Redfern Legal Centre

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FAMILY VIOLENCE: FINANCIAL ABUSE POSITION PAPER

AUTHOR:

Will Dwyer

Redfern Legal Centre, Credit and Debt Solicitor

ABSTRACT:

RLC is acutely concerned with the impact of financial abuse on vulnerable women, having directly observed its demoralising effect upon vulnerable and traumatised women. RLC strongly encourages governments, financial institutions, telco, utility and other essential service providers, to consider how they could develop and implement policies that will provide practical and accessible remedies for women experiencing financial abuse. In the absence of effective policies and process, these organisations often entrench the effects of the financial abuse and compound the difficulties of leaving violent relationships.

What is financial abuse?

In a recent joint study into financial abuse in Victoria, Good Shepherd Australia New Zealand and Wyndham Legal Service identified a number of ways that financial abuse may present.[1] This includes:

- Limiting a woman's access to work, either by making employment untenable through consistent harassment or not allowing her to work
- Controlling household finances and refusing to grant access to sufficient funds
- Forcing or coercing women to take out debts, loans and/or credit cards either jointly or solely in her name, where she does not have sufficient capacity to repay this debt

Impact of financial abuse

A recent study found that the difficulties of obtaining financial independence represents one of the most significant obstacles for women seeking to leave abusive relationships.[2] The practical difficulties of extricating joint financial and legal arrangements restrain victims' capacity to leave violent relationships.

The practical impacts of financial abuse can include poor credit histories - as a result of being forced to take out loans for their partner, bearing the burden of significant debt with limited receipt of benefits, or increasing the difficulties of finding employment due to sparse or erratic work histories. Each of these can restrict a woman's capacity to meet the basic needs and could also result in victims being compelled to stay with, or return to, an abusive partner for financial security.

It is therefore, a social obligation incumbent upon legal and financial systems, corporations and support services to recognise the impacts of financial abuse and develop practical policies and remedies, which counteract and minimise the difficulties faced by victims of financial abuse.

Law Reform

Currently, five states and territories recognise financial abuse as a form of domestic or family violence, namely, Northern Territory, Victoria, Queensland, South Australia, and Tasmania.[3] This recognition is consistent with the experience of many RLC's clients, who suffer significant financial disadvantage as a result of oppressive financial control by abusive partners.

While recognising that identifying financial abuse can pose significant challenges, particularly where there is no other forms of abuse present within the relationship, RLC recommends the NSW Government consider expanding the definition of "domestic violence" under the *Crimes (Personal and Domestic Violence) Amendment Act 2005* (NSW) to include 'financial abuse.' Such reform would reflect a more holistic understanding of domestic and family violence and provide

[1] Camilleri, Oliver, Corrie, Tanya & Moore, Shorna, 2015, 'Restoring Financial Safety: Legal Responses to Economic Abuse', *Good Shepherd Australia New Zealand* and *Wyndham Legal Service Inc*, 14

[2] Braaf & Meyering, 2011, 'Seeking Security: Promoting Women's Economic Well-Being Following Domestic Violence' *Australian Domestic and Family Violence Clearinghouse*, 5

[3] *Domestic and Family Violence Act 2007* (NT), s5; *Family Violence Protection Act 2008* (Vic) s5; *Domestic Violence Protection Act 2012* (QLD) s8; *Intervention Orders (Prevention of Abuse) Act 2009* (SA) s8; *Family Violence Act 2004* (TAS) s8

additional avenues for victims to access protection. It would also be consistent with recommendations made by both the Australian and NSW Law Reform Commissions.[4]

Role for Australian Banks

Given the clear and detrimental impact of financial abuse upon victims of domestic violence and the restraints upon leaving an abusive situation and securing financial independence, there is significant need for financial institutions, telco, utility and other essential service providers to develop policies and procedures, which genuinely assist victims of family and domestic violence and respond to the complex and intractable issues of financial abuse.

For financial institutions, this may include cancelling or transferring debt where evidence is provided that the loan was procured through the coercion of one party, or ensuring a victim of financial abuse does not remain burdened with her ex-partner's debt after leaving the relationship. It can also include extending hardship assistance and renegotiating the terms of, or liability for, a particular facility

These reforms will likely be unique to each financial institution as they seek to incorporate these remedies into existing practice and process. RLC strongly supports the recommendation of the 'Restoring Financial Safety' Report[5] for essential service providers to develop family violence teams who can evaluate the best ways for the company to proactively address these issues and oversee and direct the implementation of reforms.[6]

Role for Service Providers (e.g. Utility and Telco Companies)

It is encouraging to see companies demonstrate their commitment to reducing levels of domestic violence through their partnership with White Ribbon. However, in order to implement practical measures to minimise the effect of financial abuse, telco and utility companies in particular must consider and evaluate the way in which current policies may entrench financial abuse. There is a timely opportunity to enact positive reforms addressing their role in mitigating financial abuse.

Possible reforms could include adopting DV specific hardship policies, whereby women who have experienced financial abuse can more easily remove themselves from ongoing agreements, and give consideration to waiving debts accrued as a result of financial abuse. This is particularly imperative in situations where a woman remains responsible for the ongoing liability of her ex-partner's telco or utilities. Staff should be trained in recognising signs of financial abuse, exploitation or coercion.

Role for other Australian Corporations

At a broader level, all Australian organisations should be aware of the impact of financial abuse and ensure their policies and procedures adequately address this issue. This may include recognising the indicators of financial abuse and providing mechanism to ensure that victims of domestic violence can continue to access essential services despite an ex-partner's malicious financial activity.

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[4] Australian Law Reform Commission and New South Wales Law Reform Commission, *Family Violence—A National Legal Response*, ALRC Report 114; NSWLRC Report 128 (2010), Recs 5–1, 6–1, 6–4

[5] Camilleri, Oliver, Corrie, Tanya & Moore, Shorna, 2015, 'Restoring Financial Safety: Legal Responses to Economic Abuse', *Good Shepherd Australia New Zealand* and *Wyndham Legal Service Inc*,

[6] *Ibid*, 8

Conclusion

Financial abuse is an underreported form of family violence, yet its impacts can be devastating and debilitating. Financial abuse restricts a victim's capacity to leave abusive relationships and establish their independence. All participants in broader society, including the government, financial institutions and essential service providers, have an obligation to earnestly evaluate their role and reflect upon the way in which their current policies and process may contribute to or entrench financial abuse. Redfern Legal Centre encourage governments, financial institutions and service providers to implement practical policies and strategies which remove arbitrary barriers to leave abusive relationships.