SUBMISSION

"For some clients, they can't get mainstream money as they have too much debt and not enough income. They can't afford the rego or the power bill, or the payments on existing debt, so they jump into one of these loans to alleviate immediate financial stress, and worry about the consequences - or not - later"

(Financial Counsellor)

Submission to the Senate Economics Legislation Committee Inquiry into the National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease Reforms) Bill 2019 (No. 2)

February 2020

AnglicareTAS
Choice, support and hope

Social Action & Research Centre

Working for a just Tasmania

Contents

Introduction to Anglicare Tasmania **1**

Anglicare Tasmania's expertise in financial services **2**

Response to the Legislation **5**

a) A cap on the total payments that can be made under a consumer lease 7

b) Introducing anti-avoidance protections & strengthening penalties 7

c) Preventing providers from issuing loans or leases when repayments exceed 10% of the consumer's income... 7

d) Promotion of and education about financial products 8

Anglicare Tasmania recommendations 8

References **9**

Introduction to Anglicare Tasmania

Anglicare Tasmania is a large community service organisation in Tasmania with offices in Hobart, Glenorchy, Launceston, St Helens, Devonport, Burnie, Sorell and Zeehan and a range of programs in rural areas. Anglicare Tasmania's services include crisis, short-term and long-term accommodation support; NDIS disability and mental health support services; support services following a motor vehicle accident; aged and home care services; alcohol and other drug services; financial and gambling counselling; and family support. In addition, Anglicare Tasmania's Social Action and Research Centre conducts research, policy and advocacy work with a focus on issues affecting Tasmanians on low incomes.

Anglicare Tasmania is committed to achieving social justice for all Tasmanians. It is our mission to speak out against poverty and injustice and offer decision-makers alternative solutions to help build a more just society. We provide opportunities for people in need to reach their full potential through our services, research and advocacy.

Anglicare Tasmania's work is guided by a set of values which includes these beliefs:

- *that each person is valuable and deserves to be treated with respect and dignity;*
- *that each person has the capacity to make and to bear the responsibility for choices and decisions about their life;*
- *that support should be available to all who need it; and*
- *that every person can live life abundantly.*

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Anglicare Tasmania’s expertise in financial services

Anglicare Tasmania commenced operations in March 1983 as the Anglican Family Care Service, which provided budget and financial counselling services in Launceston and Hobart. We have almost 40 years’ experience working with Tasmanians on low incomes and those who are disadvantaged or vulnerable.

Currently funded by both the Tasmanian and Commonwealth governments, Anglicare Tasmania provides financial counselling services free of charge across the state, as well as via the telephone-based National Debt Helpline. Anglicare Tasmania’s financial counsellors provide services in Hobart, Glenorchy, Launceston, Devonport and Burnie and make regular visits to Huonville, Sorell, Bridgewater, Rokeby, New Norfolk, Georgetown, Scottsdale, Exeter, Beaconsfield, Ravenswood, Deloraine, West Tamar, St Marys, St Helens, Smithton and the Tasmanian prisons. Anglicare Tasmania also provides financial education sessions to community-based organisations.

Our service provides information about dealing with debt and negotiating with creditors; consumer rights and responsibilities; accessing superannuation; bankruptcy and its alternatives; money management and budgeting; and referral to legal services.

In 2019, Anglicare Tasmania’s financial counsellors saw 3,985 new clients and continued assisting 616 existing clients.

As well as service provision, Anglicare Tasmania’s Social Action and Research Centre (SARC) researches and advocates on financial services.

Twenty years ago Anglicare Tasmania, with the Tasmanian Council of Social Service (TasCOSS) and the Poverty Coalition, conducted statewide consultations to look at issues concerning people on low incomes. One of the major issues identified was the need for access to affordable credit. Anglicare Tasmania was funded by Aurora Energy and the State Government to explore the idea and conduct a pilot No Interest Loans Scheme (NILS), based on models in Victoria and Western Australia. Tasmania’s No Interest Loans Scheme was established in July 2002 and Anglicare Tasmania continues to provide support through participation at Board level.

SARC has continued to research financial hardship in Tasmania over the past two decades. Our findings include:

- Too many Tasmanians rely on emergency relief and go without food to meet other bills (Madden 2003);
- Sole parents, health care card holders and people living alone are the groups most likely to experience financial difficulties (Madden 2005);
- People with serious mental illness face a very high level of chronic financial hardship (Cameron & Flanagan 2004);
- State Government concessions are inequitable and difficult to access (Anglicare Tasmania 2007).

- People living on low incomes often pay more for essential goods and services due to having access to poorer quality products and subsequently face higher risk of financial stress (Flanagan & Flanagan 2011);
- Families and individuals who rely on Centrelink services suffer from an income that is too low to meet daily needs and a system that is inaccessible, faceless, unresponsive and inflexible (Hinton 2018); and
- Families who have had their children removed by Child Safety Services and are working towards family reunification are often unable to provide the material basics (such as housing, food, clothing, furniture, toys and learning materials) required to reunify with their children due to losing their parenting-related payments (Fidler 2018).

A third of Tasmanians are reliant on government income support (ABS 2019, table 13.4), which is the highest rate in the country. Further, the increased casualisation of the workforce leaves many people with low and/or volatile incomes.

It is the absence of adequate income to meet basic needs that has allowed the financial services industry to successfully develop dangerous new products to "meet demand" of low-income customers. Initially known as "fringe credit providers" and now as "pay day loans", Anglicare Tasmania has observed the damage caused by the rapid growth of companies that make hasty approvals to lend cash for short periods of time while accruing large fees and charges. Anglicare Tasmania clients often end up with debts that, rather than being a short term "solution", last for years. Our 2009 research paper on pay day lending in Tasmania found three overarching problems:

1. Pay day lenders generally insist on customers signing a direct debit authority. This ensures lenders have priority over other demands on the borrower's finances;
2. Pay day loans are too easy to obtain, with the lenders utilising lax assessment practices and a disregard for the borrower's ability to repay the loan; and
3. Pay day loans are too expensive to repay (Hughes 2009).

Despite Parliamentary scrutiny over many years and the introduction of a nationally consistent regulatory framework, Anglicare Tasmania finds the same observations hold true more than a decade later.

Anglicare Tasmania welcomes this inquiry, coming as it does at the end of the Financial Services Royal Commission and after the *National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease Reforms) Bill 2017* stalled in Federal Parliament. The 2017 Bill was based on the Coalition Government's review of small amount credit contract (SACC) laws, which had been released in March 2016.

In late 2018, Anglicare Tasmania submitted to the Senate Standing Economics Reference Committee Inquiry (Anglicare Tasmania 2018), calling for the 2017 Bill to be enacted into law and also, with the NILS Network, Neighbourhood Houses Tasmania, Hobart Community Legal Service and TasCOSS, wrote to all Tasmanian Federal politicians calling on them to support the 2017 Bill. The majority report of the Committee endorsed passing the 2017 Bill (Recommendation 2). Although the Coalition Senators' Dissenting Report disagreed with some recommendations, it did not oppose the passing of the 2017 Bill (Senate Economics Reference Committee 2019).

In November 2019, Anglicare Tasmania joined the Stop the Debt Trap Alliance, a coalition of 20 consumer advocacy organisations nation-wide, which was launched 1,000 days after the Coalition Government accepted the recommendations of the 2016 SACC Review. The Alliance is calling for Parliament to implement stronger laws to protect Australians from predatory pay day lenders and consumer lease providers.

We are hopeful that significant changes to the regulation of pay day loans, consumer leases and similar financial products will result from the current inquiry.

Response to the Legislation

Current regulation of credit and financial services is failing to protect consumers and reform is needed to limit the harm being caused to thousands of Tasmanians.

Social exclusion and poverty are key reasons why people turn to pay day lending and consumer leases. However, the poor quality of suitability assessments and the oppressive overall costs perpetuate their social and economic exclusion and disadvantage. Data shows that the number of women using pay day loans has increased by more than 20% since 2016, with almost half being single parents. Further, over a five year period, around 15% of pay day loan borrowers fall into a debt spiral (Stop the Debt Trap 2019).

With over 1,600 people living without a permanent home in Tasmania, over 3,440 applications pending for public housing, and private rental properties becoming harder to find or to afford, it is not surprising that thousands of people are turning to pay day loans to cope with their situation (ABS 2016; Tasmanian Government 2020; Law et al 2019). Nationally, the number of households with pay day loans has doubled since 2005, with almost the entire growth being from financially stressed households[1] (Good Shepherd Microfinance & Digital Finance Analytics 2018).

Tasmania is experiencing the fastest growth of pay day loans in Australia, with the number of loans growing by 16% between January and July 2019 (Stop the Debt Trap 2019). This is a particular concern given our high rate of reliance on government income support.

Despite numerous discussions at Ministerial Council levels, as well as national inquiries, pay day lenders have continued to be lightly regulated. Indeed, very little has changed since the Ministerial Council on Consumers Affairs[2] met on 13 July 2001 and considered 'addressing other areas of concern with fringe credit providers, including:

- The refusal by fringe credit providers to disclose effective annual interest rates to assist consumers in understanding the true cost of pay day loans and making comparisons with other lenders and products;
- The problem of pay day lenders and other high cost credit providers imposing very high fees and usurious effective interest rates and requiring over-securitisation;
- The use of direct debit authorities by pay day lenders; and
- The rollover of pay day loans leading borrowers into the "debt trap"' (Ministerial Council on Consumers Affairs 2001).

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[1] Financially stressed households are defined as coping with their current financial situation generally through short-term borrowing from family, friends or pay day loans as well as juggling multiple credit cards, moving debts from one credit source to another and deliberately making late payments. Financially *dis*tressed households are seen as not having access to these options. There is dynamic movement between these two classifications.

[2] The Ministerial Council on Consumer Affairs comprised Commonwealth, State, Territory and New Zealand Ministers responsible for fair trading, consumer protection laws, trade measurement and credit laws. It is now known as the Legislative and Governance Forum on Consumer Affairs (CAF).

Taking regulatory action to protect vulnerable consumers is one of the six strategic priorities in the *Strategic Agenda 2018-2022* of the Legislative and Governance Forum on Consumer Affairs (CAF 2018). The need for urgent action was reinforced at the Forum in New Zealand in 2019, where it released a joint communique calling for urgent action 'to address the harms caused by payday lending and to better promote financial inclusion for those that use them' (CAF 2019).

Anglicare Tasmania is pleased the current Bill implements the recommendations of the independent review and replicates the Government's original exposure draft of 2017. Both Bills are designed to ensure that people can only use SACC and consumer leases if they can afford them. Anglicare Tasmania therefore supports the enactment of the *National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease Reforms) Bill 2019 (No. 2)*.

At a time when ASIC is looking to tighten access to debt via credit cards and personal loans (ASIC 2019), it is even more important that pay day lending and consumer lease reforms are enacted so that people denied finance through banks do not turn to pay day lending.

Our submission will now provide details and evidence from our experience in Tasmania for our support for the Bill.

a) A cap on the total payments that can be made under a consumer lease

Anglicare supports the introduction of a cap on the total payments that can be made under a consumer lease. The purpose of this clause is to limit the level of debt a consumer can get caught in.

It is not uncommon for Anglicare to assist a clients with thousands of dollars of debt that far exceeds their income. For example, one Anglicare client is paying $15,000 over three years for four consumer leases based on one suitability assessment made at the beginning of the first contract. At the time of the initial assessment this client was on an income of less than $500 per week.

Another client was signed up by a consumer lease provider for five contracts with a total repayment amount of just over $7,000 for products valued at less than $3,000.

By capping the total amount that can be paid through a consumer lease this Bill would offer significant protection to vulnerable Tasmanians.

b) Introducing anti-avoidance protections & strengthening penalties

Anglicare supports measures that ensure SACC loan and consumer lease providers abide by the Credit Act and are suitably penalised for breaches.

Current practice in Tasmania is often for a SACC loan company to deliberately target low-income individuals by pre-approving a second loan before the first one is fully paid off. For example, one pay day loan company offers “top-ups” to pay day loans to people they know are struggling financially. Another pay day loan company also sent numerous unsolicited invitations to one Anglicare Tasmania client for weeks. This was after the customer declined their offer when they found out how much the loan would cost. The same company provided a loan to a person assessed as having gambling issues. Anglicare believes these practices may be infringements against the lending eligibility requirements set out in sections 128-133 of the National Consumer Credit Protection Act 2009 (Cth).

c) Preventing providers from issuing loans or leases when repayments exceed 10% of the consumer’s income

Restricting the protected earnings amount to 10% per cent of a person’s net income for pay day loans and 10% for consumer leases for Centrelink recipients will offer much greater protection to financially vulnerable households. In effect, this clause ensures that lenders can only contract with people who they believe are able to repay.

Pay day loans are normally accessed by individuals and families who face poverty, social exclusion and financial hardship (Digital Finance Analytics 2018). The Consumer Action Law Centre estimates that less than five per cent of pay day loans are for the purchase of a lasting item or for one-off payments that don't necessarily involve financial hardship (Stop the Debt Trap 2019), as illustrated by the following observation.

> *People are using loans to make ends meet – to pay the rego to keep the car on the road, to eat because "all the money had to go to the bills", to get through Christmas, to pay the power bill, to pay doctors' bills, to get to the dentist, to pay rent arrears, to pay the rates, to pay their minimum credit card payment to keep it going. Some clients get to the point that there is nothing left to use as security and having food on the table and petrol in the car that week is contingent on that rollover happening.*
>
> (Financial counsellor, speaking at the Fast Finance Forum held in Hobart in October 2007)

As identified in our consultations in 1999, Tasmanians on low incomes need access to affordable credit. However, it is also obvious through our service provision and research that they have limited options. Pay day lenders and other fringe credit providers will lend to most people, even those who lack the capacity to repay the loan without additional hardship (Hughes 2009).

d) Promotion of and education about financial products

While Tasmania is fortunate not to be inundated with door-to-door selling of SACC and consumer leases, the advertising reach of this industry far exceeds that of affordable alternatives such as No Interest Loans Scheme and protective measures such as financial counselling. Anglicare therefore urges the Senate Committee to ensure both NILS and financial counselling are supported to assist financially vulnerable people across Australia.

One in five Tasmanian households used a pay day loan at least once between 2012 and 2015 and 60% of borrowers across Australia considered pay day loans to be their only option (North 2016). With current NILS funding reaching just 2,500 households per year (NILS 2019), there is a great need to expand community awareness of no interest loans. NILS would need increased funding to expand advertising, outreach and their loans fund.

Financial counselling services can also play an important role in providing information about options to financially vulnerable households. For example, Anglicare recently assisted a single parent of three young children who was about to sign up to a payday loan to deal with electricity disconnection. Anglicare's financial counsellor ensured the amount due was reduced to an affordable amount and the electricity was reconnected the following day.

Anglicare Tasmania recommendations

Anglicare Tasmania recommends the enactment of the *National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease Reforms) Bill 2019 (No. 2)*.

Further, Anglicare Tasmania recommends Parliament ensures both NILS and financial counselling are supported to assist greater numbers of financially vulnerable people across Australia.

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