RESPECT | HOPE | FAIRNESS

ST LUKE'S ANGLICARE SUBMISSION

CONSUMER CREDIT AND CORPORATIONS LEGISLATION AMENDMENT (ENHANCEMENTS) BILL 2011

Introduction

St Luke's Anglicare welcomes an opportunity to make a submission to the Australia Government to inform the development of the Consumer Credit and Corporations Legislation. As a community sector organisation, with strong connections with people experiencing social and economic disadvantage in rural Victoria, we are acutely aware of the impact pay day lending on individuals and households. Our work in the area of financial inclusion including the provision of No Interest Loans, Financial counseling and Gamblers Help exposes us to the real life stories of people affected by current pay day lending practices, permitted under current laws. We believe that the practices of pay day lending needs to change to better protect consumers, the number of low cost banking products for people on low incomes needs to continue to expand and that also the role of the inadequacy of some types of Centrelink incomes is a major determinant of why people seek out short term loans and also needs review.

Who is St Luke's Anglicare?

St Luke's was established in 1979 by the Anglican Church with the support and cooperation of the Uniting Church. It works in support of the Anglican Diocese of Bendigo's mission – to respond to human need by loving service, and to seek to transform unjust structures of society. Since 1979, we have expanded well beyond Bendigo. Now over 300 staff works with our clients across the Loddon Mallee and **Riverina regions** with offices in Albury, Bendigo, Castlemaine, Deniliquin, Echuca, Kyneton, Maryborough and Swan Hill. **St Luke's Strategic Plan 2011-2013 includes our purpose which is to assist people to make positive changes in their lives, be connected and contribute to**

their communities. We strive for an inclusive, welcoming and just society. Our values of respect, hope and fairness means we adopt goals which include advocating and influencing for a fairer community. We intend to inform, influence and implement good practice which results in respect, hope and fairness.

Our services include:

- Children, youth and family services
- Community Mental health programs
- Community based disability support services
- Specialist Homelessness and Housing Programs
- Neighbourhood and community building (Communities for Children facilitating Partner)
- Victims Assistance and Counseling Program
- Gambler's help programs
- Microfinance programs **Financial counseling**
- Training and consultancy
- Publishing, books and resources
- Programs are funded through a combination of state/federal government funding, trusts and foundations, and **donations** and bequests made by companies and individuals.
- St Luke's is governed by a ten-member board. The board brings a range of skills and experience in welfare, law and organisational governance to the service of St Luke's.

St Luke's Values

St Luke's promotes the following values in our work with clients, communities, colleagues, stakeholders and service partners:

- **Respect** is the value that holds each person as having inherent dignity, worth and rights. It acknowledges that they are responsible for their own choices and are their own best expert.
- **Hope** stems from the belief that other possibilities can always emerge, that change is constant and that people have untapped skills and resources
- **Fairness** is a commitment to the principles of social justice including the rights to access, equity and participation. **Fairness** is the belief that the family and community into which you are born should not determine life's opportunities; the opportunity for a good start in life and a person's options and choices for the future.

- **Quality** is giving the optimum standard of service and support within the limits of our resources. We are committed to learning and to continuous improvement.
- **Community** is our belief that we as humans need connection with each other, need real relationships to grow and share in the belief that the 'village' provides the best environment for support and nurture.
- **Commitment** is demonstrated through passion, compassion and persistence; 'hanging in there' with people through the toughest of times. We are constantly trying new approaches and trying to be the best we can for others.
- **Openness** speaks to our desire that all conversations with clients, communities, colleagues, stakeholders and service partners are characterised by honest and transparent communication. We actively seek and provide feedback.

BACKGROUND

Pay day lending is a "wicked problem".

"Consumers want access to credit, lenders want to charge high interest rates to offset relatively high transaction costs and loss ratios, an policy analysts and lawmakers want to protect consumers from foolish behavior, high interest rates and abusive practices" (Mann & Hawkins, 2007)

Recent research[1] which has been undertaken in predominantly in Australia, describing the pay day lending market, its customers and the impacts informs our submission. The evidence we use is not exhaustive however, key findings which are concerning include that borrowers often have nobody else to borrow from, they know they are paying too much and they generally feel ashamed and humiliated by the experience.

Lenders feel they are providing an important social service. Of interest, the fastest growing sector of pay day lending is on-line, which means many low income households will not have access to this. Consequently the growth in this sector is targeted at people who borrow to buy discretionary purchases, the fast growing pay day lending group (see a description of the Joneses later in this document)

Social Context of borrowing – Research shows that attitudes to credit and debt have changed quiet dramatically in the last two decades[2]. Once shameful and private, it is now a fundamental part of the way we live enabling people to ride the highs and lows of daily living. This has been accompanied by strong growth in the alternative finances sector

Contributing factors

- The rising use of credit cards across social strata
- Deregulation of banking sector and withdrawal of services from low income consumers
- Declining or stagnating real incomes amongst low income groups
- Decreased levels of saving
- Increasing rates of personal bankruptcy

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[1] Anglicare Tasmania, Pay Day Lending in Tasmania, 2009

Consumer Affairs Victoria, Pay Day lenders and Consumer Credit Codes, 2009

Brotherhood of St Lawrence, From the margins to the mainstream- the challenges for microfinance in Australia, 2009

[2] Atwood, M *Payback: Debt & the shadow side of wealth*, 2008

- Individuals with poor credit ratings [3]

Recent Federal Government Policy changes

Centrelink advance payments are available, and since July 1 2010 there is greater flexibility in accessing these – however they are also limited according to pension types and amounts. Some anomalies include that the new rules appear to not apply to single parents, who represent a common pay day borrower group so the changes are presumed to be not driven by a need to reduce their vulnerability to high cost loans short term loans.

What is payday lending?

Pay day Lending is the practice of lending small amount of cash to people for short periods of time, generally using the borrower's next pay as a security for the loan. Direct debit is used to ensure repayment. Sometimes these loans are referred to as microcredit. This area of payday lending has been the subject of a Victorian Government inquiry in 2008.

Who are the players?

The main providers of payday lending are Cash Converters, The Cash Store, Cash Doctors (also known as Cash in 1 Hour & Payday online)

Loan amount vary according to an individual's income. Many providers claim that people must be working to qualify and also receiving approximately $350 net per week. Other are happy to provide "starter" low value loans (as little as $50) for Centrelink recipients (with the exception of Youth Allowance). Qualifying criteria seem to be very flexible and "no one is refused". Borrowers must also be 18 years of age and be able to provide proof of ID and address.

What are payday loans used for?

> ***"Consumers do not generally take out loans for discretionary purposes but instead borrow when they are struggling to cope and have sufficient purchasing power to maintain a basic living"[4]***

Payday loans are used primarily to cover basic living expenses. The main purpose of the loans is car repairs (22%), utilities (21%), food (18%) and rent (11%). The credit is used to supplement a low income and buffer shocks to income created by large bills such as utilities and in many cases alarmingly to meet regular household costs.[4]

What does it cost?

[3] Wilson D, *Payday lending: Policy making for the financial fringe* (2004)

[4] Consumer law Action Centre, *Payday loans: Helping Hand or quicksand?* 2010

Victoria has a cap of **48% on interest rates** but lenders often add to the overall costs by charging fees for example, one provider charges $29 fee for every $100 lent plus the interest fees and an administrative charge.

What are our concerns with payday lending?

1. Lenders use direct debit for payments meaning they have the first call on the borrower's income before other essentials are covered.
2. Lenders charge a penalty fee if the direct debit is not completed and this is often compounded by the banks also charging a dishonor fee. Often borrowers are not aware of that they can cancel the direct debit without permission of the lender to avoid the default. Any administrative errors on the part of lenders can consequently be disastrous for borrowers.
3. It is quick and easy to get a loan, most lenders quote times of less than an hour to receive funds. Minimal documentation is required and generally credit checks are not done. There is not time for borrowers to reflect on their choices. An each subsequent loan application gets faster and easier to obtain.
4. Frequently consumers have back to back loans, which describes the practice of borrowers taking out a further loan as soon as they have repaid one – the debt treadmill
5. Payday lending is undoubtedly the most expensive form of credit. There is a real question mark over whether these loans alleviate financial hardship or in fact exacerbate it.[1]

What are the positive benefits of payday lending?

There is no doubt that several of the attributes of pay day lending make it an attractive option to people who find themselves in a crisis situation. They include that

1. Borrowers can receive loans for small amounts for short periods of time.
2. Minimal documentation and fast processing.

Income inadequacy

"We need to ask the questions: should we accept that the poorest people are dependent on credit to make ends meet? Do we want to live in a society where contact with a debt collector is seen as important social service…do we really believe that the best way for poor people to make ends meet is to take out more and more credit?" [5]

Findings of research conducted in QLD amongst pay lenders suggests that people on low incomes use pay day lenders frequently and that for people living in poverty pay day lenders are institutionalised in their lives. When considering financial inclusion the relationship between poverty, social exclusion and financial exclusion is not linear- but rather each of the three factors is itself both a cause and effect of the other two.[5]

"Consumers do not choose high cost short term loans in the normal sense but instead resort to them"[4] "Respondents often recount long and usually complex financial histories leading up to the situation where high-interest, short term loans become necessary"[6]

The inadequacy of Centrelink incomes for some household types, particularly those reliant on Newstart and Parenting payment, can be illustrated by the percentage of income required for a variety of households to buy the food they need to eat well. The purchase of basics such as food is a common reason for borrowing from payday lenders. Compounded by other increasing cost of living pressures[7], Centrelink recipients are increasingly vulnerable to sourcing financial resources through short term loans as a common coping strategy.

	Typical family	**Single Parent Family**	**Single adult (Newstart)**	**Aged Pensioner**
Percentage of Centrelink income required to purchase Healthy Food Access Basket[8]	31-33%	27-29%	28-30%	15-16%

Table 3 Percentage of Centrelink income required to purchase the Victorian Healthy Food Basket for various family types across different Local Government Areas[9]

[5] University of QLD, *The experience of people accessing small loans in QLD: A pilot study*, 2010

[6] Open Mind Research group for Consumer Law Action Centre, , *Exploring Pay Day loans*,2008

[7] Premier and Cabinet Victoria*, Victorian Families Statement 2011*

[8] The Healthy Food Access Basket is a well used food price monitoring tool used for over 12 years in Australia first developed in QLD. It reflects the cost of the food recommended according to the Australian Healthy Guide to Eating (Department of Health Aging, 1999) which is based on the healthy dietary intakes.

[9] Dr Claire Palermo & Deanna Pattinson, Monash University, ,Summary of 2010 Healthy Food Basket data across various Local Government Areas in Victoria

Types of borrowers

1. "Financial Desperate" – loans pay for real necessities in a systemic cycle of debt and borrowing, generally disadvantaged and have struggled with debt for years
2. "Young & irresponsible's"– struggle to manage money, reach a point where they have to borrow to pay rent and bills
3. "Keeping up with the Joneses" – likely to borrow for discretionary items, funding a lifestyle beyond their means. It is worth noting these things might be typical purchases such as buying a wedding dress, funding a holiday.

Who borrows from pay day lenders?

- *More women than men (55 vs. 45%)*
- *44% of all borrowers have children under 18 – not all children are still dependent; couples with children (30%) Single parents with dependents 10%(88% women)*
- *18-45 age are the most likely population group to borrow*
- *Fastest growing group the casual or part time employed (28% of borrowers)*
- *45% of borrowers are full time employed*
- *85% low income households ($31,000 or less per year)*
- *Approximately 25% of lenders are below or just below the poverty line for singles ($19,775)*[4]

Generally for people borrowing from Pay day lenders they are a last resort, it is embarrassing and shameful to use them and research suggests this practice is probably concealed from friends and family. Borrowing is a response to a "financial shock to fragile finances". Borrowers know they are paying a higher rate of interest but are generally not able to tell you what it is exactly. Likewise they often cannot recall the cost of additional charges which may imply they do not really know what it is costing them. They know how much they are borrowing but not how much they are paying.[4]

"Borrowers perceive a power imbalance between lenders and themselves; that lender prey on misfortune; that dealing with workers in the lenders, especially the big ones can be humiliating.

Many consumers themselves express gratitude for the existence of high cost short term loans..At the same time, this relief is tempered with resentment and the cost of the product and humiliation at feeling forced into a situation where borrowing seems to be the only option"[5]

Of the people who borrow from pay day lenders 40% borrowed between 2-4 times in the last 18 months, suggesting the financial hardship occurs frequently. People receiving Centrelink payments which did not receive the above CPI increase in 2008 appear to be the most vulnerable to financial issues and then having to resort to using pay day lenders to meet regular short falls in household income. This is evidenced by the type of lenders and also the regularity with which they need to borrow.

Case Study – the debt trap

Ms H is a 42 year old single parent with one child of primary school age. She receives fortnightly Centrelink Income totaling $926.53 which consists of a Parenting Payment (single Parent), Family Tax Benefits, Rent Assistance and a Federal Government Pensioner Education Supplement. Additionally, Ms H is also in receipt of Child Support (maintenance) of $184.00 per fortnight – a total Income from all sources $1,110 fortnightly, $555 per week.

Ms H has had a gambling problem for many years. She has borrowed from her family and friends to satisfy her addiction and to satisfy the payment of bills, such as electricity & gas, her increasing private rental costs and other basics such as food. She has obtained a number of Pay-Day Lenders Loans and she is having difficulty meeting loan commitments. Ms H uses the funds from these loans to pay-out outstanding Pay-Day-Lender Loans. She is in a debt trap, a cycle of borrowing again and again to pay out expiring pay-day loan facilities, which only escalates and compounds her financial problems.

For Ms H two of her Pay-Day Loan facilities are secured by a Car and a Lap Top Computer. Both of these loans are in default and these items are being used as security for only relatively small loan amounts ($864.00 & $500.00 respectively). Obviously these assets are at risk if no satisfactory arrangement can be agreed with the lenders. Through St Luke's she receives financial counseling and support to address her gambling issues. She hopes to sort out her financial issues and build skills for the future.

Local options for the community in which we provide support services includes

- No interest Loan Scheme – loans up to $1500 to purchase essential household items
- StepUP loan (NAB) low interest loans from $800-3000 available to purchase essential household items, second hand cars and computers (interest rate approximately 22%)
- One off hardship payments through Department of Human Services and Centrelink ($250-500 once per year)
- Inroads (CDFI) facility of up to $3,000.00 at 13.95%
- Utilities Hardship programs provided by the energy companies
- ANZ Progress Loans (partnership with Brotherhood of St Lawrence) $500-3000 for 6 months to 3 years (12.7%), for essential household items.

- There are several credit unions which encourage people on low incomes to become members and access affordable credit products.
- Savers Plus, a savings matching program provided by Loddon Mallee Housing (Haven)

Recommendations

1. **A review of the adequacy of Centrelink payments particularly for unemployed and single parents to allow people to meet their basic living costs and avoid using short term high interest loans for covering these expenses.**

2. **More flexibility in relation to access to Centrelink advance payments – all recipients should be allowed to access short term loans, excluding some payment types, particularly those who borrow regularly from pay day lenders creates a two tier system and unnecessary hardship**

3. **Interest Rate and fee cap on payday loans in order to reduce the number of people falling victim to the debt spiral.**

4. **Improved funding to allow agencies to deliver more financial literacy programs to make consumers aware of the micro finance and other options available to them.**