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STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

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Inquiry into Domestic and Family Violence—Policy approaches and responses

Submission No. 9

**Care Inc. Financial Counselling Service & The Consumer
Law Centre ACT**

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Discussion Paper: Domestic and Family Violence - Policy Approaches and Responses

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Care Inc. Financial Counselling Service
& The Consumer Law Centre of the ACT

Discussion Paper

Domestic and Family Violence – Policy Approaches and Responses

Service information

Care Inc. Financial Counselling Service and The Consumer Law Centre of the ACT (Care) has been the main provider of financial counselling and legal assistance on consumer credit matters for low to moderate income and vulnerable consumers in the ACT since 1983. Care's core service activities include the provision of information, financial counselling, legal advice and advocacy for consumers experiencing problems with credit and debt. Care also has a Community Development and Education program, provides gambling financial counselling as part of the ACT Gambling Counselling and Support Service (AGCSS) in partnership with lead agency Relationships Australia; makes policy comment on issues of importance to its client group and operates the ACT's first No Interest Loans Scheme which was established in 1997. Care also provides outreach services in partnership with St Vincent de Paul, Kippax Uniting Service, Lanyon Community Centre and at the Alexander Maconochie Centre. Across Care's service delivery programs, the agency responds to over 2000 new requests for assistance every year.

We thank you for the opportunity to provide this submission in response to the discussion paper. Our submission focuses on the increasing number of clients we work with who are currently, or have previously, experienced domestic or family violence (DFV) including clients who are experiencing economic or financial abuse. Given the long term effects of financial and economic abuse, we present examples of the work we are undertaking to assist clients to find ways to establish or regain financial security and to empower them to move forward with their lives. Our growing expertise in this area is relevant to the terms of reference for this inquiry in the areas of developing the policy framework (with particular reference to economic/financial abuse), the evidence base for different interventions, funding and the overall framework for responses to DFV.

Agency background

Care works with low income, disadvantaged and vulnerable members of the ACT and region, from young adult to the elderly. The primary reason people contact Care for assistance is when they are experiencing financial hardship or financial difficulty and are unable to meet their commitments as they fall due. They may be struggling to pay a range of financial commitments such as rent or mortgages, credit facilities such as personal loans and credit cards or utilities, medical costs, transport costs, education and basics such as food. The majority of our clients are unsure of the options and remedies available to them. Some will have tried to negotiate payment plans or arrangements with creditors without success, or been placed in a more difficult situation by lenders who demand more than is reasonable in repayments on loans.

Over the thirty years plus that Care has been operating the profile of our client group has become increasingly complex in both financial and personal terms. The majority of clients seen are experiencing high levels of stress, which can include mental and physical ill-health, relationship breakdown, unemployment, violence, the effects of current and past trauma and addictions. We find these issues are often inextricably linked to their financial circumstances

and this is particularly the case for clients who have experienced or are experiencing DFV. A recent study of economic abuse between intimate partners in Australia, published in the Australian and New Zealand Journal of Public Health, revealed that:

*'...financial hardship and stress are significant indicators of economic abuse.'*¹

This is particularly relevant to the increasing numbers of women² who access Care's services experiencing DFV. While we do see male clients experiencing DFV, overwhelmingly it is women who come to Care with this experience impacting their financial and personal health and safety. The majority of these clients are experiencing financial hardship and the inability to sustain payments on a range of financial commitments, some of which they should not be responsible for paying, as the debt has been incurred under duress or similar means.

Care's expertise in the area of economic and financial abuse

Following the tireless work of Rosie Batty³ and the subsequent Royal Commission into Family Violence⁴ in Victoria (RCFV) the profile of DFV has been raised across the community. We welcomed the ACT Government's funding of a \$21.42 million domestic violence package over four years in the 2016–17 Budget (Safer Families) and its ongoing commitment to other initiatives that support people experiencing DFV including a brokerage and bond fund to assist people with immediate expenses escape family violence and increased access to translating and interpreting services through the ACT courts and community services⁵.

Our observation is that in the DFV space, **there is still a lack of understanding about the impacts of economic or financial abuse.** The conceptual framework as depicted in the discussion paper on page 7 identifies the main elements of economic abuse but could benefit from the addition of the following:

- specific reference to debts incurred as a result of DFV e.g. where a contract or guarantee is formed under duress,
- debt for which a person does not receive a benefit
- being forced to claim social security payments
- being made to sign a power of attorney (enabling finances to be managed by someone else)
- being forced to put household bills in one name only
- being forced to sign documents to establish or operate a business
- economic abuse that is either directly perpetrated upon children (e.g. taking money from children's accounts) or arises as a result of abuse of a parent (such as inability to put money into children's savings accounts or to offer payment for jobs as 'pocket money')

¹ <http://onlinelibrary.wiley.com/doi/10.1111/1753-6405.12651/full> p 272

² Note: the majority of clients experiencing DFV that access Care are female. For information on statistics about violence against women see <https://www.ourwatch.org.au/Understanding-Violence/Facts-and-figures>

³ <http://www.neveralone.com.au/>

⁴ <http://www.rcfv.com.au/Report-Recommendations>

⁵ https://apps.treasury.act.gov.au/data/assets/pdf_file/0004/870295/Safer-Families.pdf

- the use of technology as a tool to financially abuse another person, including cyberstalking a person's whereabouts to obtain information about banking habits or accessing another person's account to withdraw funds
- debts incurred by fraudulent use of another person's financial information/signature.

We would also recommend the removal of the word 'unreasonable' from the Economic Abuse section in the conceptual framework on page 7 of the discussion paper, '*unreasonable denial of the means necessary for participation in social life*' as we cannot see the need for it. Any denial of the means necessary for participation in social life is, in our opinion, unreasonable.

We see a range of clients for whom financial abuse is an issue either in isolation or more usually in conjunction with one or more other forms of abuse. Occasionally clients will not identify what they are experiencing as financial abuse until a worker details for them the normal process of signing a contract or buying goods.

A relatively common scenario after someone has left an abusive relationship is that they will need to re-establish financial security from the ground up. This can be hampered by intrusive and abusive input from an ex-partner, making it more difficult. In the case of our cohort of older female clients they may never have had access to financial information whilst in a controlling relationship, including access to even the most basic details about their finances as their partner had complete control over the financial situation. This is further exacerbated by the fact that these women will have grown up with a financial system that viewed males as the financial 'experts' and often disregarded and excluded women from transacting on their own behalf. Along with the assumption that they did not need to be fully informed when transacting for joint debts; these attitudes towards women and finances have laid the foundation for many older women to be at a disadvantage when trying to move beyond DFV.

Stable finances are the bedrock upon which people can build a successful and contributing life and anything that undermines or threatens this will have significant impacts for the future of the person experiencing DFV, it will also impact on the future life chances of any children they have. Financial counsellors and consumer lawyers are in a unique position to provide options, practical support, advice and advocacy to improve the financial situation of the person experiencing DFV and to help them lay the foundations for increased financial resilience. Without such supports, the future financial resilience of the person experiencing DFV is likely to be greatly diminished. A Women's Research and Policy Centre (WRAP) paper drew attention to the effects of financial violence on women:

*'Whilst any form of violence against women exacerbates financial vulnerability and long-term risk of financial dependence, **economic abuse can be acutely financially damaging.**'⁶*

In our opinion, DFV is a significant contributing factor to poverty as seen at Care; particularly for women who have less financial security generally than men. The higher profile of DFV and increased government support has seen a larger number of people seeking help and intervention to deal with DFV and at the same time increased demand being placed on service providers. Until recently Care dealt with clients who disclosed DFV as part of our general

⁶ https://www.goodshep.org.au/media/1754/economic-abuse_policy-position-paper.pdf

financial or legal services. However, given the recent increase in cases, we now have a specific question in our intake process to identify whether a client has experience of DFV. The nature of the work also requires the ability to provide *trauma informed care* for DFV clients and this has necessitated workers taking part in relevant training in this area. The growing number of DFV clients means we have also had to make available appointments that might previously have been available for general clients.

As a result of this growing engagement with DFV issues, we have also been developing a higher profile beyond the ACT. We have had several requests to provide input into the development of guidelines and policies in the finance sector that address DFV including:

- The Australian Bankers' Association Industry Guideline: Financial abuse and family and domestic violence policies ⁷
- Credit and Investments Ombudsman's Position Statement on Family violence⁸

Care is also a member of the Economic Abuse Reference Group (EARG) and had input into

- Good Practice Guide for industry and government agencies to assist in the development of policies that address the financial impact of family violence on their customers or the public.⁹

Each of the above documents provides valuable information about how to respond to DFV in general and specifically to the issue of financial and economic abuse.

Apart from the ongoing interaction with clients who have experienced DFV in our general services, Care has recently built on our successful long-term No Interest Loan Program to become the provider of no interest loans for people who have experienced and left a DFV situation. The project is a partnership between several organisations¹⁰ with Care as the provider agency. The Assistance Beyond Crisis (ABC) loan program has sourced lending capital from a range of local businesses, philanthropics and individuals.

We have also recently received a one year funding grant from the ACT Government Office for Women to provide financial counselling specifically for clients who are referred by the Women's Legal Centre (ACT) under their domestic violence program. As a result of this one year funding and the overall increase of DFV clients, we have had to train workers specifically in this area; including the intersection of financial and legal issues such as family law and contractual arrangements and unconscionable contracts.

⁷ https://www.bankers.asn.au/images/uploads/ArticleDocuments/207/ABA_Industry_Guideline_-_Financial_Abuse_and_Family_and_Domestic_Violence%20Nov%202016.pdf

⁸ <https://www.cio.org.au/assets/1212537/Position%20Statement%20-%20Family%20violence.pdf>

⁹ <https://eargorgau.files.wordpress.com/2017/03/good-practice-guide-final-0404172.pdf>

¹⁰ Other project partners are: The Women's Centre for Health Matters, the Domestic Violence Crisis Service, Deloitte, The Snow Foundation, and Service One.

Our ongoing project with Relationships Australia to provide financial counselling to people affected by gambling has included a number of clients with DFV issues. Our intake process also asks clients whether they have been affected by gambling to help those clients who respond in the affirmative to access our gambling financial counselling service. While research on this topic continues to develop, one Australian study in particular revealed the following:

*'Emerging research suggests that problem gambling is a specific risk factor for family violence.'*¹¹

It is not clear from either research or our experience at Care the actual role gambling plays in relation to DFV; whether it is a cause of family violence or a reaction to it or a way to try and cope with gambling (either of a partner's gambling or one's own gambling behaviour). We have certainly noted the flow on effects of gambling in relationships where money is withheld by one partner to cover their gambling losses or where there is insufficient money to cover basic expenses and the effect this can have on a family.

Financial and economic abuse has many aspects and over the recent past Care has observed a range of abusive behaviours perpetrated on clients by partners or ex-partners. These behaviours, their effects and the outcomes as a result of clients seeking financial counselling or consumer credit advice, are demonstrated in case examples¹² following in this submission. The case examples also serve to re-inforce the need for policy makers to:

1. acknowledge the increasing numbers of people presenting at community agencies with DFV as an issue
2. acknowledge the growing commitment by community agencies to this work and the impact it may have on service provision for clients who do not experience DFV
3. support these agencies to develop and maintain appropriately trained and supervised staff
4. ensure processes used by government agencies are sensitive to, and responsive to cases of financial and economic abuse
5. provide adequate remedies for people affected by DFV so that they can start to experience a healthy financial life – this should include waiver of debts to government departments that arise as a result of DFV where the disadvantage is suffered by the (generally female) partner with or without children. In our opinion it is grossly unfair that perpetrators often walk away from these situations and do not bear either the financial or the social impacts of their actions. These debts would include debts incurred in public housing, fines and school fees. We regard the model in place at the ACT Civil and Administrative Tribunal (Energy and Water Division) as a useful template to explore this possibility from.

Case examples

The work of a financial counsellor or consumer credit solicitor involves obtaining a history of a financial issue, what has happened to place the client into financial hardship, what options are

¹¹ <https://link.springer.com/content/pdf/10.1186%2F2195-3007-3-13.pdf> p3

¹² Please note examples are generic due to privacy reasons and provide the issue without identifying any original client data

available to our clients under (any) relevant legislation and then either supporting the clients to navigate a way through or providing advocacy on their behalf. It is a delicate balancing act for workers to provide the appropriate information and support for the financial situation and also pay attention to the psychological needs of the client and try to link them into services that can assist with other issues, including specific support around DFV. For clients experiencing DFV and its effects, the pace of the work is time consuming as it requires meticulous inspection of the financial circumstances of our clients to unravel any aspects of the abuse involved in order to obtain the best outcome we can for them. This is all done within the context of attention to the personal safety of the client.

Example 1

Client X was referred to Care by her GP following a conversation about ongoing DFV she had been experiencing. Despite having paid out several of her ex-partner's debts which she was not legally responsible for, one debt remained. She was extremely distressed about this debt as she felt it reminded her of her abusive relationship and her past which she was wanting to move forward from.

Outcome 1

After discussing with the client that she was not actually responsible for the debt that was outstanding, and checking whether she wanted to approach the bank to seek a waiver of the full amount, the client decided that she preferred to try to make a small settlement offer to clear the debt. Care then negotiated on her behalf with the financial institution to offer a small amount in full and final settlement of the debt. A Statement of Financial Position was drawn up using the client's information to demonstrate her financial situation along with a copy of a Domestic Violence Order and a support letter from the client's psychologist. The financial institution accepted the client's offer, she was released from further payment of the debt and the balance was waived. This outcome had the benefit of relieving much of the client's stress, placing her in a better position financially and enabling her to re-establish her personal and financial life without ties to the past.

Example 2

Client XX, a mother of four children was in a relationship where her partner controlled all the money despite the fact that she was the main breadwinner for the family. Her partner insisted that she give him all her income; he was also verbally and physically violent and on numerous occasions used violence to get her to take out loans for his personal use. The partner also entered into a few contracts fraudulently using our client's name. Following a particularly violent incident, involving the removal of the partner from the family home, Client XX was left to negotiate all the household bills and additional childcare costs. She discovered that most of her savings had been squandered by her partner.

Outcome 2

The client was supported by one of the consumer lawyers and a financial counsellor resulting in implementation of hardship variations on the client's mortgage, assistance with retrospective childcare benefits to reduce the childcare debt, arguments put forward re maladministration of lending on a personal loan, and implementation of waivers or moratoriums for a number of other debts while she seeks family law advice. The client was also assisted with information about keeping financially safe, including setting up a new account for her income to go directly to, cancelling joint accounts, changing pins and ensuring key documents are secure.

Example 3

Client Y was referred to Care by the bank that had a mortgage in joint names over her and her ex-partner's property. The ex-partner had moved out of the family home and had stopped making payments on the mortgage. The client needed assistance to negotiate a hardship arrangement with the bank as she had a limited income and could not afford the whole mortgage payment herself.

Outcome 3

Care advocated on the client's behalf using the terms of the Financial Ombudsman's Service Approach to Joint Facilities and Family Violence¹³, which has been developed for cases such as this. This type of case highlights the complex nature of joint debts and family violence. The financial counsellor explained the guideline to the client including her right to privacy and also the bank's right to contact the ex-partner to disclose the proposed hardship arrangement. The client wanted to proceed and was granted an interim hardship arrangement which meant she could remain in the property while she decided how to proceed in the longer term.

Example 4

Client YY is a young woman in a relationship with a man who was unable to afford credit on his own. Despite being aware that Client YY has some literacy issue, her partner pressured her into becoming a co-borrower on a loan so he could refinance his personal debts. Client YY stated that she did not want to obtain the loan but felt compelled to do so. The partner completed the loan application online. At a meeting set up by her partner and the finance company to sign the contract, no enquiry as to who would receive the benefit of the loan was sought even though the staff member at the finance company ought to have been on notice from the paperwork that the client's partner had filled in. Client YY signed the contracts and \$20,000 was advanced to a joint account set up for the loan; her partner then withdrew the money and left her the next day.

Outcome 4

The Consumer Law Centre assisted the client to take the matter to the Financial Ombudsman Service (FOS) to halt any impending legal action following a failed Internal Dispute Resolution process. Following numerous submissions by the CLC, FOS made a recommendation that the client be relieved of all obligations under the loan and that her name be removed from it. The CLC also ensured that there was no adverse listing on her credit file which could have impacted on any future loans or contracts she may have wished to enter into.

Examples of other debts as a result of DFV seen at Care include:

-clients who have been subjected to DFV and have been left with unpaid government housing rent, on occasion this has led to near or actual eviction

¹³ <https://www.fos.org.au/custom/files/docs/fos-approachjoint-facilities-and-family-violence-final-4-may-17.pdf>

-clients left with sundry debts in government housing due to an ex-partner's vandalism and destruction of the property

-mobile phone contracts signed for under duress where one party ends up paying for several phones and if they can't pay lose access to their phone also, impacting safety and ability to liaise with support services

-clients who have driven cars unlicensed /unregistered due to having their incomes withheld by a violent partner and needing to get children to medical, school appointments

-clients whose partner has gambled their money and then demanded money from their partner and left them with not enough for basics including food and medications

-childcare debts where an ex-partner has refused to pay their share of fees; the child has subsequently been excluded from the childcare centre affecting the ability of the custodial parent to work and therefore affecting the overall standard of living of the family. Flow on effects included diminished ability to pay rent and everyday expenses.

-the use of technology to intimidate clients into handing over money or assets or to facilitate access to bank accounts or obtain funds.

In some cases we regard the arrangements put in place by the Family Court as assisting the DFV to continue via the way debts are allocated to each party following separation. Rather than an assumption that all debts are owed equally purely because they are in joint names, the validity of the debts should be examined to ensure they are legitimately owed by one or both parties and that the debts did not arise as a result of DFV. Further, in our opinion, family lawyers could benefit from education on this topic so as not to disadvantage clients (generally women) who are left with debts assigned to them by the court that they should not be paying.

Recommendations:

- recognition in policy development of the significant and far-reaching impact of **financial violence and economic abuse** on individuals, families and community
- recognition of DFV as a significant contributor to **poverty** amongst women in particular and the development of policy responses designed to lessen the impact of DFV on people affected by it
- the need for **adequate funding and resourcing for services** that are dealing with clients experiencing any aspects of DFV; including **services with specialist expertise in supporting and advocating for people affected by financial and economic abuse**, to enable adequate staffing, professional development, training and supervision
- an ongoing commitment to **funded research** on DFV specific to the ACT and region

- development of the capacity within ACT Government departments for **waiver of debts** such as public housing arrears and sundry debts where DFV is the identified cause and one party is left with the burden of costs. The model to be based on the ACAT Energy and Water Division
- The ACT Government to consider **development of a scheme** similar to one recently adopted in Victoria for people experiencing DFV where they will **no longer be unfairly liable for fines incurred** by perpetrators or as a result of their own offending that was substantially contributed to by their experience of DFV – such as fleeing an unsafe situation.¹⁴

The effects of DFV can last for many years even after someone has left the violent relationship. As a service, we aim to assist with the process of strengthening our clients' financial situations while also providing them with a platform of information upon which they can build their future financial security. As we undertake this work with them, we refer and support them to access other services that can help with the healing that is necessary after any type of abuse has occurred. While many of the clients we work with are understandably profoundly affected by the impact of the DFV on their lives, they generally respond well to the targeted and practical support that financial counsellors and consumer lawyers can provide. The effects of providing information about rights, remedies and the tools to build financial security are invaluable, not only for people currently affected by DFV but for all generations in the future. Recognising financial abuse and economic violence in DFV is therefore vital to future policy development.

¹⁴ <http://www.premier.vic.gov.au/new-fines-scheme-to-support-family-violence-victim-survivors/>

