

Chapter 6

Alternatives for consumers in financial difficulties

6.1 This chapter looks at what schemes exist to assist consumers with credit complaints or financial hardship. It also examines products that could act as alternatives to high cost credit options considered earlier in the report.

The Australian Financial Complaints Authority

6.2 The Australian Financial Complaints Authority's (AFCA's) role is to 'provide consumers and small businesses with fair, free and independent dispute resolution for financial complaints'. It also has responsibilities to identify and resolve systemic issues and it reports serious contraventions to the relevant regulator.¹

6.3 AFCA can hear complaints only about member companies. Membership is a condition of holding a financial licence, so many small amount credit contract (SACC) providers are covered. Complaints can be about such matters as allowing consumers to overcommit themselves, because this could involve a breach of the responsible lending obligations. So, potentially, it can be of great assistance to consumers.

6.4 It is not compulsory for buy now pay later operators to be members of AFCA, although eight of them, including the biggest ones, have voluntarily become members.²

6.5 AFCA does not cover most debt management functions.

6.6 AFCA hears complaints about specific transactions rather than examining a consumer's total financial situation, except where that is relevant to an investigation. Many consumers would struggle to be able to access its services.³

6.7 Still, as a free service, AFCA performs a useful function:

...for many consumers who are in financial hardship it is simply not a realistic option for them to ever be able to go to court and litigate. It's really by bringing matters through to an independent ombudsman service that is free for them—that is actually the only remedy that many people have other than going to the financial firm itself.⁴

1 Australian Financial Complaints Authority, *About AFCA: what we do*, <https://www.afca.org.au/about-afca/> (accessed 4 February 2019).

2 Mr David Locke, Chief Ombudsman and Chief Executive Officer, AFCA, *Committee Hansard*, 24 January 2019, p. 2.

3 Mr David Locke, Chief Ombudsman and Chief Executive Officer, AFCA, *Committee Hansard*, 24 January 2019, p. 2.

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Financial counselling

The usefulness of financial counselling

6.8 The committee received considerable evidence regarding the effectiveness of financial counselling.

6.9 The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry noted that:

...financial services laws will always involve a measure of complexity. Asymmetry of knowledge and power will always be present. Accordingly, there will likely always be a clear need for disadvantaged consumers to be able to access financial and legal assistance in order to be able to deal with disputes with financial services entities with some chance of equality of arms.⁵

6.10 The committee received contributions from financial counselling organisations which were providing a range of services, from assistance with budgeting through personal support to legal representation. Occasionally services will refer clients from one service, for example budgeting, to another, like a legal service if it appears there has been improper conduct by a lender. For example, the Consumer Credit Legal Service describes itself as working collaboratively with financial counsellors.⁶ In this chapter, unless otherwise indicated, all the services are treated as a single group.

6.11 The Salvation Army submission presented evidence on the usefulness of financial counselling, referencing a number of studies. For example, one study quoted showed a positive impact on debt resolution, wellbeing, financial capability and advocacy; while another found:

...that Moneycare has helped community members in addressing their financial hardships, building financial resilience, improving their mental health, and their overall wellbeing and spirituality. Seventy-nine percent of respondents reported improvement in their financial resilience and 67% reported improvement in their mental health within the first three months of connection with Moneycare.⁷

6.12 The Consumer Action Law Centre also reported positive evaluations carried out by the University of Melbourne.⁸

6.13 The Royal Commission pointed out that financial counselling was not confined to service for individuals:

The legal assistance sector and financial counselling bodies are also recognised by ASIC as playing an important broader role in the financial

5 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Final Report*, vol. 1, pp. 491–2.

6 Ms Roberts Grealish, Senior Solicitor, Consumer Credit Legal Service (WA) Inc, *Committee Hansard*, 12 December 2018, p. 22.

7 Salvation Army, *Submission 9*, pp. 5–6.

8 Consumer Action Law Centre, *Submission 37*, p. 36.

services sector, for example by bringing issues to the attention of the regulator or providing a balancing consumer voice in policy development.⁹

6.14 Financial counselling is highly skilled, resource intensive work. A witness referred to a case which had involved at least 100 hours of 'solicitor represented' work.¹⁰ Care Inc said there was an urgent need for a greater investment in the training and skills of financial counsellors:

Many of our client group have complex financial situations usually compounded by challenging life circumstances which can include domestic violence, mental health issues, addiction and loss of employment. The presence of so many high cost financial products and predatory lenders such as payday loans and consumer leases contribute to the complex financial lives of so many of our clients.

To adequately address the needs of clients, financial counsellors need to be highly skilled and knowledgeable. There is an urgent need for a greater investment in the financial counselling sector to address this need and ensure we can work effectively to improve the financial circumstances and longer term financial capability of people in financial difficulty.¹¹

Extent of unmet demand for financial counselling

6.15 Several submissions suggested there was unmet demand for financial counselling. Several forecast increasing demand with the increasing use of short term, high interest credit products. Most called for greater resources. In many cases those calls were linked to calls for better regulation of credit in order to reduce demand.¹²

6.16 Financial Counselling Australia reported that they had recorded 582 turn-aways since July this year [i.e. to December 2018]:

We did an unmet needs survey as part of our submission for this inquiry, and that showed, for the services that were able to collect this data, that, for every five people who came to see a financial counsellor, three could get assisted and two were turned away, and that really worries us...¹³

6.17 A counsellor from the same organisation gave a specific example:

She had been trying to get an appointment with a financial counsellor in my area for a couple of months and hadn't been able to, so last week she got a Zip money loan, and that's unfortunate. She's already stressed about that.

9 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Final Report*, vol. 1, p. 492.

10 Ms Roberts Grealish, Senior Solicitor, Consumer Credit Legal Service (WA) Inc, *Committee Hansard*, 12 December 2018, p. 22.

11 Care Inc, *Submission 11*, p. 7.

12 See, for example, Queensland Council of Social Service, *Submission 15*; Legal Aid Queensland, *Submission 3*; Professor Ian Ramsay, Associate Professor Paul Ali and Ms Lucinda O'Brien, *Submission 17*.

13 Ms Fiona Guthrie, Chief Executive Officer, Financial Counselling Australia, *Committee Hansard*, 12 December 2018, p. 1.

She could have applied for a NILS loan, and I would have been able to advise her about that had I been able to fit her in...¹⁴

6.18 Meanwhile, the Salvation Army notes that it does not promote its Moneycare services for fear of being overwhelmed.¹⁵ A representative told the committee:

We'd love to work with people much earlier. Unfortunately, most people come to us when it's very late in the process, things are too far down the track and there are fewer options. We would love to have a promotional campaign, 'Come and see a financial counsellor,' but, because of the large demand on our services already, we can't handle any more people than we are handling at the moment....

We could readily double in size and that demand would be taken up quite quickly.¹⁶

6.19 The Financial Counsellors' Association of New South Wales estimated that there are 950 financial counsellors in Australia, and 2.5 million people living in households of high financial stress. It further pointed to some coming sources of new demand: the drought, and the National Redress Scheme for survivors of child sexual abuse recommendation that survivors have access to financial counselling, for which no new funds have been provided.¹⁷

6.20 AFCA supported better funding of financial counselling:

We believe that a proper, sustainable funding model for financial counsellors is critical. We see, on a daily basis, situations where consumers have tried to access these services but the delay is too long or there are gaps in provision.¹⁸

6.21 UnitingCare Australia pointed to an increasing number of applicants for assistance being found to be ineligible because they are not receiving a social security card or a healthcare card, and suggested that tests for assistance are too low.¹⁹

6.22 Unmet demand may be worse than it appears. The Australian Financial Security Authority reports that more than half of bankrupts with registered trustees and debtors in debt agreements were unaware that they could have accessed free financial counsellor services.²⁰

14 Mrs Sandra Blake, Financial Counsellor, Financial Counselling Australia, *Committee Hansard*, 12 December 2018, p. 2.

15 Salvation Army, *Submission 9*, p. 21.

16 Mr Tony Devlin, National Manager, Moneycare Program, The Salvation Army Australia, *Committee Hansard*, 22 January 2019, p. 22.

17 Financial Counsellors' Association of New South Wales, *Submission 13*, pp. 4–5.

18 Mr David Locke, Chief Ombudsman and Chief Executive Officer, AFCA, *Committee Hansard*, 24 January 2019, p. 2.

19 UnitingCare Australia, *Submission 49*, p. 7.

20 Australian Financial Security Authority, *Submission 4*, p. 5.

6.23 The Royal Commission noted that 'the legal assistance sector and financial counselling services frequently struggle to meet demand, which is increasing'.²¹

Funding arrangements for financial counselling

Current funding

6.24 Funding for financial counselling services is provided by the Commonwealth, state governments, some community benefit funding included in ASIC enforceable undertakings, and some community funding.

6.25 The Department of Social Services provides funds for several counselling programs under the Financial Wellbeing and Capability program:

- Commonwealth Financial Counselling and Financial Capability, which supports 44 providers of direct case work;
- the National Debt Helpline (NDH), a telephone financial counselling service and website that provides free, confidential and independent information, advice and referral for people experiencing financial difficulty—it is co-funded by state governments; and
- Commonwealth Financial Counselling for people affected by Problem Gambling, which funds services provided by 33 services.²²

6.26 The program has been the subject of a tender process which was referred to in several submissions. Consultations began in February 2017. In January 2018 the program was extended to December 2018, and further consultations took place. Applications for grants were invited in July 2018. Applications for funding under the Commonwealth financial counselling and financial capability programs closed on 22 August 2018. Despite the long time taken for the process, the final tendering and selection processes were conducted in a compressed time frame.²³ A number of community groups indicated their frustration with tender process.

6.27 The outcome of the tendering process for the NDH has been controversial. Since its establishment, the NDH has been delivered by a separate organisation in each state, including the Consumer action Law Centre in Victoria and the Financial Rights Legal Centre in Victoria, which between them received 45 per cent of all calls to the Helpline. Financial Counselling Australia co-ordinated the operation. In New South Wales and Victoria, state governments provide 70–75 per cent of the funding.²⁴

6.28 The result of the Commonwealth's tender process was that new providers will receive the Commonwealth funding in New South Wales and Victoria (but it appears the existing providers were re-funded in the other states). Consumer Action Law

21 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Final Report*, vol. 1, p. 492.

22 Department of Social Services, *Submission 63*, pp. 4–5.

23 Ms Elizabeth Heferen-Webb, Deputy Secretary, Department of Social Services, *Committee Hansard*, 24 January 2019, p. 25.

24 Consumer Action Law Centre and Financial Rights Legal Centre, *Submission 42*, p. 2.

Centre and Financial Rights Legal Centre will still operate the Helpline, but there are unanswered questions as to how the 1800 007 007 phone number, which is owned by the Commonwealth Department of Social Services, will be used and how new providers will be integrated—especially as they do not appear to incorporate legal expertise.²⁵

6.29 Mr Gerard Brody, of the Consumer Action Law Centre, commented:

...it appears that there still may be a very confused and inefficient service model as the Department of Social Services is insisting on there being more than one service provider here in Victoria, and in New South Wales and Western Australia. We consider there must be a joined up approach to funding the National Debt Helpline between states and the federal government, and that existing arrangements should be maintained until that has been achieved.²⁶

6.30 Mr Brody, Chief Executive Officer of the Consumer Action Law Centre believed that:

...they [the Commonwealth] didn't understand the co-funded nature of the model. I don't think they engaged with the state governments throughout the tender process about what this would mean for the operation of the helpline after the tender process.²⁷

6.31 The National Association of Community Legal Centres and Financial Counselling Australia put to the Royal Commission a proposal for funding of \$157 million per annum to create a properly funded network of community financial counselling and community legal services. This would comprise \$1 million for the National Debt Helpline, \$130 million for 1000 financial counsellors, and \$26 million for an additional 200 community financial advisers. It is proposed to fund it by an industry levy, as is done in the UK.²⁸

6.32 The Royal Commission did not comment on where the funds should come from, but noted that:

...the desirability of predictable and stable funding for the legal assistance sector and financial counselling services is clear and how this may best be delivered is worthy of careful consideration.²⁹

25 Consumer Action Law Centre and Financial Rights Legal Centre, *Submission 42*, p. 3, p. 4.

26 Mr Gerard Brody, Chief Executive Officer, Consumer Action Law Centre, *Committee Hansard*, 12 December 2018, p. 24.

27 Mr Gerard Brody, Chief Executive Officer, Consumer Action Law Centre, *Committee Hansard*, 12 December 2018, p. 28.

28 Consumer Action Law Centre and Financial Rights Legal Centre, *Submission 42*, p. 4; see also support from Ms Roberta Grealish, Senior Solicitor, Consumer Credit Legal Service (WA) Inc, *Committee Hansard*, 12 December 2018, p. 22, and support for this kind of model from Mr David Locke, Chief Ombudsman and Chief Executive Officer, AFCA, *Committee Hansard*, 24 January 2019, p. 2.

29 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Final Report*, vol. 1, p. 493.

Financial literacy

6.33 It would be easy to think that if people understood what they were getting into they would be more cautious with credit products. This often leads to calls for more education in financial literacy. Many of the professionals in the field were not convinced.

6.34 A representative of the Queensland Council of Social Service said:

I think financial literacy is really important, and having it delivered and tailored to the needs of the community would be really critical as well for it to actually have an effect, but that's not really going to solve all of the problem. In our submission we also highlighted that some of the structural inequities in Australia. The level of Newstart, for example, means that people just can't afford to make ends meet.³⁰

6.35 A legal worker said:

My view is that financial literacy will always have a place; but, in this space, what we're dealing with is a cohort who are in crisis and in extremely vulnerable situations who are not going to take that information in. What I would say though about the financial literacy of that group is that, in my experience, they're some of the best money managers around—they're certainly better than me—because they've usually stretched what is a very finite amount of money in the most extraordinary ways, and then they've hit the point where they can't do it anymore and they can turn to these products.³¹

6.36 An academic with experience in financial counselling wrote:

To assume that low income earners are less financially literate than the general population is to make the mistake of confusing circumstances with behaviour and knowledge. By way of example, to label a single parent who is receiving no, or minimal child support, who is unable to work full time as they need to be available for parenting duties, is paying market rent as they do not qualify for public housing as 'not financially literate' because they have little savings and are borrowing from a small amount short term lender is an incorrect assumption.³²

Microfinance as an alternative

6.37 Microfinance services are generally provided by community organisations. Funds for lending are provided by banks, and some funding for administration is provided by the Department of Social Services and state governments. Examples are the scheme run by the Brotherhood of St Laurence with funds from ANZ bank, and the scheme run by Good Shepherd Microfinance with funds from Westpac.

30 Ms Carly Hyde, Policy Lead, Queensland Council of Social Service, *Committee Hansard*, 22 January 2019, p. 31.

31 Mr Paul Holmes, Senior Lawyer, Civil Justice Services (Consumer Protection), Legal Aid Queensland, *Committee Hansard*, 22 January 2019, p. 26.

32 National Credit Providers Association, *Submission 51*, Attachment 2, p. 2.

6.38 Essentially, microfinance services provide appropriate loans at a lower price than the market price. Some are No Interest Loans Schemes (NILS), and some charge low interest.

6.39 The Good Shepherd Microfinance NILS model operates through 178 community organisations at 628 locations across Australia. In 2017–18 it made over 27,000 loans. Loans are available for a limited range of purchases: fridges, washing machines and furniture, education and medical expenses. They can go up to \$1,500. They are available to people who have a healthcare or pension card or who have an income of under \$45,000. There is no credit check, but the borrower must have a willingness and a capacity to repay the loan.

6.40 Good Shepherd Microfinance's Step-Up Loan program offers loans of between \$800 and \$3,000 to people on low incomes. Around 78 per cent of the loans are to purchase a second hand car or for car repairs.

6.41 Good Shepherd Microfinance's Speckle loans are small loans from \$200 to \$2,000 with repayment periods ranging from three months to one year. Interest rates and fees are half the cost of major payday lenders, and dishonour fees and default fees are far lower. Borrowers have to have an annual income of \$30,000, excluding government benefits.³³ The product is a direct competitor in the SACC market:

We chose to test the theory of, 'Can you offer a responsible payday loan?' I think we are pleased to say that you can. Working with consumers, we have priced it at half the regulatory rate—of two per cent, in terms of fees—and we have a very different fee structure, in terms of when people run into hardship.³⁴

6.42 Contributors to the inquiry commented that some of the value in microfinance is that the loans are often delivered with a financial literacy and education component.³⁵ Also, they are:

...delivered through the community sector, and the community sector know their clients; there is a trusted relationship there.³⁶

6.43 There were suggestions that there was insufficient funding to meet the demand for microfinance:

Clients we speak to are often unaware of the microfinance product, and that's partly because it's not widely advertised, and that's partly because there's not an awful lot of money to lend in that microfinance space.³⁷

33 Good Shepherd Microfinance, *Submission 50*, [p. 1].

34 Ms Corinne Proske, General Manager, Retail and Online, Good Shepherd Microfinance, *Committee Hansard*, 12 December 2018, p. 38.

35 Ms Carly Hyde, Policy Lead, Queensland Council of Social Service, *Committee Hansard*, 22 January 2019, p. 31.

36 Ms Rose McGrath, Senior Policy Officer, Queensland Council of Social Service, *Committee Hansard*, 22 January 2019, p. 31.

6.44 But representatives of the Queensland Council of Social Service believed that the problem was not a lack of capital for lending, but a lack of administrative funding to support enough local centres:

This is especially a problem in Queensland because the delivery of the NILS products to the community organisations is that a lot of it is mainly volunteers. Relative to other states, we are not as well funded in the delivery of NILS products—and even step-up loans, for example, and those types of products. There are large parts of Queensland that haven't gotten NILS provision.³⁸

Senator Chris Ketter
Chair

37 Mr Paul Holmes, Senior Lawyer, Civil Justice Services (Consumer Protection), Legal Aid Queensland, *Committee Hansard*, 22 January 2019, p. 28.

38 Ms Rose McGrath, Senior Policy Officer, Queensland Council of Social Service, *Committee Hansard*, 22 January 2019, p. 31.

