

## 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 Standing Economics References Committee Inquiry into Credit and Financial Services Targeted at Australians at Risk of Financial Hardship

November 2018

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# Introduction to Anglicare Tasmania

Anglicare Tasmania is a large community service organisation in Tasmania with offices in Hobart, Glenorchy, Launceston, St Helens, Devonport, Burnie and Zeehan and a range of programs in rural areas. Anglicare Tasmania's services include crisis, short-term and long-term accommodation support; mental health services; acquired injury, disability and aged care services; alcohol and other drug services; financial 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, staff, 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 has 35 years' experience working with Tasmanians on low incomes and who are disadvantaged or vulnerable, having commenced operations in March 1983 as the Anglican Family Care Service, providing budget and financial counselling services in Launceston and Hobart.

Currently funded by both the Tasmanian and Commonwealth governments, Anglicare Tasmania provides financial counselling services free-of-charge across the State as well as 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.

This year, from January to November 2018, Anglicare Tasmania's financial counsellors saw 2,732 new clients and continued assisting 684 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, with the Tasmanian Council of Social Service (TasCOSS) and the Poverty Coalition, Anglicare Tasmania 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 Pty Ltd 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 the Board level.

Over the past two decades, SARC has continued to research financial hardship in Tasmania. 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 were the groups most likely to experience financial difficulties (Madden 2005);*

- *State Government concessions are inequitable and difficult to access (Anglicare Tasmania 2007);*
- *People with serious mental illnesses face a very high level of chronic financial hardship (Cameron & Flanagan 2004);*
- *People living on low incomes often pay more for essential goods and services due to having access to poorer quality products for the limited income at their disposal and they subsequently face higher risks of financial stress (Flanagan & Flanagan 2011);*
- *Families that have had their children removed by Child Safety Services and who 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).*

With a third of Tasmanians reliant on government income support and the increased casualization of the workforce leaving many people with low and/or volatile incomes, Anglicare Tasmania argues that State and Federal governments are allowing a significant cohort of the population to suffer in poverty.

It is the absence of adequate incomes to meet the basic needs for so many Tasmanians that 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 have been allowed by lax regulations to 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 and may never be able to be paid back.

Our 2009 research paper on pay day lending in Tasmania found three overarching problems with pay day lending:

1. *Pay day lenders generally insist on customers signing a direct debit authority. This ensures lenders have priority over the borrower’s finances.*
2. *Pay day loans are too easy to start, with the lenders utilising lax assessment practices and a disregard for the borrower’s ability to repay the loan.*
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 nearly 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. Anglicare Tasmania is hopeful that significant changes to the regulation of pay day loans and similar financial products will result.

# Response to the Inquiry's Terms of Reference

## a) The impact on individuals, communities and the broader financial system of the operations of pay day lenders and consumer lease providers

Pay day loans are normally accessed by individuals and families who face poverty, social exclusion and financial hardship (Digital Finance Analytics undated). One in five Tasmanian households used a pay day loan at least once between 2012 and 2015 (North 2016). Across Australia, 60 per cent of borrowers considered pay day loans to be their only option (North 2016).

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 once-off payments that don't necessarily involve financial hardship, 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 people on low incomes 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).

These issues have been consistently raised in Anglicare Tasmania's research and advocacy work over many years. As a casual worker mainly dependent on NewStart Allowance, raising one child on his own in a regional centre told Anglicare Tasmania:

“I've got an \$800 power bill at present. I've got to pay it off \$70 a fortnight, got to pay it off within the next three months. It's a payment plan. I don't have enough money for food. I asked the landlord if I could miss one rental payment to pay the rego and then I loaded up the rental payments after that to pay him back. I can't deduct money from the payment plan they'll cut it off. They will cut it off I reckon” (Flanagan & Flanagan 2011, p. 49).

Anglicare Tasmania is aware that a pay day loan company continually sent unsolicited invitations to one Anglicare Tasmania client for weeks pestering them to sign a pay day loan. This was after the customer declined their offer when they found out how much it would cost. The same company provided a loan to a person assessed as having gambling issues while another pay day loan company offers 'top-ups' to loans to people who are struggling financially. 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).

Consumer leases also pose a problem for many low-income Tasmanians. Consumer leases are not credit contracts, and therefore, are not adequately regulated by the *National Consumer Credit Protection Act 2009* (Cth). Consumer lessors, however, are supposed to assess the suitability of customers. However, one of Anglicare Tasmania's clients is having to pay \$15,000 over three years for four consumer leases based on one suitability assessment made at the beginning of the first contract. The customer at the time of the initial assessment was on an income of less than \$500 a week. Another consumer lease company entered into five contracts with one customer with a total repayment amount of just over \$7,000 for products valued at less than \$3,000.

As explained earlier, social exclusion and poverty are key drivers of why people turn to pay day lending and consumer leases. With over 1,600 people living without a home, over 3,200 applications pending for public housing and private rent becoming harder to afford in Tasmania, it is not surprising that thousands of people are turning to pay day loans to cope with their situation (ABS 2016; Tasmanian Government 2018). Nationally, the number of households with pay day loans has doubled since 2005, with almost the entire growth in accessing loans being from financially stressed households<sup>1</sup> (Good Shepherd Microfinance & Digital Finance Analytics 2018).

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<sup>1</sup> Financially stressed households are defined as generally coping with their current financial situation through accessing 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, while financially distressed households are seen as not having access to these options. There is dynamic movement between these two classifications of households.

## **b) Whether current regulation of these service providers meet community standards and expectation and whether reform is needed to address harm being caused to consumers**

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.

When disadvantaged and vulnerable people turn to pay day lending and consumer leases for financial assistance, the lack of suitability assessments and oppressive overall costs perpetuates their social and economic exclusion and disadvantage.

Further, at a time that ASIC is tightening access to debt via credit cards, it is even more important that pay day lending and consumer credit reforms are enacted so that people denied finance via credit cards do not turn to pay day lending.

Anglicare Tasmania supports the draft *National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease reforms) Bill 2017* that is sitting before the Federal Parliament and we seek that it be enacted as law. In particular we support the following reforms, which were put forward as part of the review that led to the draft Bill:

- *Limiting total small amount credit contract repayments to 10 percent of a person's net income (known as a 'protected earnings amount');*
- *Capping the cost of consumer leases to the base price plus four percent of the base price per month for a maximum of 48 months; and*
- *Introducing a 'protected earnings amount' requirement for consumer lease providers that limits total consumer lease repayments to 10 percent of a person's net income, equivalent but separate to the requirement for small amount credit contracts.*

We believe that these measures will assist in protecting vulnerable Tasmanians. In effect, they ensure that lenders can only contract with borrowers who they believe are able to repay. When the exposure draft for the Bill was released in October 2017, then Federal Minister for Small Business Michael McCormack, said that the reforms "balance access to emergency finance and household goods with appropriate consumer protection ... while ensuring the sustainability of the industry" (McCormack 2017). We believe that the reforms posed in the draft Bill are a necessary first step to ensure that people who need financial support have access to responsibly lent credit.

### **Anglicare Tasmania recommends**

1. *Stronger legislative protections in credit and financial services is needed to protect Australians at risk of financial hardship and we recommend the National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease reforms) Bill 2017 is enacted as law.*



## c) The present capacity and capability of the financial counselling sector to provide financial counselling services to financially stressed and distressed members of the community

As the lead agency in Tasmania providing financial counselling services to financially stressed and distressed members of our community, Anglicare Tasmania is well placed to assess the present capacity and capability of these services across Tasmania.

Average wait time for clients seeking financial counselling currently ranges from one week in the North-west, two weeks in the Launceston area and four to six weeks in the South. With more financial counselling staff, Anglicare Tasmania would be able to cut wait times.

While Anglicare Tasmania currently provides some financial literacy and education outreach, again our capacity is limited by staff resourcing and we believe there is a lot of unmet need, which if fulfilled would help alleviate financial stress. Further, with current resources, Anglicare Tasmania can only staff the National Debt Helpline from 9.30am to 4.30pm Monday to Fridays.

In relation to capability, Financial Counselling Australia has developed national standards in supervision and professional development, which guide the State associations, including Tasmania. However, tight budgets and Tasmania's remoteness from registered training organisations that both provide training and professional development limits the sector's ability to further increase capacity and capability. Additional financial support to extend beyond the minimum requirements would make a difference on the ground.

### Anglicare Tasmania recommends

- 2. At a minimum, the Federal Government funds an additional two financial counsellors and one financial capability worker in the south and an additional financial capability worker in Launceston in order to meet current demand, bring down wait times, ensure the National Debt Helpline can be staffed beyond normal working hours and community education is expanded, at a total annual cost of approximately \$630,000.*
- 3. The contract for financial counselling services in Tasmania provides funding specifically for professional development and sector capacity building.*

## d) Any other matters – Tasmania’s No Interest Loans Scheme

Similar to initiatives in other States, Tasmania’s No Interest Loans Scheme (NILS) provides loans of between \$300 and \$1,500 and up to \$2,000 for people experiencing family violence, with no interest, no fees or charges and no credit checks, for people to buy new items and services including household essentials, education equipment, medical and dental services and equipment and car registration, tyres and repairs. Since 2002, NILS has issued more than 20,000 loans (NILS Network Tasmania Annual Report 2017-2018).

Auspiced nationally by Good Shepherd Microfinance, NILS is a safe alternative to pay day lenders and consumer leases for some purposes. It is likely that many people who apply for a pay day loan could instead be assisted by NILS, however, NILS faces strong marketing competition from pay day lenders. Pay day lenders clearly outspend NILS on advertising, which accounts for more than 80 per cent of how people find out about pay day loans, and they also have shop frontage in prominent areas of Tasmania (Good Shepherd Microfinance & Digital Finance Analytics 2018).

While Anglicare Tasmania was unable to obtain figures on the number of pay day loans provided to Tasmanians per year, NILS lend to approximately 3,000 households per year, about ten per cent of the total households that depend on Centrelink as their main form of income and who could be seen as potential market for a NILS loan (NILS Network Tasmania Annual Report 2017-2018).

NILS is part of the Commonwealth Department of Social Services’ Financial Wellbeing and Capability program but is currently seriously under-funded and unable to market its excellent services adequately.

### Anglicare Tasmania recommends

4. *The Commonwealth Department of Social Services’ Financial Wellbeing and Capability Program should increase funding to NILS Tasmania by 150 per cent<sup>2</sup> in order to provide the opportunity for all people in need of small amount, short term financial assistance to be aware of NILS and have access to NILS funds.*

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<sup>2</sup> Given that one in five Tasmanian households used a pay day loan at least once between 2012 and 2015 and that 60 per cent of borrowers across Australia considered pay day loans to be their only option, this indicates that 24,000 Tasmanian households used pay day loans during that period without be aware of other options such as NILS. With current NILS funding reaching about 3,000 households per year, which would equate to 9,000 households over a three year period, NILS assistance over a three year period falls short by at least 15,000 households actively seeking small amount and short term financial assistance. NILS would need their funding to be increased by 150 per cent to meet this need through expanding advertising, outreach and their loans fund.

## Further comments and conclusion

Having been at the forefront of financial counselling in Tasmania since 1983, Anglicare Tasmania has served many thousands of Tasmanians suffering financial stress.

We are disappointed that 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<sup>3</sup> 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 to make comparisons with other lenders and products;
- The problem of pay day lenders and other high cost credit providers imposing very high fees, 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)

That 17 years later each of these “areas of concern” remain as common practice for pay day lenders is a failure of the national parliament to protect vulnerable consumers. 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. Anglicare Tasmania therefore urges the Senate as part of this inquiry to take decisive action to ensure that pay day lenders are not used by vulnerable Australians suffering financial stress.

### Anglicare Tasmania recommends:

1. *Stronger legislative protections in credit and financial services is needed to protect Australians at risk of financial hardship and we recommend the National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease reforms) Bill 2017 is enacted as law.*
2. *At a minimum, the Federal Government funds an additional two financial counsellors and one financial capability worker in the south and an additional financial capability worker in Launceston in order to meet current demand, bring down wait times, ensure the National Debt Helpline can be staffed beyond normal*

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<sup>3</sup> 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. The Council is now known as the Legislative and Governance Forum on Consumer Affairs (CAF).

*working hours and community education is expanded, at a total annual cost of approximately \$630,000.*

3. *The contract for financial counselling services in Tasmania provides funding specifically for professional development and sector capacity building.*
4. *The Commonwealth Department of Social Services' Financial Wellbeing and Capability Program should increase funding to NILS Tasmania by 150 per cent<sup>4</sup> in order to provide the opportunity for all people in need of small amount, short term financial assistance to be aware of NILS and have access to NILS funds.*

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<sup>4</sup> Given that one in five Tasmanian households used a pay day loan at least once between 2012 and 2015 and that 60 per cent of borrowers across Australia considered pay day loans to be their only option, this indicates that 24,000 Tasmanian households used pay day loans during that period without be aware of other options such as NILS. With current NILS funding reaching about 3,000 households per year, which would equate to 9,000 households over a three year period, NILS assistance over a three year period falls short by at least 15,000 households actively seeking small amount and short term financial assistance. NILS would need their funding to be increased by 150 per cent to meet this need through expanding advertising, outreach and their loans fund.

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