mr Alan Harries
CEO
Australian Collectors & Debt Buyers Association
PO Box 295, WARATAH NSW 2298
Phone: (02) 4925 2099
Email: akh@acdba.com

Annexure A - List of ACDBA Members

Listing* of Members of Australian Debt Buyers & Collectors Association

- ACM Group Ltd
- Austral Mercantile Collections Pty Ltd
- Australian Receivables Ltd
- Baycorp (Aust) Pty Ltd
- Charter Mercantile Pty Ltd
- Credit Corp Group Limited
- Dun & Bradstreet (Australia) Pty Ltd
- EC Credit Control Pty Ltd
- Insolvency Management Services Pty Ltd
- National Credit Management Limited
- Pioneer Credit Management Services Pty Ltd
- Recoveries Corporation Pty Ltd
- Shield Mercantile Pty Ltd
- State Mercantile Pty Ltd
- The ARMS Group Pty Ltd

* *Current at 7 April 2011*

Annexure B - State & Territory licensing regimes

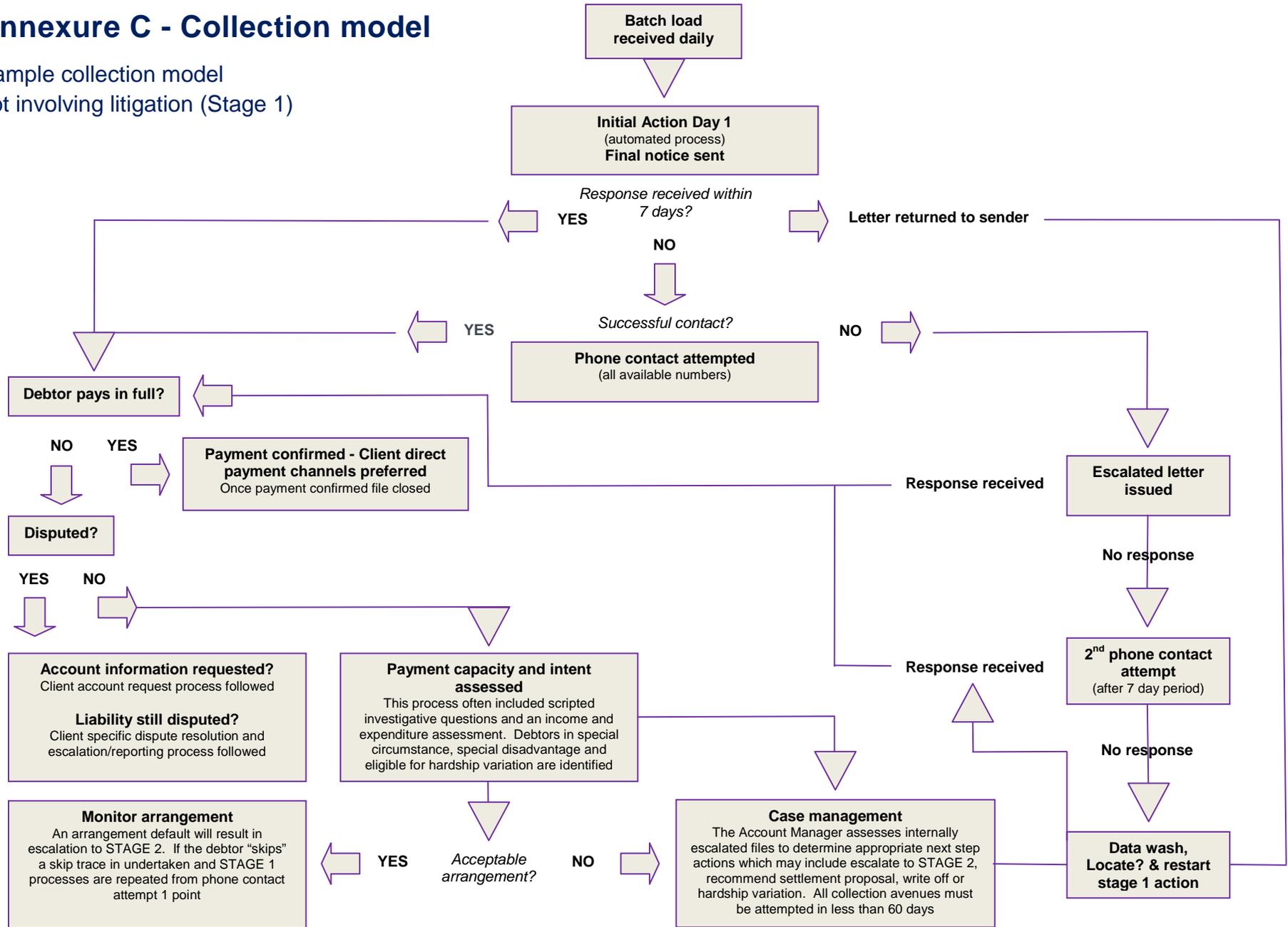
Table detailing State and Territory licensing regimes for collections industry

STATE	LEGISLATION, REGULATION & CODES
Australian Capital Territory	None
New South Wales	<p>Commercial Agents & Private Inquiry Agents Act 2004</p> <ul style="list-style-type: none"> • Applies to any individual and business engaged in debt collection activities in NSW. • Requires debt buyers to be licensed under the Act notwithstanding debt buyers now hold an Australian Credit licence pursuant to the National Consumer Credit Protection Act, 2009. <p>NB: CAPI unit advises anyone collecting debt in NSW must comply, even if business based in another jurisdiction</p>
Northern Territory	<p>Commercial & Private Agents Licensing Act</p> <p><u>Definition:</u> A commercial/sub-agent is licensed to (on behalf of others):</p> <ul style="list-style-type: none"> • Collect, request or demand payment of debts; • Serve legal process; Repossess goods; • Obtain evidence for legal proceedings; & • Search for missing persons.
Queensland	<p>Property Agents & Motor Dealers Act, 2000 & PAMDA Regulations 2001</p> <p><u>Definition:</u> An commercial agents licence authorises the holder to (on behalf of others):</p> <ul style="list-style-type: none"> • Find, or repossess, for any person any goods or chattels; • Collect or request payment of debts; & • Serve any writ, claim, application, summons or other process <p>It is noted that the regulation of commercial agents under PAMDA is expected to come under a new act, pursuant to the Queensland Commercial Agents Bill 2010.</p>
South Australia	<p>Security & Investigations Agents Act 1995 & SIAA Regulations 1996</p> <p>Investigation Agents classification</p> <p><u>Definition:</u> An investigation agent is licensed to:</p> <ul style="list-style-type: none"> • Ascertain whereabouts & repossess goods; • Collect or request the payment of debts; • Execute legal process for the enforcement of a judgment or court order; & • Execute distress for the recovery of rates, taxes or money.
Tasmania	<p>Security & Investigations Agents Act 2002 & SIAA Regulations 2002</p> <p><u>Definition:</u> A commercial/sub-agent is licensed to (on behalf of others):</p> <ul style="list-style-type: none"> • Collect, request or demand payment of debts; • Serve legal process; • Repossess goods; • Obtain evidence for legal proceedings; • Search for missing persons; & • Any other prescribed act

<p>Victoria</p>	<p>Private Agents Act 1966 & Regulations 2003 <u>Definition:</u> A commercial/sub-agent is licensed to (on behalf of others):</p> <ul style="list-style-type: none"> • Collect, request or demand payment of debts; & • Repossess goods <p>Regulation of commercial agents in Victoria is due to come under a negative licensing scheme pursuant to the Fair Trading Act 1999 from 1 July 2011.</p>
<p>Western Australia</p>	<p>Debt Collectors Licensing Act 1964 <u>Definition:</u> Person who, on behalf of any other person and for, or in expectation of, any gain, fee or reward whatever, carries on the business of collecting, requesting or demanding payment of debts</p>

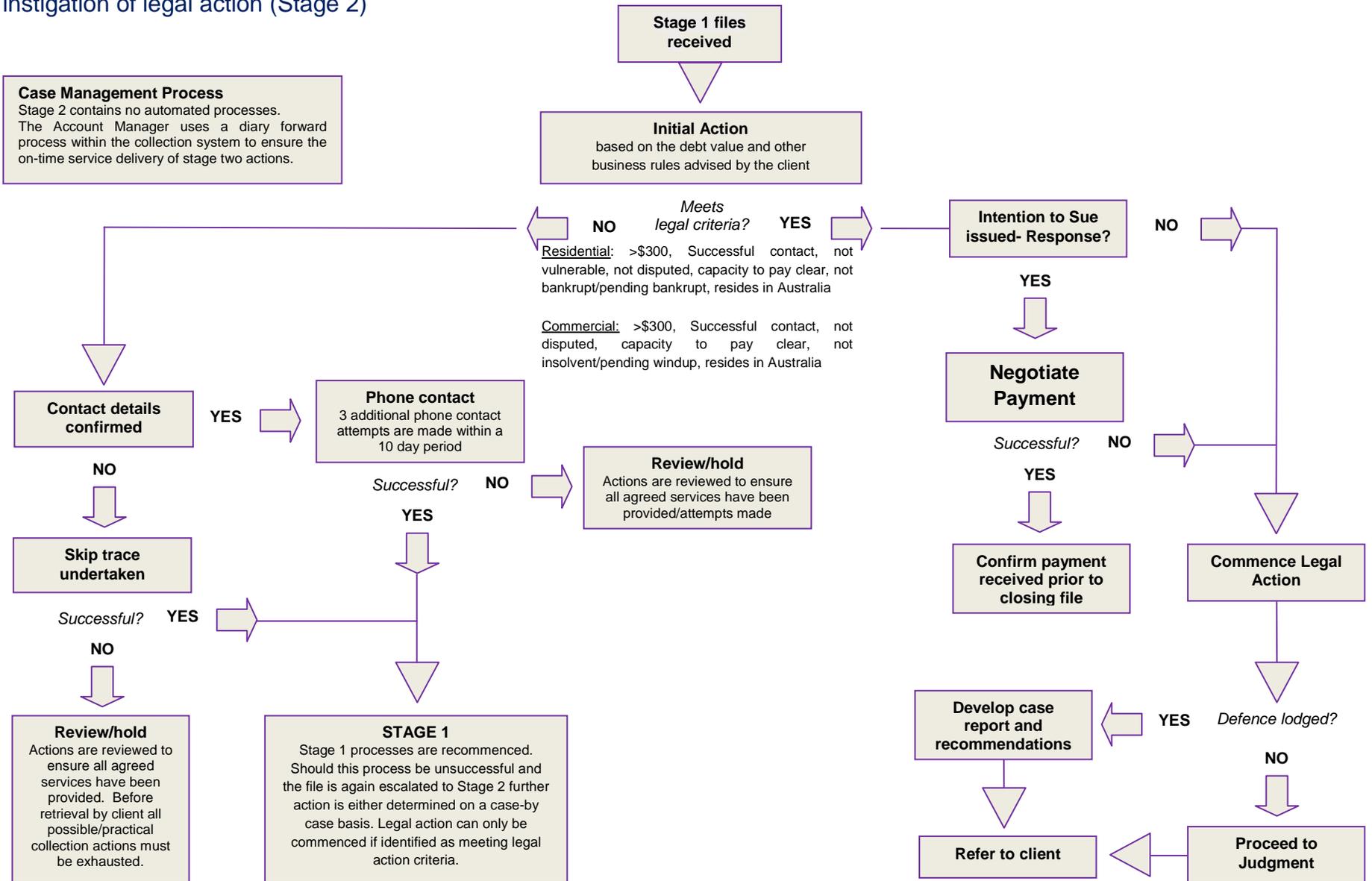
Annexure C - Collection model

Sample collection model
not involving litigation (Stage 1)



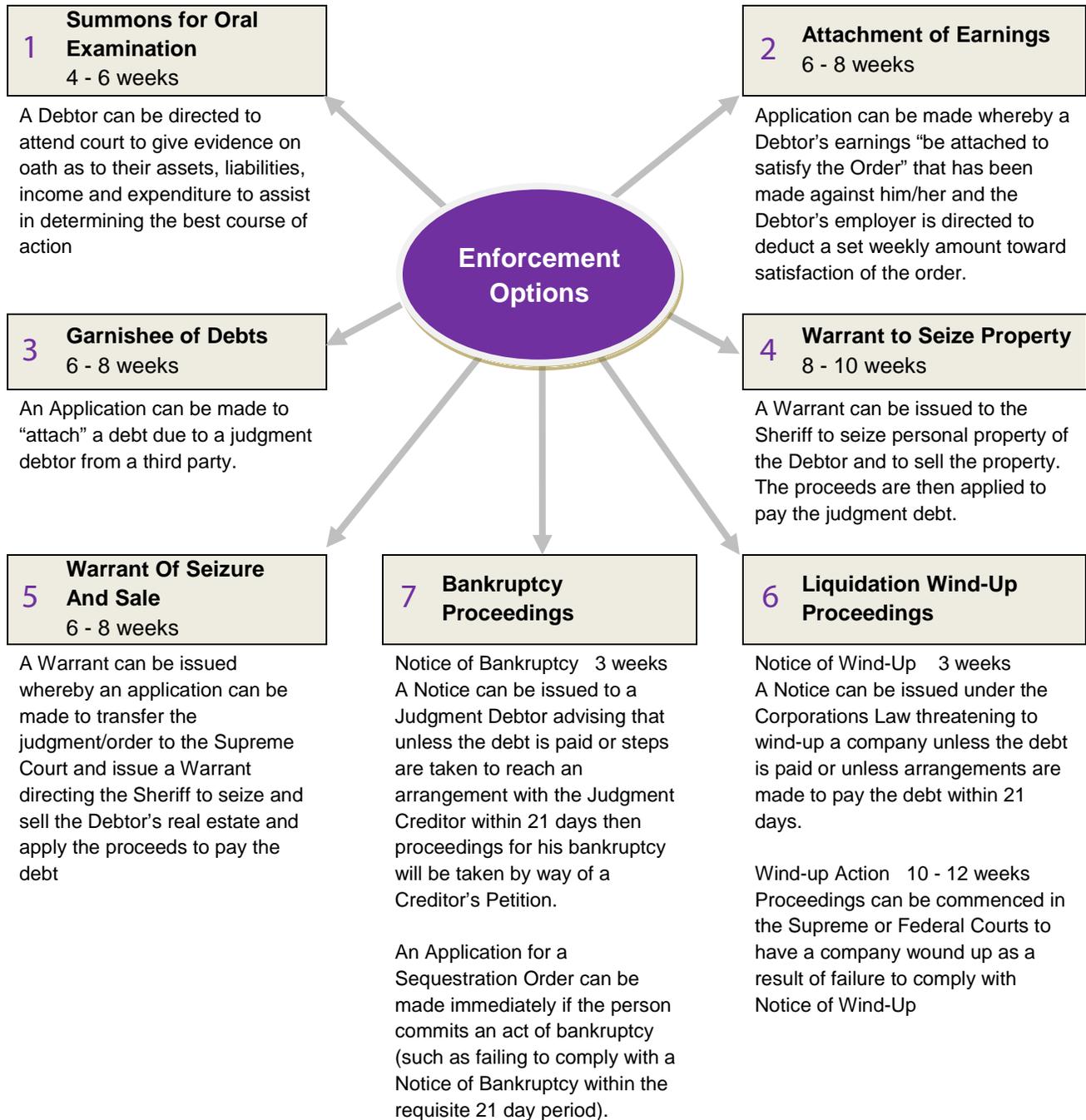
Annexure D - Collection model involving litigation

Sample collection model involving instigation of legal action (Stage 2)



Annexure E - Enforcement Options

Summary of typical enforcement options available post Judgment (names, timelines and processes will vary according to jurisdiction where proceedings commenced).



Annexure F - NSW Training Requirements

Pursuant to NSW Commercial Agents and Private Inquiry Agents Act, 2004

(From website of the CAPI Unit, Security Industry Registry, NSW Police - www.police.nsw.gov.au/sir.)

Master Licence Qualifications:

There are no qualification requirements for a Master Licence in any combination of the following activities:

- Process Serving
- Repossession of Goods

Master licence in any CAPI activity other than Debt Collection - no qualification requirements.

Master licence - Debt Collection activity

The following qualification is required:

FNSCONV503A

Establish, manage and administer trust accounts

Compulsory Elective

Operator Licence Qualifications

If you are applying for an Operator licence in all licensable activities, ie Process Serving, Debt Collection, Repossession of Goods, Surveillance of Person and Investigations of Persons, you must meet the qualification requirements listed below.

A Licensed Operator in any combination of the following activities **must complete the compulsory core units** listed **PLUS** each set of compulsory electives relevant to their licensed activities.

- Process Serving
- Debt Collection
- Repossession of Goods

Certificate III in Financial Services (Mercantile Agents)

Course No. FNS30404

Compulsory Core Units applicable to all 3 licensable activities

Unit Number	Subject	
FNSICIND301B	Work in the financial services industry	Core Unit
FNSICGEN301B	Communicate in the workplace	Core Unit
FNSICGEN302B	Use technology in the workplace	Core Unit
FNSICGEN304B	Apply health and safety practices in the workplace	Core Unit
FNSMERC304B	Locate subjects	Core Unit

Unit Number	Subject	
FNSICORG302B	Prepare reports for management	Core Unit
FNSICIND401B	Apply principles of professional practice to work in the financial services industry	Core Unit
FNSICGEN404B	Resolve disputes	Core Unit

Debt Collection - compulsory electives

FNSMERC301B	Collect debts
FNSMERC401B	Develop and document case recommendations
FNSMERC402B	Initiate legal recovery of debts

Process Serving - compulsory elective

FNSMERC303B	Serve legal process
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Repossession of Goods - compulsory elective

FNSMERC302B	Repossess property
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