

SUBMISSION:

Parliamentary Joint Committee on  
Corporations and Financial Services

**Inquiry into the Financial Services  
Regulatory Framework in Relation to  
Financial Abuse**

11 July 2024

**Women's Legal Service Victoria**

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## Acknowledgement of Country

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Women's Legal Service Victoria acknowledges and pays respect to the traditional custodians of the land on which we work, the Wurundjeri People of the Kulin Nation, and all Aboriginal and Torres Strait Islander people across Australia. We pay respect to Elders past and present. We honour Aboriginal and Torres Strait Islander peoples' ongoing connection to sea, waterways and Country.

We also recognise the strength and resilience of Aboriginal and Torres Strait Islander people, especially those who have been affected by domestic and family violence.

## About Women's Legal Service Victoria

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Women's Legal Service Victoria is a not-for-profit specialist organisation that has been providing free specialist legal services since 1982. We work with and for our clients to address legal issues arising from family violence and relationship breakdown.

Women's Legal exists to help build a gender equitable country. Our unique contribution to this vision – as lawyers, advocates and educators – is to work alongside our clients to promote their rights to live free from violence and make informed choices about their relationships.

Women's Legal specialises in family violence, family law, migration law, child protection law, victims of crime assistance, and sexual assault – recognising the intersection between the jurisdictions. We focus on our clients' safety, recovery from violence and economic security.

We do this by:

- Providing legal advice and representation to women and non-binary people, with a wraparound model of service delivery where our clients are also supported by social workers and financial counsellors, depending on their needs.
- Advocating for law and policy that respects and promotes the rights of women and non-binary people.

- Building the capacity of other professionals and communities to identify and respond appropriately to legal need.

## Foundations of our submission

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Women's Legal Service Victoria is a member of Women's Legal Services Australia. Our submission supplements the valuable contributions made by Women's Legal Services Australia in its submission to this inquiry. We also endorse the submissions made by the Economic Abuse Reference Group and Financial Counselling Victoria.

Women's Legal puts our clients – individually and collectively – at the centre of everything we do. As specialists in family violence, we work across the spectrum from tertiary response to primary prevention of gendered violence. We work with our clients to achieve optimal legal and wellbeing outcomes, and we integrate what we learn in our policy reform advocacy, to put forward well-informed systemic and structural solutions that will improve the safety and wellbeing of our clients and their children and work towards the elimination of gendered violence.

This submission is informed by research literature and developed in close consultation with Women's Legal family violence financial counsellors, drawing directly on their practice experience supporting women who have experienced family violence and financial abuse.

Women's Legal is deeply committed to advocating for change that is informed by women's lived experiences and, as such, client stories are shared in the submission. The stories are included with client consent and have been de-identified to protect the safety and privacy of all persons concerned. We employ a variety of de-identification techniques to meet our legal obligations and ensure client stories are useful to decision-makers.

### **This submission was prepared by**

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- Roj Amedi, Director of Advocacy, Policy and Communications

## Executive Summary

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Recovering from financial abuse can be a complex and traumatising process which requires specialist support. Financial counsellors, lawyers, and social workers at Women's Legal Service Victoria report that financial abuse is experienced by most of our clients in some form, and its impacts are devastating and far-reaching and extend far beyond the time a victim-survivor leaves a violent relationship.

While there has been some progress, there is still insufficient understanding about family violence, financial abuse, and its dynamics within many Australian banks and financial institutions. It is critical that the financial sector continues to build capability to respond to financial abuse and resolve the inconsistencies across the industry.

In our experience there is considerable additional risk of financial abuse as financial institutions' move towards online provision of services and products, and particularly as perpetrators use coercive control to commit financial abuse online behind closed doors. These risks are exacerbated for migrant women and those facing language barriers.

There are significant opportunities to strengthen the effectiveness of legislative and regulatory frameworks that govern financial institutions' responses to the prevalence of financial abuse. In addition to the submissions by Women's Legal Service Australia (WLSA), Economic Abuse Reference Group (EARG) and Financial Counselling Victoria (FCVIC) that we've endorsed, we suggest a number of ways to improve regulation, including: expanding consumer protections and other regulated schemes across a range of organisations and institutions that provide credit; and increasing Australian Financial Complaints Authority (AFCA) awards for compensation for non-financial loss where financial institutions breach their obligations.

There are also opportunities for financial institutions to improve financial product design to better prevent, detect and respond to financial abuse, for example by ensuring accessible and translated information is provided about financial products. Family violence and financial abuse should be proactively considered in product design, to

ensure that products such as credit repair debt arrangements and specific insurance products account for the needs of victim-survivors.

We welcome the opportunity to comment on the role of government agencies in preventing and responding to financial abuse. Our family violence financial counsellors report several ways that government systems are used to perpetrate financial abuse against our clients, and it is critical that government acts to address these risks. We provide suggestions for practical reforms to government systems and processes.

Addressing risk of financial abuse needs to be built into service design – the question that needs to be asked by both the financial sector and government is ‘how could a perpetrator misuse this system to commit financial abuse?’

We see first-hand every day the profound impact of advisory and advocacy bodies supporting victim-survivors of financial abuse. High quality, specialist financial counselling services for victim-survivors is a critical component of their recovery, and appropriate resources must be dedicated to ensuring service provision meets demand and the needs of victim-survivors.

## Recommendations

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### **Approaches taken by financial institutions to identifying, recording and reporting financial abuse**

Recommendation 1: Capability development, including consistent and ongoing training informed by specialist family violence practitioners, to ensure a much better understanding of the dynamics of family violence and financial abuse right across the system.

Recommendation 2: Improved consistency in the way financial institutions approach family violence and financial abuse, including by ensuring all financial institutions have a family violence policy.

### **The impact of the shift of financial products to online platforms**

Recommendation 3: Improved checks to ensure individuals are entering into financial products such as loan agreements voluntarily and legitimately, free from coercion by another party.

Recommendation 4: Improved processes that ensure that migrant women, women with disabilities and women facing language barriers are provided accessible information about financial products by Australian banking and financial institutions before they sign up.

### **Effectiveness of existing regulatory frameworks and mechanisms**

Recommendation 5: Expanded consumer protections and other regulated schemes across a range of organisations and institutions that provide credit, and improved options for resolving, apportioning and/ or waiving debts in cases where there is family violence and financial abuse.

Recommendation 6: Improved regulation and oversight of processes to assess customers' suitability to take on credit and loans, to prevent financial abuse.



Recommendation 7: Improved options for responding to financial abuse in relation to financial products that fall outside of existing consumer protections (including business loans).

Recommendation 8: Family violence should be a stand-alone reason for discretion to be able to be exercised for the benefit of a victim-survivor in relation to remedying financial abuse.

Recommendation 9: Family violence should be included as a discretionary reason that credit reports can be amended/repared.

Recommendation 10: Significantly increase the current maximum compensation award for non-financial loss available via AFCA.

Recommendation 11: Consider a rating system for lenders to assist consumers to identify responsible and legitimate financial institutions.

#### **Other areas for reform: financial product design**

Recommendation 12: Financial institutions ensure that their customers are fully informed before entering financial products, including by providing information in an accessible format and by ensuring complex concepts are adequately explained, including for migrant women and those experiencing language barriers.

Recommendation 13: Financial institutions should provide readily accessible information about family violence legal and financial counselling services that are available.

Recommendation 14: Providers of credit repair debt agreements consider whether the debt was incurred as a result of family violence or financial abuse and advise of any other options for resolution on that basis, prior to the agreement being entered into.

Recommendation 15: Providers of credit repair debt agreements ensure the consequences of entering into the agreement are fully explained to and understood by the customer.

Recommendation 16: Access to income protection/Total Permanent Disability (TPD) insurance be enhanced for victim-survivors of family violence.

## **Role of government agencies in preventing and responding to financial abuse**

Recommendation 17: Government systems such as MyGov be regularly reviewed with the input of specialist service providers within the family violence sector to ensure a continuous improvement approach to preventing, detecting and responding to financial abuse.

Recommendation 18: Australia develop a clear family violence policy as to how debts incurred as a result of family violence will be treated, and amend the Social Security Act to allow access to special circumstances debt waiver provisions where the debt results from a false statement, misrepresentation act or omission made as a result of coercion or duress, or as a result of a false statement by a perpetrator.

Recommendation 19: Services Australia implement reforms to assess debts in receipt of FTB/SPP at an early stage to determine if it is due to family violence. If it is found to be due to family violence, an opportunity to waive that debt be introduced.

Recommendation 20: Services Australia implement reforms to cease mutual obligations for victim-survivors of family violence.

Recommendation 21: Services Australia introduce a requirement that a suitability assessment is conducted for clients when there is more than one Centrepay deduction on an account.

Recommendation 22: Services Australia continue and expand on efforts to increase access to Social Workers for victim-survivors of family violence.

Recommendation 23: Timeframes to apply for the Centrelink Crisis Payment for extreme circumstances of domestic and family violence be extended.

Recommendation 24: Services Australia work to enhance capability and understanding in relation to the financial impact of leaving family violence, which includes both the immediate response to financial abuse as well as long term impacts and recovery for victim-survivors.

Recommendation 25: Government appropriately recognise the important role of professional advocates in supporting victim-survivors to navigate complex systems.

Recommendation 26: Services Australia ensure that professional advocates working with victim-survivors in complex situations of family violence have access to a dedicated phone line to advocate for their clients (including women's legal services, family violence financial counsellors, lawyers and social workers).

Recommendation 27: ATO cease requesting professional advocates provide their personal TFN as proof of identity when acting in their professional capacity.

Recommendation 28: Victim-survivors who are eligible for the Escaping Violence Payment are referred to appropriately qualified financial counsellors. Service providers are appropriately resourced to ensure service delivery meets demand for family violence financial counselling.

Recommendation 29: Funding for the legal assistance sector should allow wrap-around support services including specialist family violence financial counsellors, to ensure best outcomes for clients who have experienced financial abuse.

## 1: Prevalence and impact of financial abuse

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The rates of family violence remain unacceptably high in Australia and we consider this to be a national crisis. For example, the latest ABS Personal Safety Survey release found that 27 per cent of women have experienced violence or emotional/economic abuse by a cohabiting partner.<sup>1</sup> Deloitte Access Economics found that 43 Australian women were subjected to financial abuse every hour in 2023.<sup>2</sup> Our financial counsellors, lawyers, and social workers report that financial abuse is experienced by most of our clients in some form. Of the clients seen by Women's Legal family violence financial counsellors in the first half of 2024

- 62% were culturally and linguistically diverse
- 23% needed interpreters
- 15% had a psychological disability
- 62% were unemployed, and
- 92% were financially disadvantaged.

We see financial abuse perpetrated in a multitude of ways that continue to evolve, and its impacts are devastating and far-reaching over a lengthy period of time. Recent examples of the ways we see financial abuse being perpetrated against our clients are described throughout this submission, including recent de-identified case examples.

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<sup>1</sup> Australian Bureau of Statistics, 'Latest Release: Personal Safety Survey 2021-2022. Cohabiting partner violence, emotional abuse, and economic abuse'. Available at: <https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/2021-22#cohabiting-partner-violence-emotional-abuse-and-economic-abuse>

<sup>2</sup> Deloitte Access Economic, 'The cost of financial abuse in Australia', prepared for Commonwealth Bank of Australia, 2022. Available at: <https://www.commbank.com.au/content/dam/caas/newsroom/docs/Cost%20of%20financial%20abuse%20in%20Australia.pdf>

### Miranda's story – systems and financial abuse

Miranda's husband – the father of her two children – had perpetrated violence against her for many years. Miranda has a neurological disability, and her husband was also her carer. As her neurological disability deteriorated, her husband's abuse increased.

When they separated they had a financial settlement, however there were very little proceeds after the family home was sold. Miranda was also left with a significant debt that was being chased by a debt collector.

For many years after their separation, Miranda's ex-husband continued his financial abuse. Due to Miranda's disability, Miranda was unable to have the children in her care, so her youngest child lived with her ex-husband. Miranda's ex-husband weaponised her need to see and provide for her children. He would constantly ask Miranda for money, which he would say was to supplement his rent or for essential items like the child's clothes and school supplies. Miranda couldn't afford to give him money from her pension, so used the little savings she had from the financial settlement. Eventually this money was depleted.

Miranda paid other expenses for the child, including for after school care because her ex-husband was not picking up the child from school. It was unsafe and distressing for her to stand alone in the school yard. Despite Miranda paying for all these expenses, her ex-husband later applied for child support from her. For Miranda, who experienced this abuse for many years, it always became a case of "what next will he take from me".

We note the complex interrelationship of financial abuse with coercive control and economic abuse, and the significant impact this has for victim-survivors' economic security over the course of their lifetime. Financial abuse is a form of family violence that includes restricting or exploiting a partner's or family member's money to exert control over them. Economic abuse is broader: it also includes behaviour that restricts, exploits or sabotages other resources like housing, food, transport, study and employment.<sup>3</sup> For example, the specific tactics perpetrators utilise to inflict financial abuse, such as coercing a victim-survivor to take on debt, are often used in conjunction with other coercive tactics which mean that they are not able to pay that debt (for example preventing a victim-survivor from earning an income, or having access to joint finances).

<sup>3</sup> See further: Centre for Women's Economic Safety, 'What is economic abuse?'. Available at: <https://cwes.org.au/what-is-economic-abuse/>

The compounding impacts of financial and economic abuse, which are often experienced alongside other forms of family violence, can extend far beyond the time a woman leaves a relationship, and recovering from financial abuse can be an extended, complex and traumatising process which requires specialist support. Post separation, victim-survivors are burdened with debt and bad credit ratings, which impacts their access to more credit, utility providers and telecommunication contracts.

### Financial institutions' approaches to identifying, recording and reporting financial abuse

There is insufficient understanding about family violence, financial abuse, and its particular dynamics within many financial institutions. The flow on effects of this are significant for our clients. It can mean that family violence is not identified when it should be, and that financial institutions' responses are inappropriate and/or not trauma-informed.

For example, an inadequate understanding of family violence dynamics can result in inappropriate requests for evidence to support claims of financial abuse where it has occurred (for example requesting a victim-survivor provide detailed timelines of violence and abuse, or copies of Family Violence Intervention Orders). This is not best practice nor trauma-informed, given that family violence is often not reported in the first place.

Women need to be believed when they do eventually report family violence and financial abuse, as do specialist family violence financial counsellors and other professionals working to support victim-survivors. While AFCA has published guidelines<sup>4</sup> on how to manage complaints for joint accounts where there have been allegations of financial abuse, further codification is needed (in particular to improve the approaches taken by financial institutions, such as buy now pay later, pay day lenders, and consumer lease providers).

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<sup>4</sup> Australian Financial Complaints Authority, 'The AFCA Approach to Joint Accounts and Family Violence', June 2022. Available at: <https://www.afca.org.au/news/information-for-consumer-advocates/supporting-people-impacted-by-domestic-violence>

It is our experience that some financial institutions assume that if a victim-survivor has left a relationship then the family violence and financial abuse has ended, and that the victim-survivor can therefore afford to repay debt, take on loans, or enter credit arrangements. Considering family violence in this way is not realistic and fails to account for the dynamics of family violence which can continue long after separation.

The time it takes to recover from financial abuse, especially given timeframes for property settlements under the *Family Law Act 1975* (Cth) to be finalised, needs to be more fully accounted for, and the assistance provided by financial institutions needs to better enable long term recovery. For example, if a family law property settlement or joint mortgage is involved this could take years to resolve, and existing systems can be exploited to leave victim-survivors with very little or nothing to support their long term recovery. Once a victim-survivor has left a relationship they can continue to experience family violence, particularly systems abuse and financial abuse.

We also see creditors demanding that victim-survivors who are seeking their assistance respond to them within unreasonably short timeframes and without accounting for the trauma and abuse that they have experienced (such as asking for significant documentation the week a victim-survivor is due in court or experiencing homelessness). In contrast, creditors themselves can take a very lengthy time to make decisions in response to requests for assistance.

Deloitte Access Economics has estimated that in 2020 financial abuse generated \$5.7 billion in direct costs to victim-survivors, and \$5.2 billion in broader economic costs in Australia.<sup>5</sup> Given the high prevalence of financial abuse perpetrated through financial institutions' systems, and the significant costs resulting from financial abuse for both individuals and society, it is incumbent on the financial sector to invest in improving capability to prevent, detect and respond to financial abuse. A critical component of this

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<sup>5</sup> Deloitte Access Economic, 'The cost of financial abuse in Australia', prepared for Commonwealth Bank of Australia, 2022, P.9. Available at: <https://www.commbank.com.au/content/dam/caas/newsroom/docs/Cost%20of%20financial%20abuse%20in%20Australia.pdf>

is ongoing training and education for professionals working in the sector, and particularly those who may engage with victim-survivors.

### Bianca's story

Bianca met her husband in Australia after travelling to the country on a temporary visa. After many years the relationship deteriorated and she began to fear for her safety, finally getting the chance to flee the relationship to stay temporarily with a friend.

Bianca took out a pay day loan to help pay for rent and bond to secure housing, as she was unable to access social security payments and didn't know where she could go to get help. Bianca was able to secure some casual employment, but the precarious nature of this work meant she was not able to always pay her rent.

We were able to provide Bianca legal assistance regarding her separation from her husband and her migration visa issues. The Women's Legal lawyer referred Bianca to one of our family violence financial counsellors and social workers. The social worker helped her receive payments from the Family Violence Support Package to pay her rent and Private Rental Assistance Program to help avoid the risk of homelessness.

The family violence financial counsellor advocated for a debt waiver for the pay day loan because of the family violence she experienced. The pay day lender refused to waive the debt without substantial evidentiary information about the family violence and insisted on a timeline of family violence. Bianca did not understand how to contact support services or police, so had limited "evidence" that could be provided. The timeline and evidence they were requesting was inappropriate given the impact of trauma on victim-survivors' capacity to recall linear memories, which has been shown to be a particular barrier for migrant women.

In this instance a family violence assessment from the financial counsellor and/or social worker should have sufficed especially considering other family violence services had accepted their professional assessment.

### Inconsistent approaches to financial abuse

Currently there is a very significant inconsistency between the way different financial institutions identify, record and respond to financial abuse. Some of the bigger banks have well-developed and trauma-informed policies and have implemented continuous improvement processes to develop best practice, whereas other institutions providing financial products and services have limited or no measures in place. The Australian Banking Association's Guidelines<sup>6</sup> are an important step that has been taken by the industry, but unless financial institutions are members they are not required to have these

<sup>6</sup> Australian Banking Association, Industry Guideline: Preventing and responding to financial abuse (including elder financial abuse), Updated March 2021. Available at: <https://www.ausbanking.org.au/financial-abuse-prevention/>



policies in place. Some smaller financial institutions are not sufficiently identifying, recording, reporting or responding to financial abuse – in particular this includes ‘buy now pay later’ and pay day lender institutions. Overall, it is our view that regulation has not kept pace with developments in the sector, and there is insufficient accountability for many financial institutions in relation to their roles and responsibilities for identifying, preventing and responding to financial abuse, particularly when codes of practice are voluntary.

### The impact of the shift of financial products to online platforms

In our experience working with victim-survivors, there is significant additional risk of financial and systems abuse as a result of financial institutions’ moving services and products online. Online systems increase the risk of financial abuse through fraudulent means (for example perpetrators stealing log in information and account details without the victim-survivor’s knowledge). However, we are particularly concerned about the additional risk that perpetrators will use coercive control to commit financial abuse online behind closed doors without the additional protections and opportunity to assess risk that occurs in a face-to-face setting.<sup>7</sup>

The closure of bank branches and consequent reduction in face-to-face customer service mean that financial products are not being adequately explained, and/or women are being misled or coerced into entering certain financial products by perpetrators. Our financial counsellors report numerous examples where our clients have been coerced into entering unsuitable and unjust loan contracts and consumer leases (either joint or individual) where they receive none of the funds and do not benefit from the transaction. Often these are extremely disadvantageous with unfair terms and conditions, very high interest rates, and excessive fees and charges.

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<sup>7</sup> The Economic Abuse Reference Group’s ‘Submission to the Inquiry into Bank Closures in Regional Australia’, 28 April 2023 provides a valuable overview of this issue. Available at: <https://earg.org.au/wp-content/uploads/EARG-submission-re-bank-closures-Final.pdf>

## Chelsea's story

Chelsea had a difficult relationship with her family of origin and found an escape when she got into a relationship with Ben. Over time, Ben became emotionally and physically abusive. He would frequently degrade Chelsea as well as physically hurt her. As a result of this family violence, she became isolated from all her friends and family.

Ben would often complain about money and how he couldn't get any credit anymore, as he had a bad credit rating.

Financial abuse first started to occur when Ben coerced Chelsea to take out an online personal loan so he could buy some things for a personal collection, promising he would pay it back. Chelsea agreed to do it to avoid any further harm being inflicted on her by Ben.

Sometimes Ben would give her the money, but then he wouldn't pay the rent or contribute money for groceries. He later wanted a phone, and insisted she take out a consumer lease to get one. Ben ended up pawning the phone and made Chelsea take out another rental contract so that he had a phone.

After they separated, Chelsea found herself stuck in several pay day loans that he had applied for online on her behalf, as well as consumer leases that were approved online and then directly debited from her Centrelink income via Centrepay.

It is important that financial institutions have measures in place that prevent financial abuse being more easily perpetrated as a result of their shift towards online provision of products and services. For example, it is our view that there needs to be more care taken by financial institutions in relation to preventing financial abuse in their online loan processes, including better checks to ensure loans are entered into voluntarily and legitimately.

One way this plays out in practice is when a bank may ask for the loan applicant's driver's license to be held up in a photo with the applicant to verify their identity. There is nothing to prevent a perpetrator from coercing a client into taking that photo for the loan to be entered in her name. The photo including the license does nothing to ensure that the person is voluntarily and legitimately applying for the loan. In one example reported by our financial counsellors, a lender asked one of our clients take a photo holding her ID as part of the ID checking process. The client very clearly had significant bruising on her face in the photo. The lender still provided the loan, and didn't do anything to enquire into her safety or to assess the risk of her being coerced.

We do note that the shift to online product and service provision can offer opportunities for financial institutions to detect and respond to financial abuse, for example using technology to identify unauthorised transactions. Where there are large and unusual amounts of money being withdrawn from an account, this could be flagged as a risk of financial abuse and precautionary measures implemented.

#### Risks for culturally and linguistically diverse women and women living with disability

It is our experience that the shift to online platforms has had a particularly significant impact and presents additional family violence and financial abuse risks for migrant victim-survivors and those with language barriers. For example, many of the victim-survivors we see in our family violence and migration practice have never held a bank account and do not have an understanding of Australian banking, financial and government systems.

Contracts for financial products only provided in English, and which are complex, technical and confusing, can mean that victim-survivors with language and/or other communication barriers do not know what they are being coerced to sign. For example, our financial counsellors report a recent example where a financial institution read out the terms and conditions over the phone to a client, asking for her verbal agreement. She had no idea what the terms and conditions meant. Financial institutions need to better ensure that customers understand what they are signing up to in relation to financial products, for example through the appropriate and safe use of interpreters. This includes ensuring that family members, including perpetrators, are not being relied upon to interpret documents.

Our clients' experience is reflected in the Banking Code Compliance Committee's 2021 findings that front-line banking staff do not generally offer interpreter services to customers who need them, and its concerns that staff: are not sufficiently aware of interpreter services; do not feel confident offering them; or are simply not offering them to customers who need them.<sup>88</sup> The Committee recommended that failure to do so should be

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<sup>88</sup> Banking Code Compliance Committee, 'Inquiry Report: Banks' compliance with Part 4 of the Banking Code: inclusivity, accessibility and vulnerability', December 2021, P. 19. Available at:

captured in banks' quality assurance reviews for investigation as a possible breach of the Banking Code of Practice.

We note that the financial and economic abuse that can be perpetrated against victim-survivors who are visa holders is exacerbated by the limitations imposed by their visa status and limitations around opening their own bank accounts (for example due to requirements to have 100 points of identification and limited publicly available information about alternative options to open bank accounts for visa holders). This forces them to use accounts that are in the sole name of, and controlled by, perpetrators of family violence. Migrant women and visa holders need better information about how they can open their own bank account, as well information about how Australian banking and financial systems operate, as a component of preventing and responding to family violence and financial abuse.

## Recommendations

- 1. Capability development, including consistent and ongoing training informed by specialist family violence practitioners, to ensure a much better understanding of the dynamics of family violence and financial abuse right across the system.**
- 2. Improved consistency in the way financial institutions approach family violence and financial abuse, including by ensuring all financial institutions have a family violence policy.**
- 3. Improved checks to ensure individuals are entering into financial products such as loan agreements voluntarily and legitimately, free from coercion by another party.**
- 4. Improved processes to ensure that migrant and non-English speaking women have a clear understanding of financial products they are signing up to and accessible information about Australian banking and financial systems.**

## 2: Effectiveness of existing regulatory frameworks and mechanisms

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Women's Legal considers there to be significant opportunities to strengthen the effectiveness of legislative and regulatory frameworks that govern financial institutions' responses to the prevalence of financial abuse. We have outlined some of these below,

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<https://bankingcode.org.au/app/uploads/2021/12/Banks-compliance-with-Part-4-of-the-Banking-Code-inclusivity-accessibility-and-vulnerability.pdf>

and support recommendations made by FCVIC and EARG in their submissions to this inquiry.

### More comprehensive regulation of institutions/organisations collecting debts

There are many institutions/organisations collecting debts that fall outside of regulated schemes (for example, that fall outside the *National Consumer Credit Protection Act 2009*, or where there is no avenue for complaint via an ombudsman). These credit providers/debt collectors generally do not have policies in relation to family violence and there are limited options for recourse for victim-survivors of financial abuse in this context. This includes credit provided through gym memberships, fringe lenders, and service providers that send invoices (for example tradespeople). Perpetrators can enter into these debts in the name of the victim-survivor, who is then left to deal with the consequences. This can have serious financial and legal implications for them.

For example, a perpetrator might sign up for a gym membership using a victim-survivors' account and personal details (coercing a victim survivor to sign contracts). When the membership is unable to be paid, it is very difficult for our clients to get out of the contract without paying significant fees, and the gym engages a debt collector. The debt collector will not necessarily follow guidelines for family violence. Our family violence financial counsellors have very limited options available as to assist the victim-survivor, as some debt collectors are not members of AFCA as an available pathway for redress. While a complaint can be made to the ACCC or ASIC, both only respond to systemic issues and not to individual cases. There is a different set of responses if a creditor is a member of AFCA, which can lead to better outcomes for victim-survivors of financial abuse.

This is one area where better regulation and consistent policies and processes relating to family violence can assist. A broader range of institutions having the existence of family violence as a stand-alone reason where discretion is able to be exercised in relation to credit arrangements and debts would significantly assist our clients in recovering from financial abuse. Consistent policies and processes would also enhance safety, for example by ensuring that disclosures of family violence are dealt with in an appropriate and trauma-informed way that protects a victim-survivors' privacy.

### Better regulation of credit providers – ‘assessment of suitability’

‘Assessment of suitability’ is a problematic area that continues to require better regulation and oversight. Our experience shows that some lenders do not take the due care and diligence that is required in assessing a person’s ability to make repayments, with inadequate assessment of income, expenses and other debt liabilities that would otherwise demonstrate the person does not have capacity to make repayments. Many of our clients have been coerced into taking small credit contracts and pay day loans that bear high interest rates they cannot afford to repay. After leaving a violent relationship they might have obtained more credit to afford rent and essentials, plunging them into a cycle of debt. Frequently, because of their adverse credit listings, this prevents them from accessing mainstream credit and other services, such as utilities and phone contracts, after leaving. Some credit products, such as business loans, don’t fall under consumer legislation, so there is no requirement to do an assessment of suitability.

### Business loans

Business loans fall outside of consumer protections – our Family Violence Financial Counsellors report it is very difficult to get recourse for financial abuse perpetrated within the context of business loans. This is a gap that must be addressed to better prevent and respond to the multitude of ways in which financial abuse is perpetrated.

### Availability of discretion to respond to family violence and financial abuse

Family violence should be a stand-alone reason for discretion to be exercised by financial institutions and regulatory bodies for the benefit of a victim-survivor.

Family violence responses by financial institutions most often fall within the ‘hardship’ criterion for response. This does not accurately reflect the dynamics of family violence and financial abuse. Hardship can indicate an element of fault, which is inappropriate in a family violence context (where it is the fault of someone else). Financial abuse requires a more nuanced approach and should be a stand-alone category.

For example, family violence isn’t listed as a reason that a credit report can be amended. Where family violence and financial abuse has impacted a victim-survivor’s credit score, it is important that there is a systemic means to address this and support their recovery.

We suggest family violence be included as a discretionary reason that credit reports can be amended/repaired.

### Stronger accountability mechanisms

There needs to be greater accountability for the way financial institutions respond to family violence and financial abuse. Regulators such as AFCA need stronger powers. Regulation to improve system responses to financial abuse are only going to be as strong as they are enforced.

For example, where financial institutions breach their obligations to victim-survivors (for example under legislation or codes of conduct), the current compensation amount available under AFCA is inadequate. Some recent examples we have seen where financial institutions have breached their obligations are:

- A bank giving out contact information of a victim survivor to a perpetrator.
- A bank changing the registered address for a joint account to the perpetrator's address because they didn't have the infrastructure to separate the addresses.

The current compensation amount is a maximum of \$6300.00 for non-financial loss for breaches such as these. This does not reflect the seriousness of the harm and the power imbalance between the creditor and the victim-survivor. For example, the maximum compensation award for non-financial loss is insufficient for a victim-survivor who needs to relocate due to their address being disclosed, given the associated trauma and safety risk. This amount is also not large enough to be a deterrent to the financial institutions who are breaching their obligations.<sup>9</sup>

### Rating system for lenders

There are now many different financial institutions and lenders, and it can be challenging for consumers to know which are legitimate and responsible. Given the significant variation between approaches taken to financial abuse, consideration could be given to a rating system.

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<sup>9</sup> See further: 'Outcomes AFCA Provides', available at: <https://www.afca.org.au/what-to-expect/outcomes-afca-provides>

## Recommendations

5. **Expanded consumer protections and other regulated schemes across a range of organisations and institutions that provide credit, and improved options for resolving, apportioning and/ or waiving debts in cases where there is family violence and financial abuse.**
6. **Improved regulation and oversight of processes to assess customers' suitability to take on credit/loans to prevent financial abuse**
7. **Improved options for responding to financial abuse in relation to financial products that fall outside of existing consumer protections (including business loans)**
8. **Family violence should be a stand-alone reason for discretion to be able to be exercised for the benefit of a victim-survivor in relation to remedying financial abuse.**
9. **Family violence be included as a discretionary reason that credit reports can be amended/repared.**
10. **Where financial institutions breach their obligations, significantly increase the current maximum compensation award for non-financial loss available via AFCA.**
11. **Consider a rating system for lenders to assist consumers to identify responsible and legitimate financial institutions.**

### 3: Other areas for reform: financial product design

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Financial institutions need to assess existing and emerging products and systems by asking 'how could a perpetrator use this product to commit financial abuse?' Consulting with specialist service providers, advocacy bodies and lived experience experts is a critical component of ensuring risk of financial abuse is adequately identified and addressed.

#### Accessible information

Our family violence financial counsellors report that processes for entering into financial products can be complex and confusing for our clients. This increases the risk of financial abuse, as perpetrators are able to exploit this complexity. It is critical that information is provided in an accessible format – particularly at the point of entering into credit/debt. For example, in our experience words such as *mortgage* and *incumbents* are difficult concepts and are often not properly explained by the financial institution.

Consideration should also be given to ensuring individuals entering into loan agreements are provided with better information about where to go for assistance in case of difficulty – for example contact details for the National Debt Helpline. As discussed above, it is also



critical that migrant women and those facing language barriers can access information in an accessible format about the financial products they are entering into. For those women that are not literate in their primary language, they should be provided information through oral translations or videos in language. Perpetrators of violence should never be relied on to interpret information or documents, and it is also inappropriate to rely on children to interpret.

### Cathy's story

Cathy had been in a relationship with her husband Nick, the father of her five children, since leaving high school. Cathy was the primary carer of the children, while Nick managed their finances, including their mortgage and all their bills.

After some time, Nick's behaviour started to change. He started abusing Cathy verbally before escalating the abuse and physically lashing out at her and the children.

Cathy did leave with her children, but eventually ended up returning due to the financial stress and her lack of confidence as she "only" worked part time.

After she returned to the relationship the abuse got significantly worse. In the end, police were called and Nick was required to leave the house.

It was not until Cathy received legal support that she found out many of the loans and utilities had never been paid. Because Cathy had never seen any notices or bills, nor received any communications from the companies, she had assumed they had been paid. It was later discovered that all correspondence had been directed to Nick.

When she sought to change this, some utilities companies did not have a system that enabled the use of two different email addresses without disclosing both party's details, which meant risking her safety.

### Credit repair debt agreements

Another example where we see the design of financial products failing our clients is in relation to credit repair debt agreements - these are agreements where multiple debts are consolidated into one payment plan by a company. The advertising for these products is frequently targeted at vulnerable clients - such that it feels like a solution for a victim-survivor in a financially precarious position. However, we see clients who have incurred significant debt as a result of economic and financial abuse entering into credit repair debt agreements without fully understanding the consequences or what alternative

options are available to them.<sup>10</sup> Before entering into debt agreements, companies that provide this should be assessing if the debt was incurred due to financial abuse and family violence and referring to appropriate support services. It can be problematic when a victim-survivor of financial abuse enters into these agreements when they could have been referred to a financial counsellor to support them accessing a debt waiver or other remedies.

### Income protection/TPD insurance

Another financial product design that could be considered is income protection /TPD insurance. This should be easier to access for women fleeing violence, especially when they have disabilities or chronic health conditions. While an application for TPD insurance is long and complex, access to income protection insurance in some form could be a significant support for women who are unable to work for a long time after family violence.

#### Lucinda's story

Lucinda desperately needed to get a car so she could work after leaving a violent relationship. She had tried to get credit online but was rejected after a credit check.

Lucinda's bad credit was a result of incurring debt to pay for rent and bond when she was leaving the violent relationship.

Lucinda came across an ad on social media for a company who claimed they could fix credit scores. When she contacted them, she was told she could go on a payment plan and after paying the contract for five years she would not have a bad credit rating and she could then get a loan to buy a car.

Lucinda did not know that a Part IX debt agreement that she was entering into was an act of bankruptcy or what the consequences would be for her.

### Mandatory reporting

We do not support implementing mandatory reporting, due to the potential unintended consequences and risk that this will limit help-seeking behaviour by victim-survivors. An approach that requires mandatory reporting does not account for the nuances of family violence. For example, if a victim survivor reports that they are being subject to financial

<sup>10</sup> See further: 'Consequences of a Debt Agreement', available at: <https://www.afsa.gov.au/i-cant-pay-my-debts/debt-agreement/consequences-debt-agreement>

abuse and don't have money for groceries, they could run the risk of a child protection report. Instead of discouraging help-seeking, victim-survivors need choice, agency and the opportunity to obtain support.

## Recommendations

- 12. Financial institutions ensure that their customers are fully informed before entering financial products, including by providing information in an accessible format and by ensuring complex concepts are adequately explained, including for non-English speaking and migrant women.**
- 13. Financial institutions should provide readily accessible information about family violence, legal and financial counselling services that are available.**
- 14. Providers of credit repair debt agreements consider whether the debt was incurred as a result of family violence or financial abuse prior to the agreement being entered into.**
- 15. Providers of credit repair debt agreements ensure the consequences of entering into the agreement are fully explained to and understood by the customer.**
- 16. Access to income protection/TPD insurance be enhanced for victim-survivors of family violence.**

## 4: Role of government agencies in preventing and responding to financial abuse

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Our family violence financial counsellors report a number of ways that government systems are used to perpetrate financial abuse against our clients, and it is critical that government acts to address this risk. Addressing risk of financial abuse needs to be built into service design – the question needs to be asked again, ‘how could a perpetrator misuse this system to commit financial abuse?’

MyGov presents particular risks that need to be addressed in order to prevent, detect and respond to financial abuse. Examples where a victim-survivor's MyGov identity is used (through theft or coercion) to perpetrate financial abuse include:

- Perpetrating GST tax fraud through a victim-survivor's MyGov account. Using the ATO services accessible through MyGov, perpetrators can enter, or coerce a victim-survivor to enter inaccurate estimates for business GST, which calculates a GST refund

that is owed. The ATO almost immediately pays out a large amount of cash for that refund, but if it is discovered to be fraudulent the victim-survivor is left with a large tax debt to pay back.

- A perpetrator using a victim-survivor's MyGov details to register ABNs and ACNs that are then misused in various ways. These are too easy for people to obtain and many aren't aware of the associated responsibilities.

### Katarina's story

Katarina and her husband were unable to work during the COVID-19 pandemic. They had two small children and work was intermittent for them, especially during the lockdowns. During this time, the children were not able to go to school, so pressure was on Katarina to look after the children. Katarina noticed Thomas became obsessed with online activities, but managed his behaviour by not talking to him about it as he was aggressive and defensive. Things were tight in their budget as the bills were piling up and they were falling behind on rent.

Thomas told Katarina he could get some work if he had an ABN, but that she needed to go online and do it through her MyGov account. By this time Thomas' moods were becoming more unpredictable. She didn't want to question him because she was concerned about her and the children's safety if he reacted aggressively. Katrina didn't understand the process or exactly what her husband wanted, but he reassured her that he would assist, and guided her through the process online. When Katrina finally separated from him, she received a GST Tax debt of over \$20,000 and had no idea what it was for and what to do.

- A perpetrator misusing a victim-survivor's Tax File Number (for example to say that a victim-survivor is employed by a business and receiving a wage in order to reduce tax liability and/ or keeping the wage for themselves). The implications for a victim-survivor include impacting on their ability to receive Centrelink payments and other support when they leave a violent relationship.

### Jill's story

Jill had been in a relationship with David. She experienced many forms of family violence, both during the relationship and after it ended, including financial and economic abuse.

During their relationship David forced her into a position of relying on him financially while often denying her access to money. David owned a company at the beginning of the relationship. He used coercion and threats of violence to use Jill's Tax File Number and claim that Jill was receiving \$80,000 per annum in wages.

Jill did not work for the company, nor did she receive or benefit from these wages. When Jill was able to leave the family violence relationship, she was unable to access Centrelink payments because she was listed as having received an income of \$80,000 per annum.

- Migrant women who face language barriers can register (or be registered by a perpetrator) for ABNs / ACNs without having the implications explained to them. Migrant women escaping family violence who have no access to income support when they are on visas can become desperate for a source of income and can end up in businesses / registering for an ABN. This may be their only way to have some form of income (for example by registering to be a food delivery person through ride share and food delivery apps) but they do not have access to education or an understanding about associated responsibilities, including tax requirements.

Government should take a continuous improvement approach to monitoring and reviewing systems, including MyGov, to prevent, detect and respond to financial abuse that is being perpetrated through those systems. This should include consulting with specialist service providers and advocacy bodies.

### Trang's story

Trang came to Australia with her husband on a business visa, but after several episodes of significant physical abuse left her husband. She had no access to social security and could not get employment. Trang found out through a friend that she could get work by delivering food if she had an ABN. Although Trang could neither speak nor read English, she was able, with assistance, to get an ABN online.

Trang lived off a very small amount of income through this business but had no comprehension of the business requirements regarding taxation. When she was contacted by the ATO for a GST debt she did not understand how or why this happened and had no means to pay.

Furthermore, her mental health had significantly deteriorated due to the traumatic family violence she had experienced, her isolation, and the ongoing stress of family law proceedings. This impacted on Trang's capacity to work as often as she needed to in order to survive and to make payments as was required by the payment plan put in place the ATO.

### Centrelink

There are a number of ways Centrelink processes could be improved to prevent and respond to financial abuse.

#### Centrelink debts

Our family violence financial counsellors report that Centrelink debts present significant challenges for our clients. Seeking a debt waiver for Centrelink debts that have been incurred through family violence and financial abuse is very difficult and requires substantial supporting evidence. Family violence alone is not considered by Centrelink as sufficient for a debt waiver and is not even considered a "special circumstance" that would allow discretion to be exercised to waive the debt. As has been outlined by Economic Justice Australia in its Poverty or Safety Legislative Brief 2024<sup>11</sup>, under current legislation, "special circumstances" waiver provisions cannot be applied where a victim-survivor has not complied with their social security obligations as a result of threat, coercion or violence – regardless of special or exceptional circumstances. That is because discretionary debt waiver is not available if a debtor has 'knowingly made a false or misleading statement or failed to comply with an obligation under social security law'.<sup>12</sup>

<sup>11</sup> Economic Justice Australia, 'Poverty or Safety: Legislative Brief 2024', available at:

<https://www.ejaustralia.org.au/wp-content/uploads/Poverty-or-Safety-Legislative-Brief-2024.pdf>

<sup>12</sup> s1237AAD, *Social Security Act*.

Where Centrelink debts are accrued as a result of financial abuse and then paid back by a victim-survivor before a victim-survivor seeks assistance from a financial counsellor, the debt that has been repaid cannot be returned to the victim-survivor (even in circumstances where they could have qualified for a waiver). There is no consideration by Centrelink about investigating what has occurred in relation to that debt in the context of family violence. There is no option to seek retrospective consideration or repayments back to the victim-survivor once they have paid it, despite the debt having been incurred as a result of financial abuse. We recommend Centrelink take a more considered and flexible approach.

#### Mutual obligations

Mutual obligations requirements and being required to undertake job searching when victim-survivors have left family violence is not appropriate. When a victim-survivor is escaping family violence they are focussed on their immediate safety needs, and they should not be required to undertake job-searching in that context. There are very limited circumstances as to when these requirements are waived by Centrelink, and more discretion is required.

## Dianna's story

Dianna has survived a lifetime of family violence. She experienced significant physical, emotional, sexual, financial and psychological abuse at the hands of her former partner.

Things finally changed when Police were involved, and she went into refuge. After refuge she was required by a Child Protection recommendation to engage in several different counselling sessions and programmes for her recovery. Despite the significant trauma, her job search provider spent the next year consistently requiring her to report in for mutual obligations.

Over the year Dianna also experienced several complications; having her payments cut off completely for a period of time, having her payments reduced and, before they were finally reinstated, having a \$10,000+ debt raised against her during the most difficult time of her recovery. In this time Centrelink requested a child support agreement and withheld complete family tax benefits until this was finalised, despite the fact the father had no contact with the child and a 5 year IVO against him. With the assistance of a financial counsellor, it took over 11 months for Centrelink to rectify her payments. This required dozens of phone calls, attempts to go to Centrelink in person to no avail, going to an MP's office to request help, making a complaint and appealing, before Centrelink resolved the situation and had to back pay her payments.

Over this time, Dianna's stress and anxiety exacerbated significantly, including her feelings of incompetence and hopelessness. She struggled with inability to pay for phone credit, falling behind on rent several times, not being able to pay for utilities, not being able to pay specialist appointments, not being able to buy all the things she needed for her young child and at times not having sufficient food in her cupboards to feed them both. Centrelink as a system was another perpetrator of economic abuse, and the financial counsellor had to work with Dianna to assist with these rising debts.

Centrelink informed Dianna that if she wanted an exemption from job searching activities, she either had to go to the doctor or see a social worker. At the local bulk billed clinic she would never get the same doctor and they did not like completing forms when they did not have a relationship with the patient. Centrelink told her that she could go to a social worker, but it was impossible to get an appointment through the phone service and she was disregarded as a priority because her family violence was not recent. 12 months on, her job search provider is still requiring job searching activities when she is now attempting to recover from the abuse of her ex-partner and Centrelink.

## Centrelink

There is significant opportunity for Services Australia to better prevent, detect and respond to financial abuse perpetrated via Centrelink. Our financial counsellors report debt collectors placing victim-survivors on Centrelink arrangements (deducting their Centrelink income) when those debts have been incurred by a perpetrator through financial abuse (or have been incurred by a victim-survivor as a means of survival). Multiple Centrelink arrangements may be entered into for one victim-survivor, which has



a very significant impact on the amount of Centrelink income that they then receive. Consideration could be given to reducing the number of commercial companies that can access Centrepay or to introducing alerts when customers have a number of Centrepay leases, which could require they have a discussion with the customer that includes questions about financial abuse. Centrelink should take a trauma-informed approach to payment plans for victim-survivors of family violence.<sup>13</sup>

### Centrelink Crisis Payment

The Centrelink Crisis Payment for extreme circumstances of domestic and family violence is a modest yet important payment to support victim-survivors leaving violent relationships, however the seven-day timeframe to apply for the payment is insufficient. The existing timeframes for contacting Centrelink and submitting a Crisis Payment claim do not appropriately account for the complex dynamics of crisis and trauma experienced by victim survivors leaving violent relationships. For these victim-survivors, their immediate safety is the priority in the first seven days. It is our experience that many clients don't even know about the Crisis Payment until their situation stabilises after considerable time.<sup>14</sup>

Other barriers to accessing these payments include:

- the requirement to already be on an income support payment.
- the requirement that the person the victim-survivor is leaving (or that is being removed) needs to be registered as a partner on Centrelink records, in the case of intimate partner violence.

### Accessibility of Services Australia systems and processes

Ongoing issues with accessibility of Centrelink systems can exacerbate the impacts of financial abuse for our clients.

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<sup>13</sup> For further discussion in relation to family violence and social security debt, see Economic Justice Australia, DEBT, DURESS AND DOB-INS: Centrelink compliance processes and domestic violence, November 2021. Available at: [https://www.ejaustralia.org.au/wp-content/uploads/EJA\\_Full-Report2021\\_DebtsDuressDobins-FINAL.pdf](https://www.ejaustralia.org.au/wp-content/uploads/EJA_Full-Report2021_DebtsDuressDobins-FINAL.pdf)

<sup>14</sup> See further, Economic Justice Australia, 'Poverty or Safety: Legislative Brief 2024', available at: <https://www.ejaustralia.org.au/wp-content/uploads/Poverty-or-Safety-Legislative-Brief-2024.pdf>

For example, it is very difficult for our clients that the Centrelink phone number is not free – we commonly see clients using up all their phone credit on hold for hours, and they often get cut off before having their call answered. For a victim-survivor of family violence and financial abuse, who may be experiencing safety concerns and a precarious financial situation, this is another exhausting hurdle that impedes their ability to leave a violent relationship and work towards recovery.

The Centrelink online system is challenging to navigate, and the processing times are too slow. Centrelink systems can be difficult to understand (especially for women with language barriers), and Centrelink processes can be complicated. This is especially the case where there are blockages within the system that stop online applications from progressing (for example where documentation or information is required from the perpetrator of family violence). When Centrelink systems and processes are challenging and difficult, victim-survivors in desperate situations feel they have no choice but to return to the perpetrator because they can't access any income.

### Enabling professionals to support victim-survivors

It is important that professionals working to support victim-survivors of financial abuse to navigate complex government systems and processes are appropriately recognised. For example:

- Our financial counsellors and social workers encounter the same challenges that are experienced by our clients in terms of significant phone wait times when dealing with Centrelink/Services Australia, which impacts our service provision and our ability to respond to risk.
- The ATO requires our financial counsellors to provide their personal TFN as proof of identity when they are acting in a professional capacity advocating on behalf of clients, which is inappropriate. For example, our financial counsellors have reported numerous cases where they have had to provide their personal TFNs to prove their identity whilst both our clients and interpreters have been present.

Government systems must better recognise and empower professional advocates working to support victim-survivors to navigate those systems. Providing a dedicated Centrelink phone line for professionals working with clients in complex situations of family violence, including women's legal services front-line staff, and appropriate ATO processes to confirm identity of professional advocates, would be important steps in this regard.

### Escaping Family Violence payments

We welcome the Australian Government's investment in the Leaving Violence Program and in providing financial support for those escaping violence. We note comments made by other submissions in relation to the risk of financial abuse occurring in relation to this financial support. It is critical that any measures to address potential misuse do not have unintended consequences (for example do not unnecessarily restrict or limit victim-survivors' access to these payments). As a means of addressing this issue, we recommend that victim-survivors who are eligible to receive Escaping Violence Payments be referred to specialist family violence financial counselling, and that sufficient resources are dedicated to support this service provision.

## Recommendations

- 17. Government systems such as MyGov be regularly reviewed with the input of specialist service providers within the family violence sector to ensure a continuous improvement approach to preventing, detecting and responding to financial abuse.**
- 18. Services Australia develop a clear family violence policy as to how debts incurred as a result of family violence will be treated, and amend the *Social Security Act* to allow access to special circumstances debt waiver provisions, where the debt results from a false statement, misrepresentation act or omission made as a result of coercion or duress, or as a result of a false statement by a perpetrator.**
- 19. Services Australia implement reforms to assess debts in receipt of FTB/SPP at an early stage to determine if it is due to family violence. If it is found to be due to family violence, an opportunity to waiver that debt be introduced.**
- 20. Services Australia implement reforms to cease mutual obligations for victim-survivors of family violence.**
- 21. Services Australia introduce a requirement that a suitability assessment is conducted for clients when there is more than one Centrepay deduction on an account.**
- 22. Services Australia continue and expand on efforts to increase access to Social Workers for victim-survivors of family violence.**

- 23. Timeframes to apply for the Centrelink Crisis Payment for extreme circumstances of domestic and family violence be extended.**
- 24. Services Australia work to enhance capability and understanding in relation to the financial impact of leaving family violence which includes both the immediate response to financial abuse as well as long term impacts and recovery for victim-survivors.**
- 25. Government appropriately recognise the important role of professional advocates in supporting victim-survivors to navigate complex systems.**
- 26. Services Australia ensure that professional advocates working with victim-survivors in complex situations of family violence have access to a dedicated phone line to advocate for their clients (including women's legal service family violence financial counsellors, lawyers and social workers).**
- 27. ATO cease requesting professional advocates provide their personal TFN as proof of identity when acting in their professional capacity.**
- 28. Victim-survivors who are eligible for the Escaping Violence Payment are referred to appropriately qualified financial counsellors. Service providers are appropriately resourced to ensure service delivery meets demand for family violence financial counselling.**

## 5: Funding and operation of advisory and advocacy bodies

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There is significant ongoing demand for financial counselling to support victim survivors of family violence. At Women's Legal, we see that most victim-survivors of family violence experience financial abuse, which can prevent them from leaving a violent relationship and rebuilding their lives. Women's Legal's family violence financial counselling services commenced in 2014, with the highly successful 'Stepping Stones' project in response to the significant need for financial counselling help. The associated research report, 'Stepping Stones: Legal barriers to economic equality after family violence' made significant contributions that led to important systemic reforms.<sup>15</sup> In the initial two years of the project, 170 victim-survivors received assistance to start rebuilding their lives.<sup>16</sup> In the context of the ongoing national crisis of family violence, high quality financial counselling

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<sup>15</sup> Smallwood, E. (2015) Stepping Stones: Legal barriers to economic equality after family violence, Women's Legal Service Victoria, Melbourne. Available at: <https://www.womenslegal.org.au/wp-content/uploads/2021/04/Stepping-Stones-Report.pdf>

<sup>16</sup> See further: Women's Legal Service Victoria, 'Impact Report 2016: Stepping Stones', 2016. Available at: [https://womenslegal.org.au/impact\\_report\\_2016/projects/steppingstones/](https://womenslegal.org.au/impact_report_2016/projects/steppingstones/)

services for victim-survivors remains a critical component of recovery, and appropriate resources must be dedicated to ensure service provision meets demand.

Our financial counsellors have described their role as follows:

*We help women navigate financial problems they have after leaving family violence relationships. This includes assessing risk, providing information about their options, rights and responsibilities and may include advocacy: that is speaking to companies, businesses or government departments on their behalf. Commonly we talk to debt collectors, gas and electricity companies, water companies, telecommunications, banks and creditors, Centrelink, the ATO and Fines Victoria. Ultimately, we help women get rid of debt and move forward with their economic recovery after leaving family violence.*

The work of family violence financial counsellors is very different to generalist financial counselling services. Working with victim-survivors of financial abuse is complex and the timeframes for providing support can be lengthy. Women's Legal data from the first half of 2024 shows that the average time our financial counsellors worked to support victim-survivors was 4 and a half months, with the longest being 15 months. This is due to the impact of trauma on our clients, as well as:

- complex intersecting systems like family law, migration, child protection, and family violence
- the layered nature and impact of violence on victim-survivors' lives – physiologically, socially, psychologically, legally and economically.

The impact of violence lasts not only during relationships but for years afterwards. The period of recovery to financial stability takes a long time – particularly for women who become entrenched in cycles of poverty.

The women we work with are in very precarious positions and have experienced significant trauma. Our specialist family violence financial counsellors, lawyers and social workers all manage risk, including applying a MARAM risk assessment to cases wherever relevant. This is a unique element of the integrated services we provide for victim-

survivors. We also offer secondary consultations alongside other practitioners and have longstanding partnerships with other CLCs that enhance our referral pathways.

It is important that programs supporting financial counselling for victim-survivors of family violence properly account for the complexities of working in this space. It is one of the key reasons why ongoing training is critical for professionals interacting with victim-survivors of financial abuse right across the system and at every touch point.

The administrative arrangements for funding financial counselling programs must be efficient and fit for purpose. There is scope to refine the way programs are administered to improve the efficient use of limited resources available, to ensure reporting requirements are fit for purpose, to better support continuous improvement and impact measurement, and to enhance sustainability of service provision.

## **Recommendations**

- 29. Funding for legal assistance should allow for wrap-around support services, including specialist family violence financial counsellors, to ensure best outcomes for clients who have experienced financial abuse.**