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# Managing Parent Debts

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# Introduction

## Corney & Lind Lawyers Pty Ltd

➤ Mid size law firm – 18 lawyers + 30 staff

➤ Our focus areas

Schools & Education

Not for Profit & Charity

Commercial

Employment & Discrimination

Personal Injury

Commercial & Construction Litigation

Migration & Visas

Family Law

Criminal & Traffic

Estate & Elder Law

➤ Our lawyers travel to you if needed

➤ Specialist lawyers committed to delivering “*just redemptive outcomes®*” with care and integrity

➤ Based right next to the CBD opposite the RBWH transport hub



# 1. What Do I Do With A Minor Parent Debt?

- Let's be honest – not most people's favourite job
- Why do parents default?
  - Separation
  - Change in circumstances
  - Simply unwilling to pay
- What options are available?



## 2. What Options Are Available In Recovering Parent Debts?

- Chase it up yourself
- Go to a private debt collection agency
- Instruct us to prepare our fixed fee debt collection letters



## 3. Necessitous Circumstances Fund

- Consider setting up a Fund so that parents who want to make tax deductible donations to other families who are struggling can do so.
- This in turn can reduce the amount you spend in recovery.



## 4. What If They Still Don't Pay?

Initiate proceedings in the Magistrates Court of Queensland or QCAT (or your state equivalent)

Which one? - “Do you *really* want a lawyer?”



## 5. The Magistrates Court Process

- Prepare Claim and Statement of Claim
- File Claim and Statement of Claim
- Serve Claim and Statement of Claim
- Defendants have 28 days to file a Notice of Intention to Defend from date of service
- Default Judgement, Settlement or Trial?

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## 6. What If They STILL Don't Pay?

### Enforcement Proceedings





## 7. What Is A Compromise Agreement and How Does It Affect Recovery?

- Also known as a Payment Plan
- Essentially an amendment of the enrolment contract
- If it does its job you should recover the entirety of the debt
- If you have already initiated proceedings and they default? – Rule 365



## 8. How Do You Prevent An Unpaid Debt and Maximize Repayment???

- Be on the ball with your books
- Don't be trigger happy with terminating enrolment
- Have a lawyer look over your enrolment contract to ensure it includes
  - Joint and several liability
  - Costs on an indemnity basis
  - Specified interest rates



## 9. The Risks Of Charging Interest

### National Consumer Credit Protection Act 2009

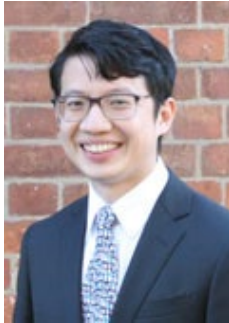
- You cannot charge interest on a loan unless you are licensed to do so- Criminal and civil penalties
- Ensure that you demand fees upfront and on invoice.
- Do not claim to defer debt, grant loans or issue credit but instead make staggered payment arrangements if a parent is in financial difficulty.
- Any late fee or interest must be reasonable

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