



Tasmanian Council of Social Service Inc.

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Submission to 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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## About TasCOSS

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TasCOSS is the peak body for the community services sector in Tasmania. Our membership includes individuals and organisations active in the provision of community services to Tasmanians on low incomes and who often experience vulnerability and disadvantage. TasCOSS represents the interests of its members and their clients to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage, and promote the adoption of effective solutions to address these issues.

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## Introduction

TasCOSS welcomes the opportunity to make a submission to this inquiry. We will restrict our submission to the issue of credit and financial services in the form of small amount credit contracts and consumer leases, which we know are causing widespread hardship in Tasmania. Our submission draws heavily on the knowledge and experiences of our member organisation, Anglicare, which provides financial services counselling in Tasmania.

## Issues of concern

### *The need for legislative protections*

Payday lending and consumer leases are an ongoing concern for low-income Tasmanians. A 2016 study suggests that 22% of Tasmanian households used a payday loan at least once between 2012 and 2015.<sup>1</sup> They are normally accessed by individuals and families who face poverty, social exclusion and financial hardship. The same study also found that that 60% of borrowers across Australia considered payday loans to be their only option.<sup>2</sup> It is estimated that less than 5% of payday loans are for the purchase of a lasting item or for once-off payments that don't necessarily involve financial hardship (Consumer Action Law Centre study, 2008), as illustrated by the following observations made by financial counsellors at the Fast Finance Forum held in Hobart in October 2007.

*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.*

*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.*

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<sup>1</sup> Gill North, 'Small Amount Credit Contract Reforms in Australia: Household Survey Evidence and Analysis' (Deakin Law School Legal Studies Research Paper No 17-05, 2016) p.13.

<sup>2</sup> Ibid 10.

In the 2009 report titled 'Pay Day Lending in Tasmania', Anglicare Tasmania identified three overarching problems with payday lending. Firstly, payday lenders generally insist on customers signing a direct debit authority. This ensures lenders have priority over the borrower's basic needs. Secondly, payday loans are too easy to start. This reflected the lenders' lax assessment practices and a disregard for a borrower's ability to repay. Thirdly, payday loans are simply too expensive to repay. Nearly a decade later, Anglicare finds that the same observations hold true.

In Tasmania, payday lenders deliberately target low-income individuals. For example, we are aware that Money 3 offers 'top-ups' to payday loans to people who are struggling financially and Cigno provided a loan to a person assessed as having gambling issues. Both 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)*.

Further, Anglicare is aware that Cigno continually sent unsolicited invitations to one customer for weeks pestering them to sign a payday loan. This was after the customer declined their offer when they found out how much it would cost.

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 required to assess the suitability of customers. However, one of Anglicare'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. Consumer lease provider Rent the Roo entered into 5 contracts with one customer with a total repayment amount of just over \$7,000 for products valued at less than \$3,000.

Social exclusion and poverty are key drivers of why people turn to payday lending and consumer leases. In Tasmania, for example, there were 1,622 people without a home in 2016 (Census of Population and Housing, 2016). As of March 2018, Housing Tasmania reported 3,412 pending applications for public housing. Issues such as homelessness tie in with locational disadvantage, lack of functional literacy and exclusion from jobs and skills.

At a time that ASIC is tightening access to debt via credit cards, it is even more important that payday lending and consumer credit reforms are enacted so that people denied finance via credit cards do not turn to payday lending. When disadvantaged people turn to payday lending and consumer leases for financial assistance, the lack of suitability assessments and oppressive overall costs perpetuates exclusion and disadvantage.

As a result of the above, TasCOSS has called on the Commonwealth Government to introduce legislation that would protect vulnerable customers. In October 2017, as part of a review of the National Consumer Credit Protection laws (which regulates payday loans and consumer

leases) a draft Bill was prepared and was circulated for consultation (*National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease Reforms) Bill 2017*) however the Government has not progressed the legislation further.

TasCOSS supported the bill at the time and we have continued to advocate for legislation that protects the interests of vulnerable Australians. In particular we support the following reforms, which were put forward as part of the review:

- 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 4 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 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."

#### *More resourcing is needed for no interest loan schemes and financial counselling*

In addition to payday lending and consumer lease reforms, TasCOSS believes that the Federal Government should increase funding for No Interest Loans programs. NILS is auspiced nationally by Good Shepherd Microfinance and helps low income Australians access affordable credit for essential household items and services such as whitegoods, heating, car repairs and dental costs. It is a safe alternative to Payday Lenders and Consumer Leases for some purposes. NILS is part of the Commonwealth Department of Social Services' Financial Wellbeing and Capability Program but is currently seriously under-funded.