



10 February 2021

Kingsford Legal Centre

Submission to the Inquiry into the National Consumer Credit Protection
Amendment (Supporting Economic Recovery) Bill 2020

We welcome the opportunity to make a submission to the Inquiry into the National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020 (the Bill).

We consent to this submission being published by the Senate Standing Committee on Economics. For all case studies in this submission, names and identifying information have been changed to protect confidentiality.

Summary of recommendations

In summary, our recommendations are as follows:

1. The Bill should not be passed;
2. Responsible lending obligations should not be weakened, but should be applied as recommended by the Banking Royal Commission; and
3. Implement the Small Amount Credit Contract (SACC) Review's recommendation to protect against unaffordable payday loans by ensuring that the total amount of repayments required of a borrower under all payday loans cannot be more than 10% of the borrower's net income in a fortnight.

About Kingsford Legal Centre

Kingsford Legal Centre (KLC) provides free legal advice each year

Thomas' story

Thomas, an elderly pensioner with multiple disabilities, was being harassed by a Payday lender. Thomas had signed up for the loan a number of years ago but quickly fell behind in repayments due to excessive interest, penalties and monthly fees. The lender then sold the debt to a debt collection agency that was chasing Thomas for payment. KLC was contacted by Thomas's doctor, as the stress of being chased for money Thomas could not repay was causing his health to deteriorate. Thomas had originally taken out a loan for \$600 and had provided bank statements and an income

vulnerable people in our community. It is not an appropriate response to the COVID-19 pandemic, which calls for stronger protections and debt relief.

We provide comments below on key issues with the Bill. We have not commented on every issue with the Bill.

Recommendation 1: The Bill should not be passed.

Responsible lending obligations should not be weakened

The responsible lending obligations in the National Consumer Credit Protection Act 2009 (the Act) play an important role in protecting vulnerable people from inappropriate and unaffordable debt. These include obligations to make reasonable inquiries about the borrower's requirements and objectives,⁴ take reasonable steps to verify the borrower's financial situation,⁵ give the borrower information about fees and charges,⁶ and not help the borrower take on debt that the borrower will likely be unable to afford.⁷ They are modest obligations that can nonetheless make a big difference in the long term to borrowers.

We have successfully relied on responsible lending obligations to achieve relief for people with inappropriate and unaffordable debt.

Gareth and Vera's story

Gareth and Vera had a mortgage on their home, where they live with their son, who has a disability. Gareth and Vera both worked in unstable jobs that did not provide a reliable income. A mortgage broker encouraged Gareth and Vera to take out multiple loans to refinance their mortgage and purchase an investment property, insisting that the rental income would help them to repay the mortgage on their home. Gareth and Vera trusted the broker's advice and a bank granted Gareth and Vera the loans. Their unstable employment and son's disability contribute to Gareth and Vera falling behind on their loans.

⁴ National Consumer Credit Protection Act 2009 (Cth) s 117(1)(a).

⁵ National Consumer Credit Protection Act 2009 (Cth) s 117(1)(c).

⁶ National Consumer Credit Protection Act 2009 (Cth) s 121.

⁷ National Consumer Credit Protection Act 2009 (Cth) s 123(1)–(2).

Gareth and Vera were deeply distressed by t

Yours Faithfully
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