

Redfern Legal Centre



The Treasury
Langton Crescent
PARKES ACT 2600

Email: SALpaper@treasury.gov.au

Attention: Christian Mikula

7 May 2012

Dear Mr Mikula,

Thank you for the opportunity to provide comments on Treasury's April 2012 Discussion Paper on Strategies for reducing reliance on high-cost, short-term, small amount lending.

Redfern Legal Centre provides its comments on the topics for discussion in the attached submission.

We would welcome the opportunity to appear before the Parliamentary Committee / Round table addressing this issue and/or to meet with you to further discuss our submission.

Yours faithfully,

Redfern Legal Centre

Jacqui Swinburne

Acting Chief Executive Officer

Redfern Legal Centre



SUBMISSION:

Discussion Paper - Strategies for reducing reliance on high-cost, short-term, small amount lending

AUTHOR: Michelle Schonstein

DATE: 8 June 2012

Table of Contents

Introduction: Redfern Legal Centre	4
RLC's work in Credit and Debt	4
General comments	4
Responses to specific issues	5
Conclusion	

Introduction: Redfern Legal Centre

Redfern Legal Centre (RLC) is an independent, non-profit, community-based legal organisation with a prominent profile in the Redfern area.

RLC has a particular focus on human rights and social justice. Our specialist areas of work are domestic violence, tenancy, credit and debt, employment, discrimination and complaints about police and other governmental agencies. By working collaboratively with key partners, RLC specialist lawyers and advocates provide free advice, conduct case work, deliver community legal education and write publications and submissions. RLC works towards reforming our legal system for the benefit of the community.

RLC's work in Credit & Debt

RLC identifies economic rights as important in the attainment of a just society. RLC has long recognised that, without the ability to exercise their economic rights, people are unable to maintain other rights. Economic rights are essential to effective and productive participation in society, including keeping families together, safe housing, jobs, and freedom. For this reason, RLC has continued to emphasise casework delivery to people in relation to banking, credit and debt problems. RLC provides specialist credit and debt face-to-face and telephone advice services.

RLC also provides a support service to financial counsellors in NSW, whereby financial counsellors are able to call or email our credit and debt solicitors to obtain legal information and assistance as they need it.

RLC's view in summary

RLC agrees that there is an urgent need to identify and implement appropriate strategies for reducing reliance on small amount credit contracts. We do not consider that providing high-cost credit to low-income consumers is a solution to money problems. We consider that the small amount credit contract industry is currently able to take advantage of certain features of the market to profit from loans that are unaffordable to consumers (for example, the use of direct debit arrangements).

The continued use of small amount credit contracts by low-income consumers, in spite of the high costs, reveals that there is a need for small amount loans. It is essential that consumers be provided with viable alternatives to high-cost small amount loans, to assist them to manage their finances in a responsible and sustainable manner, and without causing greater hardship.

RLC's responses to specific issues

Reducing the need for small amount loans

We respond to the Discussion Paper questions as follows.

1. *Currently the Government offers Centrepay, advance payments and weekly payments as mechanisms for customers to manage their money. Are there any other mechanisms that could be used for this purpose?*
 - 1.1. At RLC, we consider that one of the main reasons people turn to small amount lenders is because their income is insufficient to meet their basic living expenses. As discussed in the Discussion Paper, small amount loans are frequently used to cover expenses like car registration, utility bills, food, rent, and other basic living expenses. The government must consider raising Centrelink allowances, and particularly Newstart and the DSP.
 - 1.2. In addition to the above, another option would be to expand the availability of Centrepay in the manner suggested in the Discussion Paper in Chapter 2. Centrepay is a useful budgeting and financial management tool for Centrelink recipients.
2. *Should referrals be made to FMP services at a certain stage as a matter of course?*
 - 2.1. We have no comment as we have not had any contact with or experience of this service.

Utility bills

At Redfern Legal Centre, we advise clients regularly in relation to utility bills on our Thursday evening Credit & Debt service. It is our experience that clients are generally unaware of their right to request a hardship arrangement. In addition, clients are also unaware of the existence of the Energy and Water Ombudsman NSW (EWON). We also provide advice on disputed with telecommunications services providers, which we consider must be included as a utility.

We provide assistance to clients to negotiate a hardship payment arrangement, and to make complaints to EWON or TIO where appropriate.

Consequently, it is our view that more could be done to publicise the existence of hardship arrangement options, and of EWON and the TIO.

We respond to the Discussion Paper questions as follows.

3. *Should providers of high-cost small amount loans be required to advise individuals about the existence of hardship programs where the individual is seeking loans to pay a utilities bill?*

- 3.1. We consider that where a lender is aware that the purpose of the loan is to pay a utility bill, this approach could be useful in promoting awareness of consumers' options when facing hardship in paying utility bills.
 - 3.2. However, on its own it would be an insufficient response. This is because it is impossible for a lender to assess accurately what the purpose of the loan is, particularly where the consumer does not wish to disclose the truth, or where the consumer seeks a loan to cover a number of expenses (which is often the case).
 - 3.3. Further, we do not consider that it is appropriate to rely on small amount loan providers to advise their clients about the existence of alternative means of paying their bills. In practice, this would be difficult to enforce. We also note that the very fact that a consumer is seeking a small amount loan in order to pay a utility bill would suggest that the loan is inappropriate and unaffordable for that consumer.
4. *How can individuals be encouraged to use these alternatives for paying utility bills rather than using high-cost small amount loans?*
 - 4.1. First, it is essential to raise awareness of alternatives, as discussed above.
 - 4.2. It is also important that utility service providers ensure that they deal with contact from consumers in relation to hardship requests in an appropriate manner. It is frequently the case that once we have assisted clients to establish a hardship payment arrangement with their provider, the client returns to us for follow-up assistance where they are confused by their arrangement or have missed a payment. Our clients are often financially unsophisticated, have mental illness issues or other medical issues, are from a non-English speaking background, or have other characteristics that make it difficult for them to advocate for themselves. They will often give up if the first attempt to contact their provider to resolve the problem is unsuccessful.
5. *What are the advantages and disadvantages of requiring energy providers to provide information on their payment plans and hardship programs initially when contracts are entered into or renewed, and on each bill?*
 - 5.1. Such a requirement would be advantageous in assisting to promote the availability of hardship schemes. We see no disadvantage.
6. *Are there other support services that would help reduce energy hardship and the demand for small amount, short-term loans to pay energy bills?*
 - 6.1. We note that our Credit & Debt service provides assistance to clients facing hardship in paying utility bills by advocating on their behalf.
7. *Should energy hardship programs be promoted more widely? If so, what mechanisms could be used?*
 - 7.1. Yes. We consider that in addition to the options discussed above, television or print advertising would be effective in raising awareness, particularly at times

where consumers are more likely to increase their energy consumption, i.e. as winter approaches.

Current Alternatives

We respond to the Discussion Paper questions as follows.

8. *Is building upon existing programs and extending the criteria for accessing these programs, such as NILS and StepUP, an appropriate alternative to small amount, short-term loans?*

8.1. We support the expansion of such services.

8.2. On this point, we refer to our comments provided in our submission of 7 May 2012 to Treasury on the Discussion Paper "Proposed Reforms relating to Small Amount Credit Contracts". In that submission, we stated (in the context of the proposed reforms set out in the Discussion Paper):

"We support the proposal for the additional disclosure requirements to include information about alternative sources of finance and financial counselling. It is important for consumers in financial trouble to be aware of alternatives to SACCs and how to seek advice about their financial situation.

However, we note that demand for financial counselling and alternative sources of finance (such as NILS/LILS) is already high. This proposal would place greater pressure on already scarce resources. Greater investment by government in financial counselling services and schemes providing alternative finance would need to be made.

To fund this increased investment in financial counselling and alternative finance schemes, we consider that given the number of concessions made to industry, it would be appropriate that a levy be imposed on industry members. The levy would fund the development of and investment in NILS or LILS schemes, ideally to increase availability and to broaden the criteria for eligibility (we note that finance under the NILS and LILS is not available currently for many of the purposes for which consumers seek SACCs, and is therefore unlikely to be a real alternative to SACCs).

Currently, many of the NILS/LILS alternatives are administered by charitable organisations. RLC would support the introduction of a NILS/LILS option administered by government.

The disclosure requirements will increase demand for financial counselling and alternative sources of finance. If industry members wish to continue to profit from an industry that causes such financial hardship to very low income earners and Centrelink recipients, it is only fair that industry should contribute to the cost of addressing the resulting financial and social problems, rather than relying on tax-payer dollars and charitable institutions.

Recommendation: *That a levy be imposed on industry members to provide for better resourcing of financial counselling services, and to expand existing NILS/LILS availability.”*

9. *If yes, should the eligibility and purpose criteria for no interest and low interest loans be expanded and what should these criteria be expanded to include?*
- 9.1. Yes, if such schemes are to be considered a real alternative, the criteria for eligibility must be broadened. We do not propose to include an exhaustive list in this submission, but we consider that while the purpose of the loan is legitimate (i.e. not for gambling or frivolous matters), a consumer should be eligible, provided they meet income threshold requirements.
- 9.2. Currently, most (if not all) NILS and LILS are run by charitable and/or religious institutions. This can have the effect of excluding consumers who do not wish to access a religious service for assistance managing their finances. As discussed at paragraph 8 above, we would support the introduction of a LILS or NILS program administered by government.
10. *How more partnerships could be developed between community service organisations and financial institutions to increase the number of these products and their coverage.*
- 10.1. We have no comment on this issue, as it is a matter for financial institutions and relevant community services.
11. *What mechanisms would be most successful in encouraging mainstream lenders to improve access for low-income individuals to small amount loans?*
- 11.1. We have no comment on this issue at this time.
12. *Would reporting be an effective mechanism for encouraging mainstream lenders to increase their small amount, short-term loan activity and, if so, what type of reporting would be most effective? Is it reasonable to expect financial institutions to support the CDFI sector through their corporate social responsibility activities?*
- 12.1. We have no comment on this issue at this time.
13. *Should the growth of a CDFI sector in Australia be supported? If yes, what are the base requirements for growth of the sector? Would a UK style financial inclusion growth fund be an appropriate mechanism for developing a pool of capital funds that CDFIs could access?*
- 13.1. We have no comment on this issue at this time other than to say that we would support the development of a CDFI sector in Australia.
14. *Can a financial services hub provide a viable alternative to high cost small amount lenders?*
- 14.1. We note that we do not have direct experience or knowledge of how this model operates. However, we consider that based on the description provided in the

Discussion Paper, such a model would appear to be appealing to consumers and would have benefits.

14.2. We would support further exploration and development of this option.

15. *Would a hub approach make services more accessible for individuals who may be reluctant to visit major church providers for assistance?*

15.1. We consider that having a non-religious affiliated service would be a major benefit of the hub model. Many of our clients do not feel comfortable seeking advice and assistance from church providers or charitable associations.

16. *Are there other services that could be included in the hub model?*

16.1. We would take referrals from such a service, where appropriate. It is often the case that a debt problem has legal solutions.

17. *What are the advantages and disadvantages of debt consolidation loans in relation to the objective of decreasing the cycle of debt for vulnerable individuals?*

17.1. In our experience, debt consolidation loans have similar implications for consumers to bankruptcy. We are cautious in advising clients to enter agreements with commercial debt consolidation loan providers, as they often result in further problems for our clients.

17.2. We do not consider commercial debt consolidation loans to be the most appropriate way of dealing with consumer debt. Alternative forms of debt consolidation (such as the Good Shepherd trial referred to in the Discussion Paper) may be a good alternative.

17.3. We would support a government funded and administered scheme of debt consolidation based on the Good Shepherd model, as many of our clients would prefer a government service to a Church-based service (as discussed above).

18. *Is a not-for-profit debt advice service, which includes capacity to implement and administer debt management plans, similar to the one implemented in the United Kingdom, desirable in the Australian context?*

18.1. We do not comment on this topic at this time, other than to say that for our clients, waiver is usually more appropriate than debt management (see 19.3 below).

19. *Is a national debt reduction project another potential mechanism for reducing demand for small amount loans? If yes, what types of debts should be covered and what other eligibility criteria for client participation should be applied? Should this be restricted to long term Centrelink customers?*

19.1. The Bulk Debt project has been useful in obtaining waivers for many low-income earners, and we support it. However, its usefulness in obtaining results

for consumers who do not have an eligible debt at the relevant time is limited once applications close.

19.2. We would like to see systemic outcomes emerge from the Bulk Debt project. It would be very useful to have guidelines in place with credit-providers and debt collectors as to when it would be appropriate and recommended to waive a debt. This is particularly so in NSW, where consumers do not have the protection of being “judgement-proof”¹ if they are Centrelink recipients, in contrast to consumers in Victoria, who have statutory protection of their Centrelink benefits.

19.3. In our view, where a consumer’s only source of income is Centrelink, they have no assets, and they have no reasonable prospects of future financial independence (i.e they are in long-term financial hardship), the debt should be waived.

Conclusion

We strongly support the exploration and implementation of strategies to reduce reliance on high-cost small-amount loans. This is particularly so given the number of significant concessions that have been made to industry as part of the law reform consultation process.

We would welcome the opportunity to further discuss the issues raised in this submission.

¹ Section 12 of the [Judgment Debt Recovery Act 1984](#) (Vic) (**Judgment Debt Recovery Act**) provides that, an instalment order will not (unless the debtor consents) be made if the income of the judgment debtor is derived solely from a pension benefit allowance or other regular payment under the *Social Security Act 1947* (Cth) or section 24 of the *Children, Youth and Families Act 2005* (Cth).