



FairWork
Commission

Push, Pull or Nudge?

How Nudge Theory can offer new ways for tribunals to get the message across

COAT Conference 2019

Justice Iain Ross AO
President, Fair Work Commission





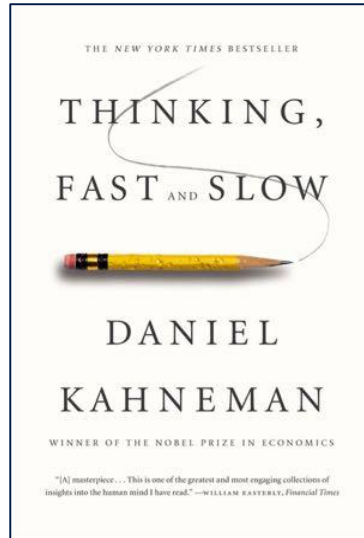
Ezykart

last minute
dinner plans
delivered
FOOD FREEDOM

deliveroo

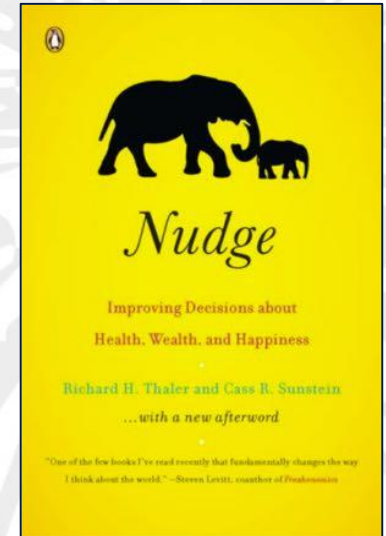
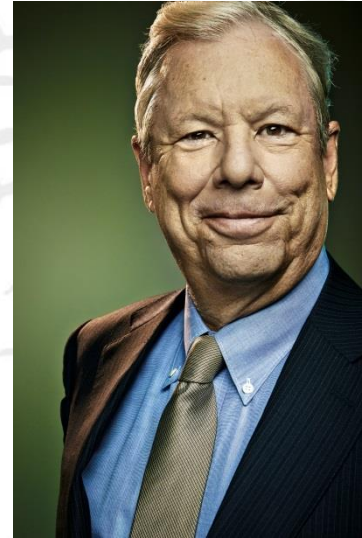
last minute
dinner plans
delivered
FOOD FREEDOM

SPENDER



“It turns out that the **environmental effects** on behavior are a lot stronger than most people expect”

Daniel Kahneman
2002 Nobel Prize in Economics



Nudge is any aspect of the choice architecture that alters people’s behavior in a predictable way without forbidding any options or significantly changing their economic incentives”

Richard Thaler
2017 Nobel Prize in Economics



1. Anchoring bias.

People are **over-reliant** on the first piece of information they hear. In a salary negotiation, whoever makes the first offer establishes a range of reasonable possibilities in each person's mind.



2. Availability heuristic.

People **overestimate the importance** of information that is available to them. A person might argue that smoking is not unhealthy because they know someone who lived to 100 and smoked three packs a day.



3. Bandwagon effect.

The probability of one person adopting a belief increases based on the number of people who hold that belief. This is a powerful form of **groupthink** and is reason why meetings are often unproductive.



4. Blind-spot bias.

Failing to recognize your own cognitive biases is a bias in itself. People notice cognitive and motivational biases much more in others than in themselves.



5. Choice-supportive bias.

When you choose something, you tend to feel positive about it, even if that **choice has flaws**. Like how you think your dog is awesome – even if it bites people every once in a while.



6. Clustering illusion.

This is the tendency to **see patterns in random events**. It is key to various gambling fallacies, like the idea that red is more or less likely to turn up on a roulette table after a string of reds.



7. Confirmation bias.

We tend to listen only to information that confirms our **preconceptions** – one of the many reasons it's so hard to have an intelligent conversation about climate change.



8. Conservatism bias.

Where people favor prior evidence over new evidence or information that has emerged. People were **slow to accept** that the Earth was round because they maintained their earlier understanding that the planet was flat.



9. Information bias.

The tendency to **seek information when it does not affect action**. More information is not always better. With less information, people can often make more accurate predictions.



10. Ostrich effect.

The decision to **ignore dangerous or negative information** by "burying" one's head in the sand, like an ostrich. Research suggests that investors check the value of their holdings significantly less often during bad markets.



11. Outcome bias.

Judging a decision based on the **outcome** – rather than how exactly the decision was made in the moment. Just because you won a lot in Vegas doesn't mean gambling your money was a smart decision.



12. Overconfidence.

Some of us are **too confident about our abilities**, and this causes us to take greater risks in our daily lives. Experts are more prone to this bias than laypeople, since they are more convinced that they are right.



13. Placebo effect.

When **simply believing** that something will have a certain effect on you causes it to have that effect. In medicine, people given fake pills often experience the same physiological effects as people given the real thing.



14. Pro-innovation bias.

When a proponent of an innovation tends to **overvalue its usefulness** and undervalue its limitations. Sound familiar, Silicon Valley?



15. Recency.

The tendency to weigh the **latest information** more heavily than older data. Investors often think the market will always look the way it looks today and make unwise decisions.



16. Salience.

Our tendency to focus on the **most easily recognizable features** of a person or concept. When you think about dying, you might worry about being mauled by a lion, as opposed to what is statistically more likely, like dying in a car accident.



17. Selective perception.

Allowing our expectations to **influence how we perceive** the world. An experiment involving a football game between students from two universities showed that one team saw the opposing team commit more infractions.



18. Stereotyping.

Expecting a group or person to have certain qualities without having real information about the person. It allows us to quickly identify strangers as friends or enemies, but people tend to **overuse and abuse** it.



19. Survivorship bias.

An error that comes from focusing only on surviving examples, causing us to **misjudge a situation**. For instance, we might think that being an entrepreneur is easy because we haven't heard of all those who failed.



20. Zero-risk bias.

Sociologists have found that **we love certainty** – even if it's counterproductive. Eliminating risk entirely means there is no chance of harm being caused.

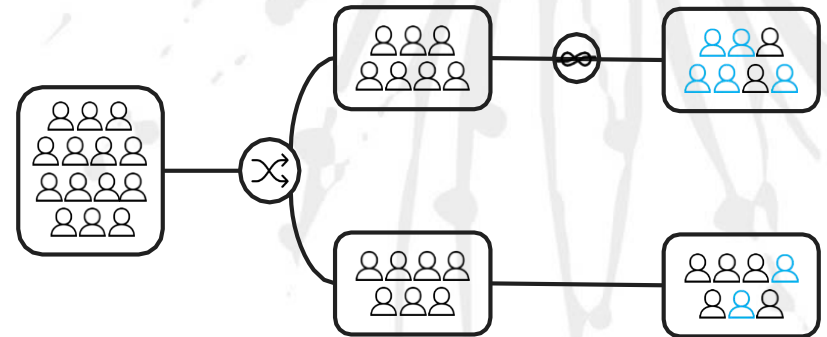


Two key contributions from behavioural insights

Behavioural Insights can provide very cost-effective solutions to improve public policies and programmes



Evidence-based policy, based on robust evaluation, can help to find out what works, what doesn't and why



0100006 00000011 001 001

000000 00000011 001 999

YVONNE STANNYER
ROOM 201
KELSALL HOUSE
STAFFORD COURT
STAFFORD PARK
TELFORD PARK
TF3 3BD

Debt Management & Banking

Mr R Harding
HMRC London South
2nd Floor Southern House
Westerley Grove
Croydon Surrey
CR9 1BW

Phone: 0545 386 7809
www.hmrc.gov.uk
Date of issue 4 August 2011
Reference: REFERENCE NUMBER

Dear Sir/Madam

Please pay £200000000000.33

Our records show that your Self Assessment tax payment is overdue.

Nine out of ten people pay their tax on time.

It is easy to pay. Please call the phone number above to pay by debit card, credit card, or Direct Debit.

You can also pay using internet and telephone banking. For more information on when and how to pay, go to www.hmrc.gov.uk/payinghmrc.

If you don't believe that this payment is overdue, please contact us on the number above.

If you have already paid, thank you. If not, please act now.

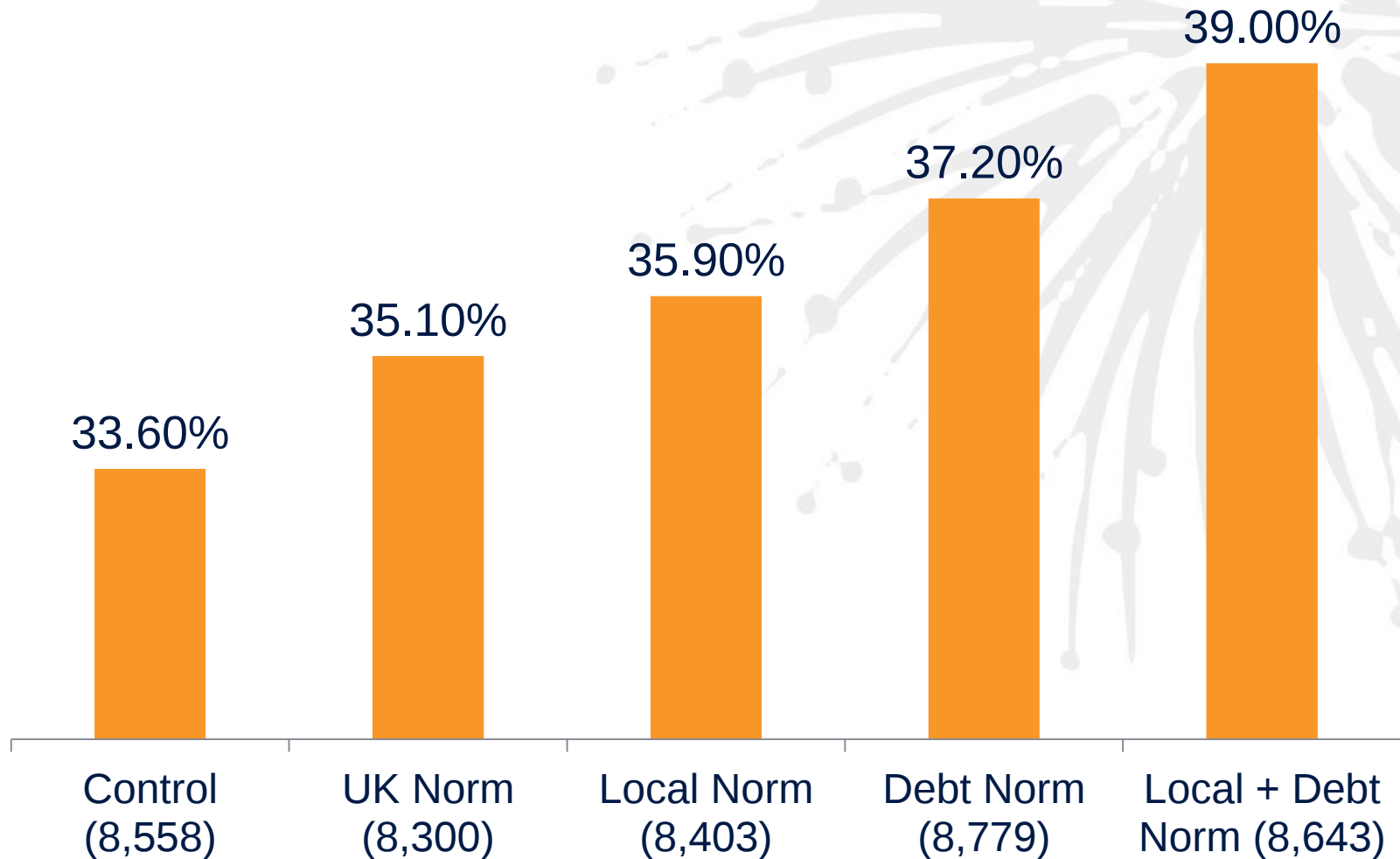
Yours faithfully

Officer of Revenue and Customs

HMRC 10/10

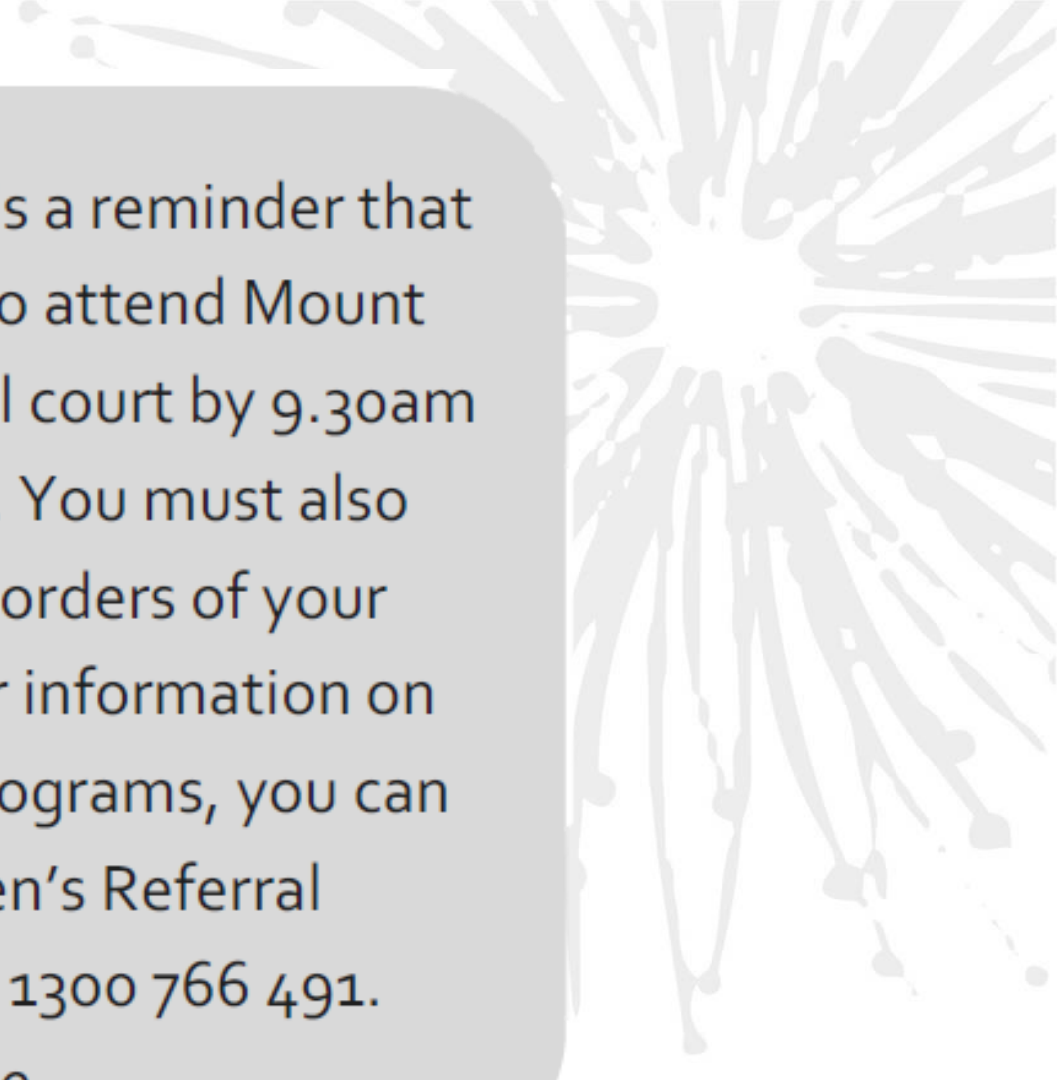
Nine out of ten people with a debt like yours, in your area, pay their tax on time...

Late taxpayers paying their taxes

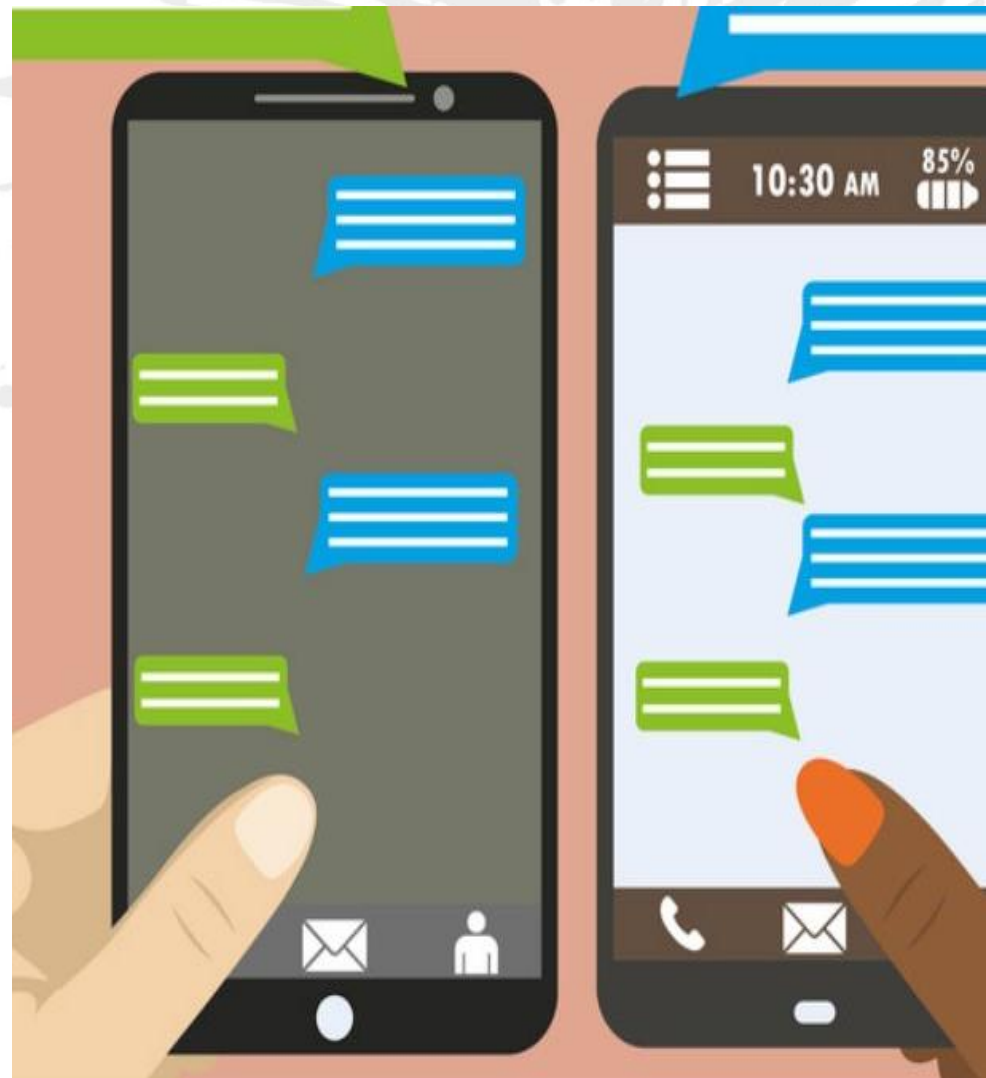


- In NSW, a person can seek protection from domestic violence by applying to a court for an ADVO.
- However, 18 per cent of domestic violence defendants fail to attend court.





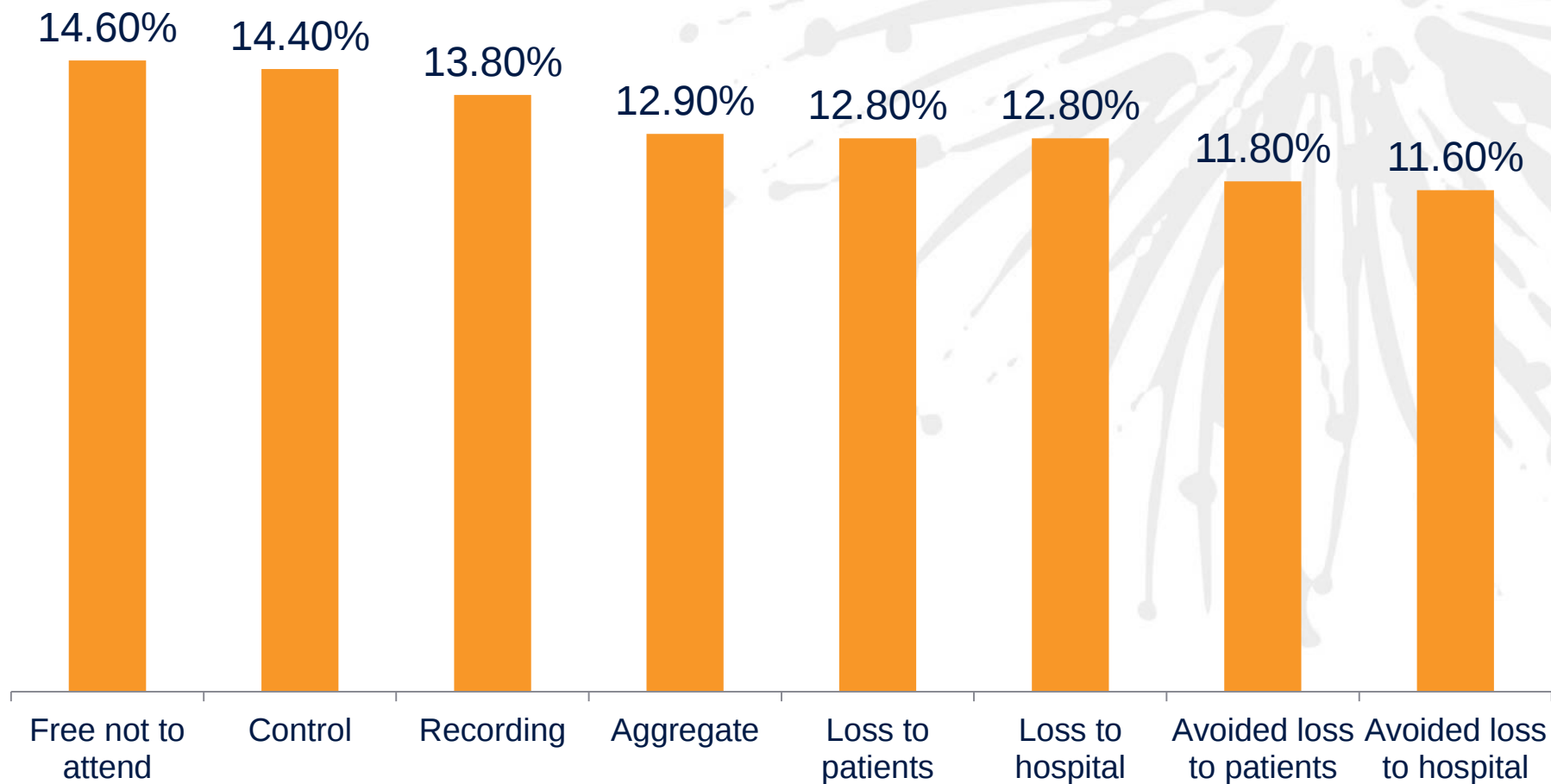
Gary, this is a reminder that you have to attend Mount Druitt local court by 9.30am tomorrow. You must also follow the orders of your ADVO. For information on support programs, you can call the Men's Referral Service on 1300 766 491.
NSW Police



Text messages tested

Name	Message
Control	You have an appointment with Dr [XXXXXX] in [Clinic XXXXXXX] on [Date] at [Time]. For enquiries, call 8382-3150. Do not reply.
Aggregate loss to hospital	Last year the hospital lost \$500,000 due to lost appointments.
Loss to hospital	If you do not attend the hospital loses \$125.
Loss to patients	If you do not attend the hospital loses \$125 that can be used to treat other patients.
Avoided loss to hospital	If you attend the hospital will not lose the \$125 we lose when a patient does not turn up.
Avoided loss to patients	By attending the hospital will not lose the \$125 that we lose when a patient does not turn up. This money will be used to treat other patients.
Free not to attend	You are free not to attend but please call us on 8382-3150 if you need to cancel or rearrange.
Recording	Please attend or call 8382-3150 to cancel/rearrange, or we will record as a missed appt.

Proportion of missed outpatient appointments



The original notices were hard to understand

West Midlands Police

IF THE ADDRESS BELOW IS A LIMITED COMPANY, THIS FORM IS FOR THE ATTENTION OF THE COMPANY SECRETARY.

CTD Reference Number: «LEGACY_REFERENCE_NUMBER» / «NOTICE_NUMBER»

Date: «DATE_CURRENT»

*«LEGACY_REFERENCE_NUMBER»

TO: «OFFENDER_FULLNAME»
«OFFENDER_ADDRESS_LINE1»
«OFFENDER_ADDRESS_LINE2»
«OFFENDER_ADDRESS_LINE3»
«OFFENDER_ADDRESS_LINE4»

SECTION A – You MUST answer Q1 and follow the instructions. Complete using BLACK INK.

Q1 Were you the driver at the time of the alleged offence? Yes ☐ No ☐ Go to Q2 below ☐ Complete Sections B and C

Q2 If you were the driver please check your details against Is your full name and home address correct? Yes ☐ No ☐ Complete rest of Section A ☐ Complete Section A and record your full name and home address in Section C

Please complete your Driving Number in the box below e.g. OTHER 708117 AND/OR

Other 708117 AND/OR

Date of Birth

1 9 Y Y

License issued by: DVLA ☐ NI or EU ☐ Other ☐

Driver's Signature

YOU MUST SIGN THE FORM HERE IF YOU WERE THE DRIVER

Signature Date

NOTICE OF INTENDED PROSECUTION TO BE COMPLETED BY ADDRESSEE ONLY

Dear «OFFENDER_SALUTATION»

VEHICLE REGISTRATION NUMBER «VEHICLE_REG_NO»

In accordance with Section 1 of the Road Traffic Offenders Act 1988, I hereby give you notice that it is intended to take proceedings against the driver of the motor vehicle.

YOU CANNOT AND MUST NOT PASS THIS DOCUMENT ONTO SOMEONE ELSE FOR COMPLETION.
DO NOT COMPLETE THIS FORM IF YOU ARE NOT THE PERSON NAMED ABOVE

Under section 172 of the Road Traffic Act 1988 you are required to supply the information requested above within 28 days of receipt of this notice. Failure to do so could result in a fine of up to £1000 plus an endorsement of penalty points on your driving licence.

You are required to provide the information on the reverse of this notice

Police

On behalf of the Chief Constable of West Midlands Police

PLEASE RETURN THE COMPLETED AND SIGNED DOCUMENT TO:

WEST MIDLANDS POLICE
CENTRAL TICKET OFFICE
PO BOX 94
BIRMINGHAM
B4 6ER

SECTION C – Complete in CAPITAL LETTERS using BLACK INK.

Title

Male ☐ Female ☐ Date of Birth

Surname or Company Name

Forename(s)

Address

Postcode

Telephone Number

WARNING: IT IS AN OFFENCE TO KNOWINGLY OR RECKLESSLY FURNISH A FALSE STATEMENT.
THIS OFFENCE CAN INCUR A FINE

Intervention: Redesigned the standard letter and attachments

 If the address below is a Limited Company, this form is for the attention of the Company Secretary

Notice of Intended Prosecution
CTO Reference Number:
«NOTICE_NUMBER»
Date: «DATE_CURRENT»

TO: «OFFENDER_FULLNAME»
«OFFENDER_ADDRESS_LINE1»
«OFFENDER_ADDRESS_LINE2»
«OFFENDER_ADDRESS_LINE3»
«OFFENDER_ADDRESS_LINE4»

WERE YOU THE DRIVER OF THE «VEHICLE_MAKE» «VEHICLE_MODEL» «VEHICLE_REG_NO»
RECORDED SPEEDING?
Dear «OFFENDER_FULLNAME»

We have photographic evidence that shows a «VEHICLE_COLOUR» «VEHICLE_MAKE» «VEHICLE_MODEL»
«VEHICLE_REG_NO» being driven at «VEHICLE_SPEED» mph on «OFFENCE_LOCATION» at
«OFFENCE_TIME» on the «OFFENCE_DATE», committing the offence of «OFFENCE_DESCRIPTION». We
believe you were the driver of the vehicle.

This is an offence «OFFENCE_SECTION» and in accordance with Section 1 of the Road Traffic Offenders Act
1988 this letter gives notice that we intend to take action against the driver of the vehicle.

WHAT TO DO IF YOU WERE THE DRIVER

- Fill in the boxes below and send this form back to us **within 28 days of this notice**.
 - If you provide this information on time, you may be able to take an educational course instead of paying a fine and having penalty points on your licence.
 - Failure to provide this information **within 28 days** could result in an additional fine of up to £1000 plus endorsement of six penalty points on your driving licence.

Driving Licence Number (e.g. OTHER T05117 AN9XP) Driver Date of Birth:

1 9 Y Y

Licence issued by: DVLA NIEU Other

Signature: Date: 2 0 Y Y

- If your address details are incorrect on this letter, please write your correct address on the back of this page.
- Please send the signed and completed form to:
WEST MIDLANDS POLICE, Central Ticket Office, PO BOX 94, BIRMINGHAM B4 6ER

After we receive your response, we will write to you again letting you know what to do next.

IF YOU WERE NOT THE DRIVER at the time of the alleged incident, please turn over and provide all required information before sending this notice back to us.

Yours faithfully,

Stuart Baker
On behalf of the Chief Constable

DATA PROTECTION ACT 1996 Personal data supplied on this form will be held on a computer system



No driver means to kill They were just going too fast



Over the last five years, 779 children were killed or seriously injured on the roads in the West Midlands alone.

A lot of thought goes into setting speed limits. Speed limits take into account the history of accidents in the area – that's why they're there, because we don't want to see history repeat itself.

Fortunately, most people understand there's a good reason for the speed to be set to that limit and do the right thing.

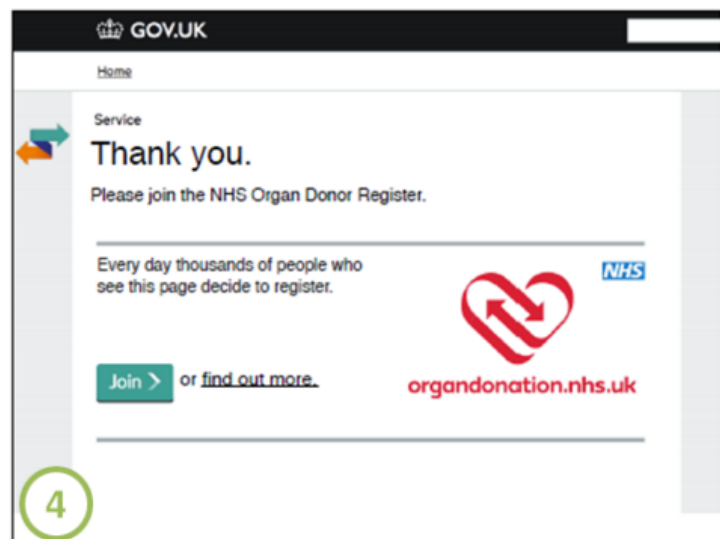
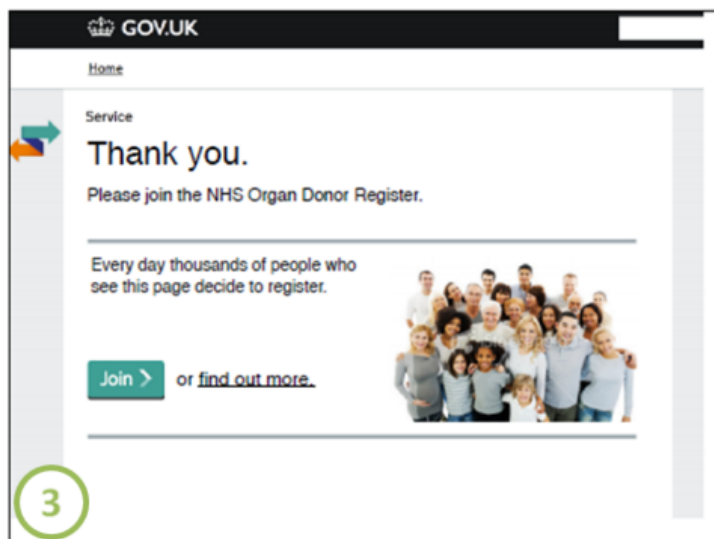
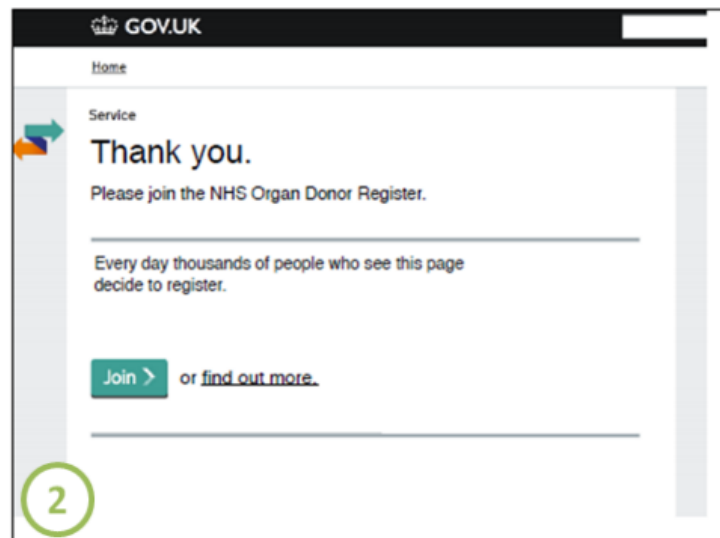
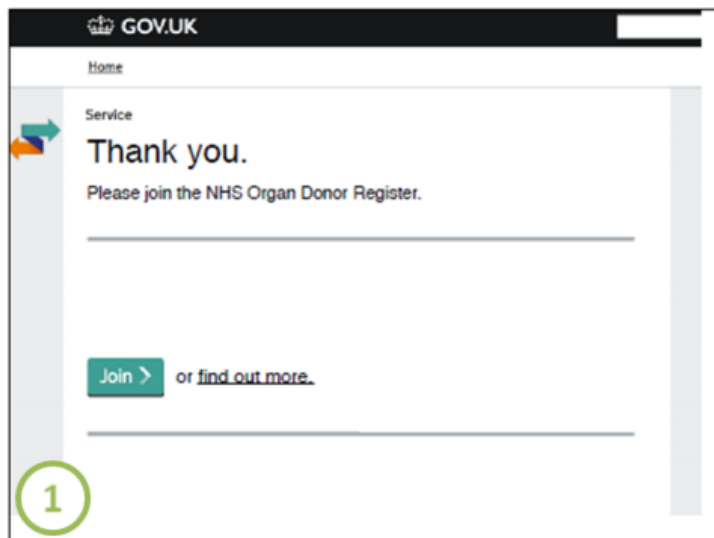
The reason you're getting this letter is to make sure the next time we're called to investigate a serious collision, you're not involved.

Important information about this notice

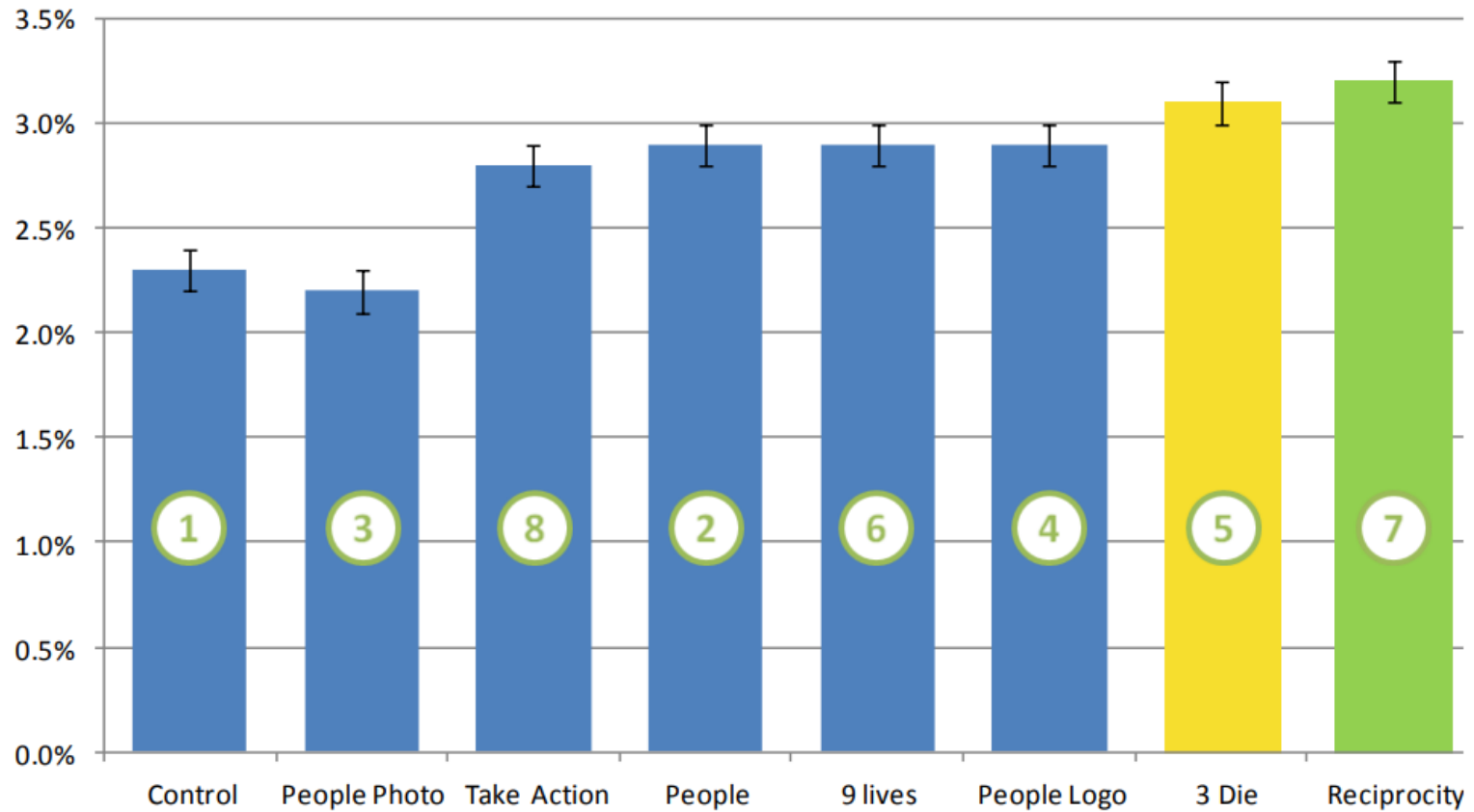
- If you were the driver, failure to provide your full driving licence information will result in you not being able to be considered for an educational course.
- Failing to provide information about the driver of the vehicle is an **offence**. This offence has a penalty of up to £1,000 and an additional six penalty points. Companies will receive a larger fine.
- Providing false information to the police is also a **criminal offence**. This offence has a penalty of between 6 and 24 months imprisonment and/or an additional fine.
- Do not complete and return the notice if you are not the named recipient.

You must not pass the notice on to another person to complete or sign on your behalf.

Serving our communities, protecting them from harm
www.west-midlands.police.uk



Percentage of People Registering as Organ Donors, by Variant



No matter who you are, whether you are selling soap or shampoo, whether you are a government looking after the welfare of citizens, or an agency promoting financial well-being and better health, **you are in the business of changing people's behaviour.**

- Dilip Soman

Professor of Marketing, University of Toronto
Canada Research Chair in Behavioural Science



“The first misconception is that it is possible to avoid influencing people’s choices.”

- Richard Thaler
2017 Nobel Memorial Prize in Economics

The Behavioural Insights Team (BIT) and the FWC

THE BEHAVIOURAL INSIGHTS TEAM

- Increase the proportion of enterprise agreement applications that are complete and compliant on lodgment
- Reduce unfair dismissal applications lodged out of the 21 day time limit and ensure applicants who have lodged out of time are aware of potential outcomes
- Build behavioural economics capability within the Commission

[www.iaif.org](#)
Inter Agency Innovation Forum
Public Access Page
[Tablet Example](#)

[Applying Behavioural Insights to Dispute Resolution](#)
[Online Dispute Resolution \(ODR\)](#)
[HOME](#)
[ABOUT BI](#)
[ORGANISATIONS](#)
[EVENTS](#)
[ABOUT US](#)

[SIGN IN](#)

INTRODUCTION
EVENTS

What is Behavioural Insights (BI)?

Behavioural insights is based on research from psychology, human-centred design and behavioural economics. It draws on this knowledge to better understand the ways in which policy changes can improve people's lives.

Behavioural insights recognises that our choices are affected by how decisions are presented, that our decision-making is influenced by what others are doing, and that we don't always follow through with what we intend to do.

Behavioural approaches are complementary to traditional policy approaches, and can span the entire policy cycle: from better understanding the policy issue at hand through to optimisation of implementation activities

[More info...](#)

ORGANISATION LOCATIONS

[clear all](#)

ORGANISATIONS
Country

Fair Work Commission

Lorem ipsum dolor sit amet, consectetur adipiscing elit. Aenean euismod bibendum laoreet. Proin gravida dolor sit amet lacus accumsan et viverra justo commodo. Proin sodales pulvinar sit tempor. Sociis natoque penatibus et magnis dis parturient montes, nascetur ridiculus mus.

contact

Australia

Canada Industrial Relations Board

Lorem ipsum dolor sit amet, consectetur adipiscing elit.

contact

Canada

Federal Mediation and Conciliation Service (Canada)

PROJECTS

Family Violence Information Sharing

We worked with the Department of Premier and Cabinet, Department of Health and Human Services, Department of Justice and Regulation, the Magistrates Court of Victoria and Berry Street to enhance information sharing by frontline family violence workers.

[Read the case study about improving information sharing in the family violence system](#)

Country: **UK** Org: **ACAS** Date: **07/18** Status: **In progress**

my project Public Members Only

Child Protection Reporter Support

We are working with the Department of Health and Human Services to ensure children in need of support can receive the most appropriate service at the right time.

Country: **Canada** Org: **CIRE** Date: **06/18** Status: **In progress**

Public Members Only

Vocational Education

We are collaborating with the Department of Education and Training as well as TAFE's to help students persist in their vocational studies.

Country: **United States** Org: **FMC3** Date: **05/18** Status: **In progress**

Public Members Only

Energy Demand Management

We are working with the Department of Environment, Land, Water and Planning to support vulnerable consumers to get the best energy deal from their retailer and to reduce energy consumption during peak demand periods.

Country: **Australia** Org: **DPC** Date: **11/17** Status: **In progress**

Public Members Only (FWC, DPC, VCAT)

Patient Communications

We are working with Salford Care Victoria and the Department of Health and Human Services to develop a consistent tool for communication with patients of specialist clinics to support the efficient use of scarce hospital resources.

Country: **South Africa** Org: **SCoM** Date: **10/17** Status: **Complete**

Public Members Only

Organ Donation

We are working with the Department of Health and Human Services, McRoads and Donatelife Victoria to increase the number of Victorians registered as organ donors.

Country: **Australia** Org: **DPC** Date: **9/17** Status: **Complete**

Public Members Only

[Create new Project](#)

[Applying Behavioural Insights to Dispute Resolution](#)
[Online Dispute Resolution \(ODR\)](#)
[HOME](#)
[ABOUT BI](#)
[ORGANISATIONS](#)
[EVENTS](#)
[ABOUT US](#)

[Notifications](#)

PROJECTS
ORGANISATIONS
EVENTS

Family Violence Information Sharing

Information sharing in the family violence system is essential to keep victim survivors safe and hold perpetrators to account. Victoria's Royal Commission into Family Violence found that information is not routinely or systematically shared in the family violence system, exposing victim survivors to risk of further harm.

To better understand the kind of decision making that results in information sharing, we undertook extensive research, including over 270 hours of observation and interviews with front line workers in the family violence system. The ensuing report, [Applying Behavioural Insights: Improving Information Sharing in the Family Violence System](#) exposed contextual and psychological factors that influence the accessibility and sharing of information.

Findings from the report are being used to inform policy, process and cultural change around information sharing. For instance, this research has been used to simplify the Ministerial Guidelines on how services should share information, to improve efficiency and reduce errors in workers' decisions.

The report also demonstrated that incorporating behavioural insights upstream in the policymaking process has the potential to generate improvements that are broader than optimising the delivery of individual services alone.

Project owner

Department of Premier and Cabinet Victoria

Partners

Department of Health and Human Services
 Department of Justice and Regulation
 Magistrates Court of Victoria

Following Project:

Ministry of Justice (UK)
 Victorian Civil & Administrative Tribunal (VCAT)

[remove](#)

Project space

People

Rob Favata, ICT Infrastructure
[Email Rob](#) - [Phone Rob](#)
 Stephen Nonwood, ICT Operations
[Email Stephen](#) - [Phone Stephen](#)

Feedback

Anything wrong, missing or out of date on this page?
[Submit feedback](#)

Comments

[Add new comment](#)

Contact details

chambers.ross.j@fwc.gov.au

A stylized sunburst or starburst graphic in shades of blue and orange, positioned on the left side of the slide. It features a central orange circle with radiating lines and dots, transitioning into a blue starburst pattern.

Thank you