FEDERATION OF COMMUNITY LEGAL CENTRES VIC

COVID RECOVERY: PEOPLE IN FINANCIAL HARDSHIP

The pandemic has placed many Victorians in financial hardship. The re-opening of businesses and reactivation of the economy is rightly a core priority for governments at the local, state and federal level, and will support many people to return to financial stability. However, it is crucial that Victoria's COVID recovery is a recovery for everyone – especially people who were experiencing disadvantage before the pandemic hit, and who have been disproportionately affected by its impacts.

The Federation is calling for measures to support everyone in Victoria – no matter their socio-economic position – to recover and live in financial security in a 'COVID Normal' world. This includes recommendations to retain measures that have softened the blow of COVID, to embed protections against predatory behaviours targeting people experiencing hardship, and to change parts of our legal and administrative systems that are – contrary to government recovery goals – entrenching financial hardship within our community.

As a result of COVID-19, more people in Victoria are at risk of experiencing financial hardship, and those who were already disadvantaged are feeling the strain more acutely than ever. Australia already has one of the highest household debt levels in the world, with the ratio of household debt to disposable income at 185%[1]. In October 2020, a University of Melbourne survey found more than 20% of people were feeling financially stressed, and having difficulties paying for essentials.[2] People experiencing financial troubles are vulnerable in multiple ways: from exploitation by dodgy 'payday loan' companies, to the compounding effects of rental arrears, utilities bills, mortgage stress and health expenses, to adverse action in relation to unpaid fines and escalating infringements. Sustained financial difficulty can lead to poorer outcomes across many aspects of people's lives, from educational outcomes for children through to chronic physical and mental ill-health.

The response to COVID-19's economic impact by both the Federal and Victorian governments has sought to soften the blow of loss of employment, particularly through changes to the social security system and payments to support people excluded from the Centrelink safety net, but also through suspending fine debt recovery, and requiring energy retailers to provide more assistance to people struggling to pay utilities bills, and so on. These measures have been vital in supporting people in Victoria facing financial hardship as a result of COVID-19, but also in changing the lives of people already reliant on social security payments or otherwise experiencing hardship.

However, some measures implemented at the outset of COVID-19 are imminently coming to a close – despite it being clear that full economic recovery from the pandemic will take at least several years – and some crucial supports were never extended to some groups vulnerable to the financial impacts of the pandemic. At the same time, protections against predatory or unfair behaviour in the financial and essential services sector are incomplete, and some are even at risk of being wound back. This means that people in financial hardship remain in danger of exploitation.

A just and equitable recovery must retain and enhance measures to ensure that everyone is supported to get back on their feet in a sustainable, dignified way over the months and years that the economic rebuild can be expected to take.

RETAINING AND EXPANDING MEASURES TO EASE THE FINANCIAL IMPACTS OF COVID

Government agencies have responded to COVID-19 by introducing a welcome suite of measures to provide respite to people facing fines, infringements and warrants, and government-funded Utility Relief Grants ('URG's) have allowed people to temporarily cover essential utility bills in periods of acute financial crisis. However, a clear gap has emerged in relation to the telecommunications sector. The lack of effective obligations on telecommunications providers to offer hardship support to customers has already resulted in vulnerable people losing access to digital technologies essential for staying connected with loved ones, healthcare, employment, and government services, and will continue to expose people in hardship to further disadvantage without urgent change. The Federation believes that measures that have been effective in protecting people from further hardship must be retained and expanded, while new steps are vital to expanding protections to the increasingly essential telecommunications industry.

FINES AND INFRINGEMENTS

Fines Victoria suspended recovery of debts owed to it in the early days of the COVID-19 outbreak. This action appropriately recognised the serious financial impacts of the pandemic on people across Victoria – but Fines Victoria resumed its debt recovery campaigns in June before the emergence of the 'second wave'. Recommencement of debt recovery action now – while the immediate impacts of COVID-19 continue to be felt – unfairly disadvantages all Victorians experiencing financial insecurity due to or during COVID-19.

Recommendation: Continue the suspension of debt recovery action by Fines Victoria for all non-safety related fines, including public space, public transport, toll, council and voting offences until at least March 2021.

UTILITY RELIEF GRANTS

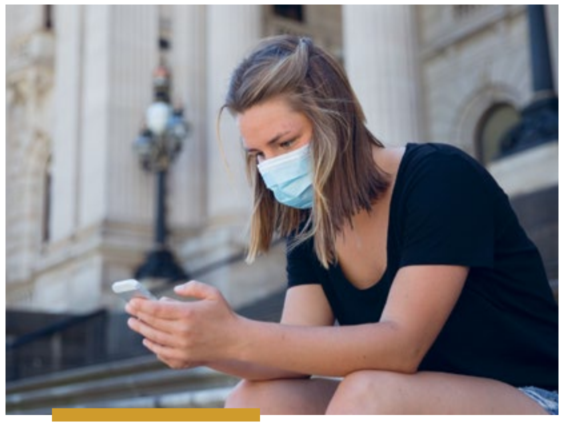
The response to COVID has included measures to soften the blow of financial hardship in relation to utilities. URGs are existing government payments available to people facing acute financial crisis, and comprise sums paid directly to utility retailers to cover part or all of the applicant's utility bill. URGs are a critical intervention that can prevent disconnections and debt spirals for households. The Energy Services Commission, which regulates Victoria's energy, water and transport sectors, introduced a requirement, effective 1 October 2020, that utility retailers must assist eligible customers to complete and submit a URG application. This is an ongoing requirement, and is a positive recognition of the burden that spiralling utilities costs can otherwise have on people undergoing financial hardship.

The Federation has seen the positive impacts that URGs have made to its members' clients over the course of the pandemic, and strongly supports the requirement on retailers to support customers in submitting URG applications. The Federation also supports the tariff check requirement being made permanent, and a moratorium on disconnections. The Federation also recommends a permanent increase to the URG amount should be instated to ensure that the payment sufficiently protects people in need, given rising energy costs and the likelihood that people will continue to spend more time at home.

Recommendation: Permanently increase the amount available under Utility Relief Grants

TELECOMMUNICATIONS REGULATION

Utilities providers are regulated to ensure that they take steps to assist consumers facing financial difficulties, which have been vital in protecting Victorians through the COVID crisis, and will continue to be crucial throughout the recovery period. In contrast, despite telecommunications now an essential service for many Victorians, very few obligations exist in this sector. Instead, an industry code forms the bulk of consumer protection mechanisms, and fall far short of equivalent protections for customers of other essential services.



There is currently no requirement on telecommunications providers to offer an affordable payment plan to people who are experiencing difficulty in paying their phone or internet bills. While providers are required under the Telecommunications Consumer Protection Code ('Code') to have a hardship policy which includes at least three options set out in the Code, the provider retains the choice of which option to offer consumers based in its assessment of the consumer's needs which may be neither fair nor accurate.

There are also minimal assurances to protect against the use of telecommunications accounts to perpetrate financial abuse in the family violence or elder abuse context. Where other sectors have developed controls to prevent financial coercion, there is no enforceable or standardised mechanism to prevent telecommunications account holders remaining liable to the costs or debts of family members who use services linked to their account. In fact, the Code actually permits this. Clause 6.1.3. of the Code simply requires a provider to tell the account holder that they remain liable for the use of the service if the provider is aware the account holder is not the end user. This creates a clear risk of financial abuse.

Finally, telecommunications suppliers are permitted under the existing industry code to restrict, suspend or disconnect a service without notice if they assess a customer as presenting an 'unacceptably high credit risk'.[3] This stands in sharp contrast to the energy retail sector in Victoria, where energy retailers can only disconnect consumers as a last resort, after meeting obligations contained in the Essential Services Commission's (ESC)'s Payment Difficulty Framework, and after following stringent notification requirements. These protections recognise the adverse consequences of electricity disconnection for both health and financial wellbeing.

Disconnection from a phone or internet service can also have serious implications, particularly for people experiencing disadvantage. Disconnected customers' social connections, capacity to work and communicate with employers, and ability to access important government and health services, especially in the context of ongoing digitisation of government services, can all be affected. Yet, despite the impacts that disconnection from a phone or internet service can have, no equivalent protections exist in relation to those services.

The Federation recommends the urgent introduction of measures to protect telecommunications consumers as part of the COVID recovery. This is a key part of ensuring that our consumer protections are sufficient and able to be directly enforced by an empowered regulator, and that the significant numbers of Victorians experiencing financial hardship are not pushed into further difficulty by inadequate and unfair actions by telecommunications providers.

Recommendation: Introduce enforceable regulatory measures to protect telecommunications consumers

EMBEDDING PROTECTIONS AGAINST PREDATORY BEHAVIOUR

Financial hardship places people at risk of exploitation by predatory behaviour, as debt vultures and dodgy loan companies seek to take advantage of people's desperation to their own gain. The economic impacts of COVID risk pushing more and more people into financial trouble – and thereby increasing exposure to predatory behaviours in the debt and credit sector. At the same time, financial predators are using increasingly sophisticated techniques to target people experiencing vulnerability or disadvantage.

Australia's consumer laws provide some protection against predatory behaviours in the debt and credit sector, but are neither comprehensive nor sufficiently well-known by the community to stop these predatory practices. This section sets out recommendations aimed at reinforcing, expanding, and retaining, as necessary, elements of consumer law protection that the Federation believes are essential to a just recovery period.

"DEBT VULTURES"

So-called 'debt management' firms target people concerned about bills, home repossession or their credit reports. These firms promise 'a life free from debt' or a 'clean' credit rating, offering quasi-legal or quasi-financial advice on debt options, debt negotiation, 'repairing' credit reports, arranging debt agreements (a form of insolvency), managing money, and so on. The problem is twofold: the firms charge exorbitant fees, which the person seeking help often can't afford, and they often can't deliver on what they promise. CLCs assisting clients with credit and debt issues frequently encounter clients who have signed up for debt services out of desperation and fear, only to be hit with fees for services not delivered, and threats of legal action upon non-payment. This only serves to increase the financial and emotional impacts of pre-existing money stress.

Debt vulture firms have evolved in a regulatory black hole: there is no legal requirement to hold a licence for the kind of dubious 'debt management' services they offer, or even to meet basic competency and ethical standards.

There is a real and significant risk that these problematic firms will ramp up their efforts in the COVID-19 recovery period, in light of the serious and ongoing financial hardship that many Victorians are finding themselves in. Without new laws to fix the regulatory black hole that has allowed this predatory and unethical conduct in the past, people in financial trouble in the wake of COVID will remain exposed to exploitation. The recovery response must include measures to fix this regulatory gap and combat unfair conduct by debt management firms. This must cover firms that represent consumers in disputes with creditors, and firms that provide advice or other services 'behind the scenes'.

Recommendation: Prevent unethical and predatory conduct by debt management firms through the introduction of new legislation or regulations

PREDATORY LENDING

PAYDAY LOANS AND CONSUMER LEASES

Payday loans – short-term, high-interest cash loans of up to $2000 – and consumer leases (also known as rent-to-buy) are extremely expensive forms of credit targeted at people in financial difficulty. The way that credit companies offer these schemes means that many people who sign up for them end up far worse-off financially. Predatory lending is an umbrella term for loan practices – including payday loans and rent-to-buy schemes – that are unfair, irresponsible and aggressively targeted at people experiencing financial hardship. Credit companies market their products to people facing money problems, such as a utility bill or car registration they can't pay, while rent-to-buy schemes sell the promise of items like cars, air-conditioners, and so on, over a series of instalments. The problem with both schemes is that they're deliberately sold to people who can least afford the exorbitant fees and charges associated with these products. Payday loans carry extremely high equivalent annual interest rates (often more than 200% per annum), forcing people to take out loan after loan to make repayments and ultimately trapping them in a loan spiral, while rent-to-buy schemes also carry high fees and charges and often end up costing far more than the value of the product itself – profiting the company to the expense of the consumer. In fact, there are no cost caps at all for consumer leases.

Australia already has one of the highest rates of household debt in the world, and COVID has seen, and is likely to continue to see, debt levels increase significantly. As more people come under financial strain, payday loan companies will have a greater market for their unfair, predatory lending practices. There was a review into the sector in 2016, which made a number of recommendations for reform. Despite the Federal Government accepting the vast majority of those recommendations, recently it watered down those commitments. We are still yet to see legislation introduced to Parliament. All recommendations from the 2016 review must be implemented in order to reduce the harm from these products.[4]

OTHER TYPES OF LENDING

Responsible lending laws exist to protect people from unconscionable practices in the financial services sector. These laws apply to consumer credit, including mortgages, personal loans, consumer leases, payday loans, car loans and credit cards. Companies providing these loans must make reasonable enquiries about loan applicants' financial circumstances and objectives, take steps to verify this information, and assess whether the credit is 'not unsuitable' before providing a loan. The laws are enforced by the Australian Securities and Investments Commission.

The Banking Royal Commission uncovered and publicised innumerable stories of people across Australia being deliberately mis-sold unaffordable credit, despite these responsible lending laws. In light of this, Commissioner Kenneth Hayne recommended that the laws be strengthened and enforced (Recommendation 1.1). However, in September 2020, the Federal Government announced its intention to repeal the responsible lending laws for all forms of consumer credit, except payday loans and consumer leases. The Federation and the Victorian CLC sector strongly oppose this action.

In order to be a recovery for everyone, the economic rebuild from COVID-19 must be shored up by mechanisms to protect people experiencing hardship from financial exploitation. This means that the existing responsible lending laws must be maintained and better enforced – and certainly not rolled back or undermined. Doing so would hurt individuals and families, hinder our economic recovery and contradict the very first recommendation of the Banking Royal Commission.

Recommendation: Retain and enforce existing responsible lending laws

SUPPORTING ALL VICTORIANS TO LIVE IN DIGNITY, THROUGH THE COVID RECOVERY AND BEYOND

The increase to social security payment amounts has softened the financial blow of COVID-19 for people in hardship across Australia – but it has also transformed the lives of people already relying on social security payments. There have been widespread reports of people being able to afford fresh fruit and vegetables, safe housing and medical treatment for the first time in years as a result of the increase to the payments. If we are to rebuild the economy in a way that is just, equitable and leaves no one behind, we cannot return to levels of social security that place people below the poverty line. At the same time, the social security safety net must extend to everyone experiencing financial hardship, including the temporary visa holders who form a vital part of Victoria's economy and society.

SOCIAL SECURITY RATES AND RULES

The introduction of the Coronavirus Supplement, $550 a fortnight, effectively doubled the ordinary rate payable to the more than 1.6 million people who receive the JobSeeker payment (formerly named Newstart). Before COVID-19, the basic rate of this payment had not materially increased since 1994, despite the steady rise in cost of living. Households relying on social security payments were living in poverty, and were five times more likely to be living below the poverty line than households earning a wage as at 2018.[5] It is impossible to budget household expenses on the 'normal 'rate of $550/fortnight: research undertaken in 2019 found that, after housing costs, households dependent on Newstart were, on average, $124 a week below the poverty line.[6]

The other key change was the suspension of the Liquid Assets Waiting Period ('LAWP'). Usually, applicants for social security who have savings are required to wait up to 13 weeks to access payments, effectively guaranteeing their dependency on social security by forcing them to use up their own personal safety net.

The LAWP affects certain groups particularly harshly, with Community Legal Centres frequently assisting:

- Older people who haven't reached pension age and who are forced to use up a significant portion of their retirement savings before qualifying for income support, then facing age-related barriers to employment
- Younger people in insecure work who are forced to decimate savings, including any superannuation they may have drawn down, to make ends meet
- Single parents who may not have strong support networks and who are without a financial buffer to enable them to adequately provide for their children, keep up to date with utility payments, and meet unexpected expenses such as car repairs

The LAWP was suspended as part of the social security response to COVID-19, allowing people affected by the economic shutdown to retain a degree of financial security.

No one wants to be dependent on social security, but there simply aren't enough appropriate employment opportunities for everyone who can work to be in secure, sufficient work. People are still losing their jobs, and applying for social security payments, as businesses that had managed to survive the first months of the lockdown close down. It will take time – years – for Victoria's economy to recover. However, the Federal Government is persisting with its plan to reinstate the LAWP and to reduce social security payments to their insufficient, poverty-inducing pre-COVID rates before the end of 2020.

We have seen the huge difference that this increased payment has made in the lives of people across Australia, and we have seen how vital the social security safety net is to people who become unemployed or are otherwise affected in times of crisis. We have also seen that the Federal Government can provide sufficient funds to bring its citizens out of poverty.

The COVID recovery must build on, not undermine, the progress made in enabling Australians to live in dignity. The Federation, alongside charities and social support organisations across Australia, believes that the proposed reduction in social security payments will serve only to push vulnerable people further into financial hardship – with no long-term benefit to the economy as a whole.

People in poverty have no money to spend to stimulate the economy, and are more likely to access public services such as health and housing. More importantly, however, the opportunity to live healthy, dignified lives that has been afforded through the long-overdue increase to social security payments cannot fairly be taken away from people in hardship, especially during the recovery period where other income sources remain insecure and hard to find.

Recommendation: Retain increased social security payments and continue the suspension of the liquid asset means waiting period

INTERNATIONAL STUDENTS

Students from all over the world travel to Australia for tertiary education, and are a vital part of our cities' culture and society, as well as providing a key source of revenue for both the university sector and the Australian government. However, international students are not, generally, eligible to receive social security payments. With the retail and hospitality sectors that provide most of their employment shut down, international students have been unable to work, and are entirely dependent on charity or on payments from families overseas – many of whom live in countries worse-hit by the virus than Australia.

The Victorian Government, in recognition of the dire situation facing many international students, set up a $45 million International Student Emergency Relief Fund to provide one-off payments of up to $1,100 to students affected by the pandemic.[7] These payments have been a vital boost to recipients, but with the ongoing shutdown students are still experiencing extreme financial hardship.

A just and equitable COVID recovery cannot be one that leaves people behind, just because of the type of visa they hold and regardless of their ability to work, to return to their home country, or to support themselves independently. While some retail and hospitality businesses are reopening, it will take time for many to return to their pre-COVID operating levels, both because of ongoing restrictions and because of broader economic challenges faced by business, and not all international students were employed in these sectors. The Federation recommends that government recovery measures include supports for students in need until they are able to access alternative, secure forms of income.

Recommendation: Include support for international students in need as part of recovery measures

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