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

**February 2021**

*[www.anglicare.asn.au](http://www.anglicare.asn.au)*

## About Anglicare Australia

Anglicare Australia is a network of independent local, state, national and international organisations that are linked to the Anglican Church and are joined by values of service, innovation, leadership and the Christian faith that every individual has intrinsic value. Our services are delivered in partnership with people, the communities in which they live, and other like-minded organisations in those areas. With a combined income of over \$1.94 billion, a workforce of over 11,000 staff and 6,000 volunteers, the Network delivers more than 50 service areas in the Australian community. Our services are delivered to over 474,00 people and reach close to 1.37 million Australians in total. In all, Anglicare services reach over 1 in every 19 Australians.

As part of its mission the Anglicare Australia Network “partners with people, families and communities to provide services and advocacy and build resilience, inclusion and justice.” Our first strategic goal charges us with reaching this by influencing “social and economic policy across Australia with a strong prophetic voice; informed by research and the practical experience of the Network.”

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## Introduction

Anglicare Australia appreciates the opportunity to submit to this inquiry into the National Consumer Credit Protection Amendment (Supporting Economic Recovery) Bill 2020.

Our Network believes in a fair society where nobody lives in poverty. Every year we work with and for over 100,000 clients through delivery of Emergency Relief services, including financial support services such as No Interest Loan Schemes and financial counselling and literacy programs in every state and territory. Our Network has been providing these services for over twenty years. Many of our clients are forced, from the outset, to manage on low, restricted, or inadequate income and which can make them vulnerable to debts such as credit cards, store cards, personal loans, pay-day loans and utility debts.

This Bill acts as a white flag in the battle against amoral lending practices and goes against the best interests of people on low incomes that would be deeply impacted if it is passed. The consumer protections for Small Amount Credit Contracts and consumer leases will not adequately support people nor neutralise the harm other parts of this Bill will cause. We strongly oppose this Bill and urge the Committee to reject it in its entirety.

Instead of consigning people to debt traps, the government should be supporting people on low incomes by investing in affordable housing and adequate levels of income support.

## Impacts of the Bill

### Schedule 1

Schedule 1 of this Bill weakens responsible lending obligations by removing civil and criminal penalties for irresponsible lending and reducing assessment and verification obligations of lenders.

Lenders would no longer be obliged to consider people's requirements and objectives of the product or determine loans are 'not unsuitable' for a borrower. It would shift responsibility from lender to borrower by allowing lenders to rely on financial information without verifying it. This directly defies the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry's first recommendation that "the NCCP Act should not be amended to alter the obligation to assess unsuitability." This recommendation was accepted by the same Government that introduced this Bill.<sup>i</sup>

Our Network has encountered many cases where the suitability test has not been applied, causing vulnerable consumers hardship. We firmly believe this behaviour will increase in frequency if this Bill is passed. This Bill would also diminish borrower's rights and opportunities to seek redress against banks and lenders. Ultimately, these changes would see lessened rights and opportunities for people to take action over wrongdoing by lenders. Both issues are clearly evidenced in the case study below.

### Case Study 1

One Anglicare client, John (please note name has been changed) was 75 years old and living in a retirement village in 2016. His sole source of income was Centrelink - the aged pension. He had bipolar and was being financially supported by his daughters. John was almost 72 when he obtained a personal loan of \$5,000 in 2013 from a well-known bank. He asked for a loan for \$2,000 and was told that he would have to borrow more than the amount he requested. His daughter also said that the bank had given him a credit card, and his daughters had to pay it off as he "maxed it out" and could not afford to pay it. It was hard on the family to support him financially and John's family told Anglicare he contemplated suicide. John's family tried to find out from the bank why he was loaned money as he had bipolar and was on the aged pension, but the bank did not respond.

The National Consumer Credit Protection Act (NCCP) currently requires that when a loan is granted it must be assessed as being "not unsuitable". The Anglicare financial counsellor requested and received copies of documents relating to this loan from the bank. When they reviewed the documents relating to the loan given to John it was apparent he could not afford to repay the loan without substantial hardship. It did not appear that reasonable steps by the bank were taken to verify John's financial situation. John could never have afforded the loan repayments without support from his daughters and without substantial hardship.

With the financial counsellor's help John requested a refund of any amount he has paid above the amount of benefit received, confirmation that he was released from the debt and no default listing had been or would be made on his credit report and payment of compensation, which the bank agreed to do. This action was only possible because of the current provisions.

## **Schedule 2-6**

The introduction of protections for small amount credit contracts that have been included in this bill fall short of recommendations of the 2016 Review of Small Amount Credit Contracts (the Review). The proposed protected earnings amount caps on pay-day loans and consumer leases in this Bill are twice the level than recommended in the Review, and the cost cap stipulations exclude delivery, installation and establishment fees that are also contrary to recommendations in the Review.<sup>ii</sup> They will not adequately support people to avoid debt traps.

## **Lending and borrowing in a broken system**

Underlying this proposed changes in this Bill are several flawed assumptions. The current credit landscape is no simpler, more transparent or fairer than when National Consumer Credit Protection Act 2009 was introduced. People are no less vulnerable to exploitation now than they were when recommendations of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry were handed down.

Our Network has observed that the introduction of Buy Now Pay Later schemes has only added to the complexity of the financial system and that there remains a general lack of transparency around how pay-day lenders operate. Anglicare Australia is particularly concerned about the increased risk of harm to people with mental health issues or who are affected by family violence if this Bill is passed.

Year on year it is also true that Australia's wider social and economic system fails people on low incomes. The Productivity Commission's Report on Government Services 2020 outlines that over 40 percent of people receiving the Commonwealth Rent Assistance (CRA) were in rental stress and one in eight spent more than half their income in rental payments. Anglicare Australia's 2020 Rental Affordability Snapshot revealed the economic hardship that low-income renters experience, with rental properties either being totally out of reach or causing renters unacceptably high levels of rental stress.<sup>iii</sup>

The extensive, rippling impacts of COVID-19 and the associated government policy responses have all contributed to a more fragile and unpredictable financial environment for people on low incomes who may have lost hours and shifts at work or who have lost their jobs altogether. The impacts of the end of state and territory rental moratoriums are yet to be seen, but that 76 per cent of approved applications for early release of Superannuation savings were for people who had a reduction in working hours, were unemployed or eligible for government benefits<sup>iv</sup> provides some insight into the difficult circumstances people are in.

What is sure is as the Government's JobSeeker Allowance goes back to impossibly low levels poverty will follow. Borrowers on low incomes have never been more vulnerable to amoral lending practices, and many would be hurt by the changes in this Bill.

## Conclusion

There is no good time for the changes in this Bill to be enacted, but that they are being introduced now is, in Anglicare Australia's view, particularly troubling. People on low incomes survive exceptionally difficult circumstances through careful budgeting, living highly precarious lives without any buffers for crises. However, these borrowers act in an extremely complex financial system, and since COVID-19 a highly unpredictable economic and housing system.

None of the proposed reforms are defensible, especially in current economic circumstances, and we urge the Committee to consider the harmful repercussions of these proposed amendments. This Bill does not serve to support people on low incomes and it should not be framed as doing so. The government should instead move to support the people who need help most by investing in affordable housing and adequate levels of income support.

This submission is prepared with the on-the-ground expertise of several network members including Anglicare Western Australia and Anglicare NSW South, NSW West & ACT. We also refer the Committee to Anglicare Tasmania's submission to this Inquiry.

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<sup>i</sup> Commonwealth of Australia (2019). [Government Response to the Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.](#)

<sup>ii</sup> Commonwealth of Australia (2016). [Review of Small Amount Credit Contracts - Final report.](#)

<sup>iii</sup> Anglicare Australia (2020). [Rental Affordability Snapshot.](#)

<sup>iv</sup> Australian Tax Office (2020). [COVID-19 early release of super – interim report: 2019–20 applications.](#)