# Parliamentary Joint Committee on Corporations and Financial Services

## Financial abuse: an insidious form of domestic violence

December 2024

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# Abbreviations and acronyms

| | |
|---|---|
| ABA | Australian Banking Association |
| ABS | Australian Bureau of Statistics |
| AFCA | Australian Financial Complaints Authority |
| AFIA | Australian Finance Industry Association |
| AGD | Attorney-General's Department |
| AI | Artificial Intelligence |
| ANROWS | Australian National Research Organisation for Women's Safety |
| APP | Australian Privacy Principles |
| APRA | Australian Prudential Regulation Authority |
| ARAS | Aged Rights Advocacy Service |
| ARCA | Australian Retail Credit Association |
| ASFA | Association of Superannuation Funds of Australia |
| ASIC | Australian Securities and Investments Commission |
| ASIC Act | *Australian Securities and Investments Commission Act 2001* |
| ATO | Australian Tax Office |
| AVO | Apprehended Violence Order |
| Banking Code | Banking Code of Practice |
| BCCC | Banking Code Compliance Committee |
| BNPL | Buy now pay later |
| BNPL Bill | Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024 |
| BNPL Code | Buy Now Pay Later Code of Practice |
| CAANZ | Chartered Accountants Australia and New Zealand |
| CALD | Culturally and linguistically diverse |
| CALI | Council of Australian Life Insurers |
| CBA | Commonwealth Bank of Australia |
| COBA | Customer Owned Banking Association |
| COBCOP | Customer Owned Banking Code of Practice |
| Commission | Domestic, Family and Sexual Violence Commission |
| Corporations Act | *Corporations Act 2001* |
| CWES | Centre for Women's Economic Safety |
| DDO | Design and Distribution Obligations |
| DPN | Director penalty notice |

| | |
|---|---|
| DSS | Department of Social Services |
| EARG | Economic Abuse Reference Group |
| EPOA | Enduring power of attorney |
| ERS | Early release of super |
| Family Law Act | *Family Law Act 1975* |
| FCA | Financial Conduct Authority |
| FSU | Finance Sector Union |
| FTB A | Family Tax Benefit A |
| IC Act | *Insurance Contracts Act 1984* |
| IGTO | Inspector-General of Taxation and Taxation Ombudsman |
| Insurance Code | General Insurance Code of Practice |
| IRS | Internal Revenue Service |
| Life Code | Life Insurance Code of Practice |
| National Plan | National Plan to End Violence against Women and Children 2022–2030 |
| NCC | National Credit Code |
| NCCP Act | *National Consumer Credit Protection Act 2009* |
| NSW | New South Wales |
| Privacy Act | *Privacy Act 1998* |
| PSS | Personal Safety Survey |
| RLC | Redfern Legal Centre |
| RLO | Responsible Lending Obligations |
| SCAG | Standing Council of Attorney-Generals |
| SIS Act | *Superannuation Industry (Supervision) Act 1993* |
| SIS Regulations | *Superannuation Industry (Supervision) Regulations 1994* |
| SMFA | Single Mother Families Australia |
| SMSF | Self-Managed Superannuation Funds |
| St Vincent de Paul Society | St Vincent de Paul Society National Council of Australia |
| UK | United Kingdom |

# List of recommendations

**Recommendation 1**

**2.126 That the Australian Government establish a mechanism for co-design with victim-survivors of financial abuse (including through representative groups) in relation to the implementation of legislative, regulatory and sector-driven reforms aimed at mitigating the prevalence and impact of financial abuse, including the recommendations of this report.**

**Recommendation 2**

**2.131 That the Australian Government amend the National Consumer Credit Protection Act 2009 and ASIC's Regulatory Guide 209 to specifically require:**

- **that the lender must take reasonable steps to be satisfied that a borrower and any guarantor is not experiencing financial abuse; and**
- **that the lender must take reasonable steps to verify the lending requirements and objectives of each borrower and any guarantor.**

**Recommendation 3**

**2.132 That the Australian Government establish a review of Responsible Lending Obligations and the National Credit Code, informed by the lived experience of victim-survivors, to consider options for:**

- **protecting victim-survivors of family and domestic violence to obtain credit; and**
- **the inclusion of specific conditions to support victim-survivors of family and domestic violence to stay in their own homes.**

**Recommendation 4**

**2.135 That the Australian Government amend the National Credit Code to require financial institutions to inform all borrowers of changes to joint credit contracts in circumstances of reasonably suspected family and domestic violence, including financial abuse.**

**Recommendation 5**

**2.140 That the Australian Government consider how to best allow financial institutions to document and/or flag actual or suspected financial abuse against their customers when detected or reasonably suspected, including without explicit consent from customers. This may include amendments to the Privacy Act 1988.**

**Recommendation 6**

**2.144 That the Australian Government amend the Credit Reporting Code to specify that financial abuse is considered 'circumstances beyond the individual's control'; and that ARCA develop a best-practice financial abuse guideline for credit reporting bodies and credit providers.**

**Recommendation 7**

**2.148 That the Australian Government undertake appropriate action, including legislation, to clarify that circumstances of family violence, elder abuse and homelessness constitute a serious threat to the life, health and safety of an individual. This may include amendments to the Privacy Act 1988.**

**Recommendation 8**

**2.153 That the Australian Government amend the Insurance Contracts Act 1984 to allow insurers to deem a joint insurance policy to be a composite policy in situations involving separation or divorce of co-insurers, and in situations where a victim-survivor's claim would ordinarily be denied due to the conduct of their perpetrator of financial abuse or coercive control.**

**Recommendation 9**

**2.157 Recognising the legitimate choice of Australians to have self-managed superannuation funds, the committee recommends that the Australian Government undertake a review of the intersection between financial abuse and the superannuation system, particularly in relation to self-managed superannuation funds; and ensure that the review is informed by the lived experience of victim-survivors.**

**Recommendation 10**

**2.161 That the Superannuation Industry (Supervision) Act 1993 be amended to provide a mechanism so that a beneficiary who has perpetrated domestic or family abuse, including financial abuse, and domestic violence related suicide, against the superannuation account holder can be declared an invalid beneficiary of the account holder's superannuation death benefits.**

**Recommendation 11**

**2.162 That the Australian Government undertake a review of all financial products and services and government services to ensure that a perpetrator cannot financially benefit from the death of victim-survivors, including in circumstances of domestic violence related suicide.**

**Recommendation 12**

**2.167 That the Australian Government continue to monitor the effectiveness of the Family Law Act 1975 in recognising financial abuse.**

**Recommendation 13**

**2.168 That state and territory law societies undertake a review of the ethical obligations of legal practitioners in relation to receipt of instructions which may have a financial abuse motive and available penalties for members who actively enable or facilitate financial abuse on behalf of their clients where there is no other reasonable basis underlying the instruction given by the client.**

**Recommendation 14**

**2.171 That the Australian Government implement measures to achieve greater consistency in state and territory EPOA laws applying best practice to prevent financial abuse; and to promote education and awareness programs aimed at reducing elder abuse occurring through misuse of EPOAs.**

**Recommendation 15**

**3.177 That the Australian Government implement a mandatory requirement for providers of financial services and products, as well as government agencies to include a 'quick exit' button on webpages (in accordance with current best practice) to assist victim-survivors of family and domestic violence and financial abuse.**

**Recommendation 16**

**3.179 That financial institutions introduce minimum operating standards, with a view to achieving best practice standards through continuous improvement over time, for including increased friction points in relation to online application processes and electronic transactions to better protect against financial abuse on online platforms.**

**Recommendation 17**

**3.183 That the Australian Banking Association, the Australian Federal Police, victim-survivor advocate organisations and relevant government departments and other stakeholders co-design standard operating guidelines for the referral of reasonably suspected or reported financial abuse to the financial institutions used by suspected perpetrators and victim-survivors. Triggers for referral should include credible reports made to anonymous law enforcement hotlines, informal and formal reports made to law enforcement, and court proceedings such as the attainment of AVO's. The Australian**

**Government should consider any legislative amendments required to give effect to such standard operating guidelines.**

**Recommendation 18**

**3.184 That financial institutions be required to maintain anonymous reporting mechanisms through which victim-survivors of domestic and family violence, or other individuals, can report actual or suspected financial abuse of the institutions' customers.**

**Recommendation 19**

**3.185 That financial institutions ensure that a referral or report of suspected family and domestic violence involving one of their customers triggers immediate engagement with that customer, preferably through in-person attendance at a physical branch or office, to determine the suitability of their current and future financial products.**

**Recommendation 20**

**3.187 That financial institutions immediately review the accessibility of their in-person banking services and, where necessary, take steps to ensure that customers have reasonable access to in-person banking services or banking support services.**

**Recommendation 21**

**3.188 That the Australian Government, in conjunction with the Australian Financial Complaints Authority, consider potential remedies for customers suffering financial abuse who have suffered loss after a financial institution has failed to provide reasonably appropriate access to in-person banking services or other support services in circumstances where the financial institution was aware (or should have been aware) that the customer was at high risk of financial abuse.**

**Recommendation 22**

**3.189 That financial institutions, government and relevant stakeholders all increase financial literacy education and in-person support to assist older Australians to use electronic banking services and reduce the risk of financial elder abuse.**

**Recommendation 23**

**3.191 That the Australian Banking Association develop and implement minimum operating standards, with a view to moving to best practice standards through continuous improvement over time, applying to all authorised deposit-taking institutions in relation to identifying and responding to abusive descriptions in electronic money transfers.**

**Recommendation 24**

**3.192 That the Australian Government consider introducing appropriate penalties for the use abusive descriptions in electronic money transfers to harass, intimidate or harm the holder of the account.**

**Recommendation 25**

**3.194 That, prior to approving joint banking or credit products, financial institutions implement reasonable and practical continuous disclosure requirements relating to family and domestic violence to assist with the identification of financial abuse.**

**Recommendation 26**

**3.195 That the Australian Government legislate to require financial institutions to ensure the following requirements for establishing a joint account:**

- **that each joint account holder has their own access to the account;**
- **that each joint account holder is aware of and has consented to what information will be visible and/or shared with the other account holder; and**
- **that each joint account holder understands the mechanisms available to ensure the safety of the account, such as 'two to sign', before withdrawals can be made.**

**Recommendation 27**

**3.199 That financial institutions implement the recommendations of ASIC's report titled Hardship, hard to get help: Findings and actions to support customers in financial hardship relating to identifying and providing additional support to vulnerable consumers experiencing financial hardship.**

**Recommendation 28**

**3.200 That ASIC conduct a review within 24 months on the implementation and operation of the recommendations of its report titled Hardship, hard to get help: Findings and actions to support customers in financial hardship relating to identifying and providing additional support to vulnerable consumers experiencing financial hardship.**

**Recommendation 29**

**3.201 That the Australian Government implement a legislative requirement for financial institutions to report periodically on the number of customers identified as experiencing financial abuse, similar to the current requirements for financial hardship.**

**Recommendation 30**

**3.204 That the Australian Government undertake a review of the amendments to the National Consumer Credit Protection Act 2009 in the Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024, to commence within 24 months of the amendments coming into effect, to consider their effectiveness in supporting victim-survivors of financial abuse, and specifically the inclusion of Buy Now Pay Later products under Responsible Lending Obligations.**

**Recommendation 31**

**3.207 That the Banking Code of Practice, Customer Owned Banking Code of Practice and the Buy Now Pay Later Code of Practice be amended to:**

- **include specific reference to financial abuse under 'vulnerable customers'; and**
- **require banks to develop systems to proactively identify (to the extent reasonably practical) and offer support to customers who may be experiencing financial abuse.**

**Recommendation 32**

**3.209 That the general insurance industry implement minimum operating and customer-service standards, with a view to moving to best practice standards through continuous improvement over time, relating to identifying and responding to financial hardship being experienced by victim-survivors of financial abuse.**

**Recommendation 33**

**3.211 That the Australian Government amend the Insurance Contracts Act 1984 to require a 'conduct of others' clause in all retail insurance policies.**

**Recommendation 34**

**3.213 That Part 9 of the General Insurance Code of Practice and the Life Insurance Code of Practice be amended to define family violence and financial abuse and to better promote the financial safety of victim-survivors of family and domestic violence.**

**Recommendation 35**

**3.215 That the Australian Government undertake a review of the COVID-19 early release of super scheme, with a focus on the number of members who may have withdrawn superannuation savings under coercion and the retirement and other impacts on victim-survivors who accessed their superannuation as a result of financial abuse; and consider an appropriate scheme for the**

**repayment of superannuation by individuals whose withdrawals were the direct result of financial abuse, to enable them to restore their superannuation balances.**

Recommendation 36

**3.217 That the Australian Government consider the implementation of minimum operating standards, with a view to moving to best practice standards through continuous improvement over time, to mitigate the risk of elder abuse in relation to superannuation.**

Recommendation 37

**3.220 That accounting bodies, financial advice and planning peak bodies, and victim-survivor advocate organisations co-design education resources for service providers to enable increased identification of financial abuse and timely reporting of suspected abuse to financial institutions and law enforcement bodies.**

Recommendation 38

**3.221 That accounting, financial planning and financial advice industry bodies develop and review ethical obligations of their profession in relation to receipt of instructions which may have a financial abuse motive and institute accompanying penalties for members who actively enable or facilitate financial abuse on behalf of their clients where there is no other reasonable basis underlying the instructions given by the client.**

Recommendation 39

**4.78 That the finance sector develops a financial Safety by Design framework and assessment tools. The committee further recommends that the framework is developed in consultation with the financial services industry, victim-survivors, family and domestic violence academics, community service providers and regulatory design experts.**

Recommendation 40

**4.79 That financial institutions that provide mortgages implement the standard practice of offering multiple offset accounts for joint mortgages.**

Recommendation 41

**4.81 That the Australian Government expand the Design and Distribution Obligations to include consideration of customers impacted by family and domestic violence, including financial abuse, and the potential for perpetrators to cause harm by misusing products and services.**

**Recommendation 42**

**4.83 That financial service and product providers ensure that financial abuse is explicitly referenced in the terms and conditions for all financial products.**

**Recommendation 43**

**4.86 That financial institutions implement minimum operating standards, with a view to moving to best practice standards through continuous improvement over time, for the introduction of positive friction points to minimise the risk that a customer is applying for a product under coercion or duress or without providing free and informed consent.**

**Recommendation 44**

**4.88 That financial institutions ensure that, in addition to general training about family and domestic violence, all employees have training in financial abuse that is appropriate to their level and role.**

**Recommendation 45**

**4.93 That financial institutions, government and relevant stakeholders all provide appropriate support to culturally and linguistically diverse consumers through:**

- **culturally appropriate financial literacy programs and plain language product descriptions or ways of talking about financial abuse to promote financial awareness and help-seeking; and**
- **where a language barrier is identified, the provision of interpreters and employees trained in providing interpreting services in the family violence context.**

**Recommendation 46**

**4.94 That the Australian Government support Aboriginal Community Controlled Organisations to develop training and education programs for financial providers to increase understanding of financial and economic abuse of Aboriginal and Torres Strait Islander Australians.**

**Recommendation 47**

**4.99 That the Department of Defence and financial institutions co-design best practice guidelines to assist financial services to address the specific needs of defence force families who may be experiencing financial abuse.**

**Recommendation 48**

**5.97 That the Australian Government consider the establishment of a reporting process relating to the relative effectiveness of financial products and**

**government services in preventing and addressing financial abuse. This may include a benchmarking process or reporting framework administered by a government agency or through funding provided to an independent non-government organisation or body such as the Australian Banking Association.**

**Recommendation 49**

**5.102 That the Australian Government make the necessary legislative and regulatory changes to enable the Australian Taxation Office to assume responsibility for government child support collections, replacing the Agency Collect program currently managed by Services Australia.**

**Recommendation 50**

**5.107 That the Australian Government mandate annual payer and payee declarations to the Australian Tax Office for individuals in private child support payment arrangements; and require appropriate acquittal documentation, including but not limited to bank statements, to substantiate all declarations.**

**Recommendation 51**

**5.108 That, where an annual payer declaration shows that child support payments are not reasonably aligned with payee child support entitlements, or where an annual payer declaration is not made, Private Collect child support payment arrangements automatically convert to Agency (Australian Tax Office) Collect child support arrangements.**

**Recommendation 52**

**5.111 That, at the end of each financial year, the Australian Government provide child support payees with refundable tax credits equal to any shortfall in child support payments for the preceding year; and raise a corresponding tax debt against the relevant child support payer, collectable by the Australian Tax Office as a debt owed to the Commonwealth.**

**Recommendation 53**

**5.113 That the Australian Government undertake a review of the formulas used to determine child support payments; and ensure that the review is informed by the lived experience of victim-survivors.**

**Recommendation 54**

**5.117 That the Australian Government develop a tax relief model for victim-survivors of financial abuse similar to the United States IRS 'innocent spouse relief' provisions.**

**Recommendation 55**

**5.120 That the Australian Government amend the Corporations Act 2001 to ensure that the company director provisions appropriately recognise family and domestic violence, including financial abuse, as a reason why a director may be regarded as not in fact managing a company.**

**Recommendation 56**

**5.121 That the Australian Government extend the time period allowed to respond to a Director Penalty Notice in cases of reasonable claims of financial abuse.**

**Recommendation 57**

**5.123 That the Australian Government undertake a review of current legislative and regulatory settings relating to trusts, with a view to addressing the abuse and misuse of trusts as a mechanism for financial abuse and coercive control.**

**Recommendation 58**

**5.126 That the Australian Government amend the Social Security Act 1991 to:**

- **remove the requirement that a person has to have left their home to qualify for crisis support payment;**
- **lengthen the time in which a person has to apply for a crisis payment; and**
- **ensure that a victim-survivor is not precluded from accessing a 'special circumstances' waiver if a perpetrator lies to Centrelink without the debtor's knowledge or consent, or the debtor makes a false statement or misrepresentation as a result of coercion or duress by a perpetrator.**

**Recommendation 59**

**5.130 That the Australian Government establish a standing inter-departmental taskforce to oversee the implementation of safety-by-design principles into all government services.**

**Recommendation 60**

**5.132 That all relevant government agencies provide training to frontline staff on the identification of domestic and family violence, including financial abuse, and require mandatory reporting of suspected financial abuse**

**Recommendation 61**

**5.134 That all relevant government entities providing frontline services establish dedicated teams with specialised training in domestic and family violence, including financial abuse.**

# Chair's foreword

1.1 The 61 recommendations of this report, which were adopted unanimously, represent a moment of hope and potential change for our nation.

1.2 This report marks a crucial turning point in addressing financial abuse. Financial abuse is a tragically underacknowledged form of intimate partner and family violence that has often gone unseen or ignored. It has devastating effects on those it impacts. Financial abuse undermines the economic independence of the victim, often trapping them in cycles of financial hardship and dependency that can span decades, extending well beyond separation or divorce.

1.3 This form of abuse is far more frequently perpetrated by men against women. It affects individuals at every stage of life. Women, especially those in vulnerable communities, are disproportionately affected by financial abuse, with women from culturally and linguistically diverse backgrounds, Indigenous communities, and women with disabilities facing even greater risks than the general population.

1.4 This report exposes the shocking extent of financial abuse in Australia. According to the Australian Bureau of Statistics , 27 per cent of women in Australia—approximately 2.7 million women—have experienced violence, emotional abuse, or economic abuse by a cohabiting partner. Furthermore, 16 per cent of these women, or 1.6 million, have suffered from partner economic abuse, compared to 7.8 per cent of men.[1] Women with disabilities are particularly vulnerable, experiencing higher rates of economic abuse than those without disabilities.

1.5 The scale of this issue is further highlighted by the fact that the financial toll on victims of financial abuse is estimated at $5.7 billion—almost $3 billion more than the total amount lost to scams in Australia in 2023.[2] This reflects a systemic issue that is often absent from mainstream discussions of domestic violence, as demonstrated by the New South Wales Joint Select Committee on Coercive Control and the Queensland Women's Safety and Justice Taskforce. Although these inquiries have acknowledged financial abuse, comprehensive recommendations have been lacking.

1.6 Through this inquiry, the committee has uncovered the multifaceted nature of financial abuse, including its impact on superannuation. The Public Trustees of Australia pointed out that victims of financial abuse within Self-Managed

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1 Australian Bureau of Statistics, 'Personal Safety Survey: Partner violence, 2021–22', www.abs.gov.au/statistics/people/crime-and-justice/partner-violence/2021-22#prevalence-rates, (accessed 19 August 2024).

2 Flequity Ventures, *Submission 88*, p. 5.

Superannuation Funds face severe disadvantages, as these funds are not covered by the Australian Financial Complaints Authority. Super Consumers Australia also noted the shortcomings of the superannuation death benefit system, which often works against the interests of victim-survivors of financial abuse and domestic violence.[3] Something is very wrong when the perpetrators of economic abuse receive their victim's superannuation earnings.

1.7 Financial abuse also has a devastating impact on child support arrangements. The report highlights the manipulation of the child support system by perpetrators, with Parkerville Children and Youth Care noting that 88 per cent of child support payments are made to mothers.[4] However, many women and children trapped in financial abuse are further disadvantaged by perpetrators who weaponise the child support system, leaving them in hardship. The report found that nearly half (47 per cent) of women using the Private Collect system for child support were pressured by their ex-partner to avoid payments, with 70 per cent of these women failing to receive payments in full or at all. This is a root cause of poverty for too many women and children.[5]

1.8 This report calls for comprehensive reforms across multiple sectors to address financial abuse. Of the 61 recommendations aimed at both preventing and mitigating the impact of financial abuse, key recommendations include:

- establishment of an ongoing mechanism for government and victim-survivor co-design of legislative, regulatory and sector-driven reform aimed at mitigating the prevalence and impact of financial abuse;
- changes to consumer credit legislation to recognise the unique threats posed by financial abuse;
- standard operating guidelines for the referral of reasonably suspected or reported financial abuse to the financial institutions used by suspected perpetrators and victim-survivors;
- anonymous reporting mechanisms through which victim-survivors of domestic and family violence, or other individuals, can report actual or suspected financial abuse of the institutions' customers;
- enhanced protections for victims in superannuation and insurance claims;
- review of the ethical obligations for lawyers, accountants, financial advisers and other key professions, and penalties for undertaking inappropriate actions on behalf of clients perpetrating financial abuse;
- expanding the Design and Distribution Obligations to include consideration of customers impacted by family and domestic violence, including financial

3 Super Consumers Australia, *Submission 97*, p. 10.

4 Parkerville Children and Youth Care, *Submission 64*, p. 4.

5 SMFA, *Answers to questions on notice*, 8 November 2024 (received 22 November 2024), p. 2.

abuse, and the potential for perpetrators to cause harm by misusing products and services;
- reforms to ensure that financial institutions can better identify and respond to signs of abuse; and the
- establishment of a standing inter-departmental taskforce to oversee the implementation of safety-by-design principles into all government services.

1.9 We also call for a review of child support arrangements to ensure that victims and their children are not financially exploited through the withholding of support payments.

1.10 Beyond women as the primary victims of financial abuse, the impact of this issue on marginalised groups is even further pronounced. As the Department of Social Services highlighted, Aboriginal and Torres Strait Islander women experience financial abuse in distinct ways, not only within intimate partner relationships but also in broader family contexts.[6] Cultural norms around sharing wealth and caregiving, alongside support systems based on reciprocity, increase vulnerability to financial exploitation. Similarly, financial abuse is not limited to a single relationship phase; it can occur throughout a relationship and even after it has ended, as emphasised by Anglicare WA. Financial abuse disproportionately impacts women, with Women's Legal Services Australia noting that women are twice as likely to experience financial and economic abuse as men.

1.11 The evidence gathered through this inquiry has made it clear that financial abuse is a national issue that cannot be ignored. This issue is not just about individual harm; it is a systemic problem that is compounded by gaps in regulation and law, lack of awareness, and complicity within and across financial institutions. The report's recommendations aim to create a coordinated and comprehensive response from government, financial institutions, and the legal system to combat this hidden epidemic.

1.12 The testimonies of victim-survivors and the expertise of stakeholders such as Women's Legal Services Australia, the Centre for Women's Economic Safety, and other community organisations have been invaluable in informing this inquiry. Their voices have made this report possible, and I am deeply grateful for their courage and commitment to ensuring that financial abuse is no longer overlooked.

1.13 I would also like to thank the committee secretariat for their diligent work throughout the course of this inquiry. The committee has worked collaboratively to produce a report that is both thorough and forward-thinking, with recommendations that can effect real change. I would like to thank Deputy Chair, Mr. Alex Hawke, for his close attention throughout the course of the

6 Department of Social Services, *Submission 89*, p. 3.

inquiry, Senator Pratt, for bringing the committee's attention to issues affecting culturally and linguistically diverse communities, and Senator Scarr for his thoughtful questioning. Special thanks also go to Ms Mascarenhas, whose advocacy and leadership in seeking the support of the committee to undertake this work were crucial to this inquiry.

1.14 Finally, to the victim-survivors who shared their stories with us, thank you. Your bravery in speaking out has made this report possible. Financial abuse is now a national conversation and, together, we will ensure it no longer remains hidden in the shadows.

**Senator Deborah O'Neill**
**Chair**
**Labor Senator for New South Wales**

# Chapter 1
# Introduction and background

## Content warning

1.1 This report contains material and lived-experience stories of financial abuse and domestic violence which may be distressing or triggering for some individuals.

1.2 If you need to speak to someone or would like further information, you can contact these free support and information services:

- Lifeline: Ph. 13 11 14
- 1800Respect: Ph. 1800 737 732
- 13 Yarn: Ph. 13 92 76
- My Blue Sky: Ph. 02 9514 8115
- Beyond Blue: Ph. 1300 222 636
- MensLine Australia: Ph. 1300 789 978
- Blue Knot: Ph. 1300 657 380
- Suicide Call Back Service: Ph. 1300 659 467
- Thirrili Postvention Response Service: Ph. 1800 805 801
- Full Stop Australia: Ph. 1800 943 539
- National Debt Helpline: Ph. 1800 007 007
- Australian Financial Complaints Authority: Ph. 1800 931 678

## Conduct of the inquiry

1.3 On 2 April 2024, the Parliamentary Joint Committee on Corporations and Financial Services (the committee) resolved to commence an inquiry into the financial services regulatory framework in relation to financial abuse, in particular:

(a) the prevalence and impact of financial abuse, including:
a. the approaches taken by financial institutions to identify, record and report financial abuse, and any inconsistencies arising therein;
b. the impact of the shift of financial products to online platforms; and
c. any other contributory factors.
(b) the effectiveness of existing legislation, common law, and regulatory arrangements that govern the ability of financial institutions to prevent and respond to financial abuse, including the operation of:
d. the *National Consumer Credit Protection Act 2009*;
e. the *Privacy Act 1988* (Cth);
f. the *Australian Securities and Investments Commission Act 2001*;
g. the *Insurance Contracts Act 1984*;
h. legislation and statutory instruments for superannuation; and
i. state and territory laws and regulations.

(c) other potential areas for reform, such as prevention, protection, and proactive systems, including:
j. existing financial product design;
k. emerging financial products;
l. employee training;
m. appropriate responses; and
n. any other appropriate response, for example, mandatory reporting.
(d) steps that might be taken to support financial institutions to better detect and respond to financial abuse;
(e) the role of government agencies in preventing and responding to financial abuse;
(f) the funding and operation of relevant advisory and advocacy bodies; and
(g) any other related matters, including comparative information about arrangements in relevant overseas jurisdictions

1.4 Details of the inquiry were made available on the committee's webpage, and the committee invited organisations, key stakeholders and individuals to participate in the inquiry.

1.5 The committee received 146 submissions, which are listed in Appendix 5 of this report. The committee held the following public hearings:

- 28 June 2024, in Canberra;
- 8 July 2024, in Melbourne;
- 9 July 2024, in Adelaide;
- 10 July 2024, in Perth;
- 8 August 2024, in Canberra;
- 9 August 2024, in Wagga Wagga;
- 15 August 2024, in Canberra;
- 13 September 2024 in Canberra; and
- 20 September 2024, in Canberra.

1.6 A list of the organisations and individuals who appeared before the committee at these public hearings is available in Appendix 5. The public submissions, additional documents, answers to questions taken on notice and tabled documents received by the committee and Hansard transcripts are available on the committee's website.[1]

## Acknowledgements

1.7 The committee thanks all of the organisations and individuals who participated in the inquiry. In particular, the committee wishes to thank the victim-survivors who bravely shared their personal stories, which provided invaluable

[1] The committee's inquiry website is available at: www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/FinancialAbuse.

information to the committee and contributed to the committee's understanding of the real-world impacts and gaps experienced by victim-survivors of financial abuse in Australia.

1.8 The committee also wishes to thank the Research Coordination Unit in the Parliamentary Library for the helpful and comprehensive research provided to assist the committee.

## Notes on terminology

1.9 While the inquiry was established to consider the financial services regulatory framework in relation to *financial* abuse, many inquiry participants refer to *economic* abuse. The terms 'financial abuse' and 'economic abuse' may be used interchangeably within this report, and the definitions considered by the committee can be found later in this chapter.

## Scope of the inquiry

1.10 The committee acknowledges the correspondence received from individuals with concerns and personal experiences in relation to banks and the banking system more generally. While the committee acknowledges the significance of these concerns, it recognises that they fall outside the scope of this inquiry.

1.11 The issue of financial abuse in the context of this inquiry relates to interpersonal financial abuse, often occurring within family or domestic violence circumstances.

## Structure of the report

1.12 The report contains four chapters. This chapter includes information on the conduct of the inquiry, acknowledgements and background on the prevalence of financial abuse in Australia, how financial abuse sits with domestic and family violence and previous inquiries and reports.

1.13 Chapter 2 – examines current legislation, common law and regulatory arrangements that govern the ability of financial institutions to prevent and respond to financial abuse. This chapter also considers t the role of advocacy bodies in responding to financial abuse.

1.14 Chapter 3 – examines how financial providers identify, respond to and prevent financial abuse.

1.15 Chapter 4 – examines proposed areas for reform to better support victim-survivors of financial abuse

1.16 Chapter 5 – examines the role of government, and how government services can be manipulated by perpetrators to financially abuse victim-survivors.

1.17 This report also includes the following appendices:

- Appendix 1 – summary table of financial institutions responses to questions seeking further information on processes to identify, respond to and report financial abuse;
- Appendix 2 – summary of financial institution response to questions seeking further information on the retention of home ownership amongst customers in hardship programs;
- Appendix 3 – recommendations from the Australian Securities and Investments Commission's report on hardship;
- Appendix 4 – submissions and additional information; and
- Appendix 5 – public hearings and witnesses.

## Background

1.18 Financial abuse is a form of domestic and family violence that negatively impacts a person financially and undermines their ability to be economically independent. Financial abuse can also isolate the victim-survivor and can make it extremely difficult for victim-survivors to leave abusive relationships.[2]

1.19 The definition of financial abuse differs depending on the source. For example, the National Plan to Respond to the Abuse of Older Australians defined financial abuse in the context of elder abuse as:

> … the misuse or theft of an older person's money or assets. It can include but is not limited to, behaviours such as using finances without permission, using a legal document such as an enduring power of attorney for purposes outside what it was originally signed for, withholding care for financial gain, or selling or transferring property against a person's wishes.[3]

1.20 The Australian Financial Complaints Authority (AFCA) defined financial abuse as a form of domestic and family violence:

> Financial abuse is sometimes called economic abuse. Financial abuse is a form of domestic and family violence. It often involves someone using money in ways that can hurt you. Financial abuse can also include stopping you from getting a job or forcing you to get loans you don't want.[4]

1.21 Comparatively, the Centre for Women's Economic Safety defined financial abuse as a subset of economic abuse:

> Financial abuse is a subset of economic abuse whereby a person exerts control over their partner or family member's money or finances, threatening their financial security and limiting their potential for self-sufficiency. Where there is financial abuse, there is almost always economic

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2 Australian Banking Association, *Submission 99*, p. 2.

3 Council of Attorneys-General, *National Plan to Respond to the Abuse of Older Australians [Elder Abuse] 2019-2023*, 2019, p. 3.

4 Australian Financial Complaints Authority (AFCA), *Submission 132*, p. 5.

abuse including control of employment, housing, transport and/or other economic resources.[5]

1.22 WEstjustice emphasised that there is no one way, shape or form that financial abuse presents, but noted the most common examples observed included:

- exploiting a partner's wages or savings;
- restricting someone's ability to work;
- preventing access to joint finances;
- controlling all the money and assets;
- making someone give up control over assets and income; and
- leaving someone with debt and liabilities by:
  - forcing someone to incur debt in their name by signing them up to a contract when they do not receive any substantial benefit from that loan;
  - purposely accruing or nominating fines in someone's name which can also interlink with loss of licence and therefore freedom of movement;
  - refusing to contribute to joint liabilities like a mortgage or rent where they can and should be;
  - ruining a person's credit rating;
  - damaging or disposing of a person's property or assets (particularly in rental properties or vehicles); and
  - coercing someone to claim social security payments.[6]

1.23 The Australian Bureau of Statistics (ABS) classify economic abuse into three broad categories: economic restriction behaviours, economic exploitation and economic sabotage behaviours. Examples of these behaviours include:

**Table 1.1 Partner economic abuse behaviour classification**

| **Economic restriction behaviours** | **Economic exploitation behaviours** | **Economic sabotage behaviours** |
|---|---|---|
| • Controlled or tried to control them from knowing about, having access to, or making decisions about household money<br>• Controlled or tried to control them from working or earning money | • Forced them to deposit income into their partner's bank account<br>• Manipulated or forced them to cash in, sell or sign over any financial assets they own<br>• Pressured or forced them to sign financial documents | • Damaged, destroyed or stole any of their property<br>• Refused to contribute financially to them or the family, or would not provide enough money to cover living expenses<br>• Refused to pay child support payments when |

5 Centre for Women's Economic Safety, *Submission 82*, p. 6.

6 WEstjustice, *Submission 113*, pp 4–5.

| | | |
|---|---|---|
| • Controlled or tried to control their income or assets<br>• Controlled or tried to control them from studying<br>• Deprived them of basic needs (e.g. food, shelter, sleep, assistive aids)<br>• Prevented them from opening or having their own bank account | • Racked up significant debt on shared accounts, joint credit cards or in their name | required to (previous partner only)<br>• Deliberately delayed property settlement after the relationship ended (previous partner only) |

*Source: Australian Bureau of Statistics, Partner Violence, Economic Abuse, November 2023.*

1.24 The Department of Social Services (DSS) highlighted that Aboriginal and Torres Strait Islander women experience financial abuse in distinct ways. DSS noted that Aboriginal and Torres Strait Islander women:

> … may experience financial abuse not only in intimate partner relationships, but in wider family relationships as well. Cultural norms about sharing wealth, caregiving and broader support systems based on reciprocity increase the risk of financial abuse.[7]

1.25 The committee notes that financial abuse generally refers to actions aimed at controlling access to money or finances, however, for the purposes of this report, the term financial abuse will include economic abuse, which more broadly refers to controlling economic resources (e.g. employment, education, housing, transport and food) beyond money and finances.

1.26 Chartered Accountants Australia and New Zealand (CAANZ) pointed out that financial abuse often escalates and may continue for extended periods of time after separation. CAANZ highlighted the following common forms of financial abuse that can occur post separation:

- intentionally delaying family law property proceedings or negotiations. Tactics may include failing to attend, failing to respond, refusing to negotiate, non-disclosure of assets, signing forms incorrectly and vexatious litigation;
- failing to pay joint debts;
- failure to disclose assets. Parties have a disclosure obligation to provide full and frank disclosure of all information relevant to the matter, including

7 Department of Social Services (DSS), *Submission 89*, p. 3.

assets. Non-disclosure may impact the just and equitable division of property; and

- refusal to pay child support.[8]

**Prevalence in Australia**

1.27 Financial abuse can occur between partners or other family members such as parents and children in circumstances of elder abuse, between relatives, or in other family-like relationships such as with carers or housemates. Anglicare WA emphasised that, although financial abuse can occur in various circumstances, it is predominantly perpetrated by men against women in intimate relationships and can occur during any stage of a relationship, even after it has ended.[9]

1.28 Women's Legal Services Australia also pointed out that financial abuse disproportionately affects women compared to men:

> Women are twice as likely to experience financial and economic abuse as men. Financial abuse is a gendered issue because women face unique structural and systemic barriers to economic and financial security.[10]

1.29 Ms Rebecca Glenn, the Founder and Chief Executive Officer of the Centre for Women's Economic Safety, made it clear that financial abuse is a national issue:

> What we do know is that we see people experiencing financial abuse and problems with financial and government institutions and agencies as a result of that financial abuse across every socio-economic group, across every age group and across every culture.[11]

1.30 The most comprehensive source of information on the prevalence of financial abuse in Australia is the ABS's Personal Safety Survey (PSS), which in 2021–22 measured economic abuse.

1.31 Of the 9.9 million women in Australia, the ABS stated that 27 per cent or 2.7 million have experienced violence, emotional abuse, or economic abuse by a cohabitating partner. Specifically, 16 per cent or 1.6 million women have experienced partner economic abuse. Comparatively, 7.8 per cent or 745,000 men in Australia have experienced partner economic abuse (Figure 1.1).[12]

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8 Chartered Accountants Australia and New Zealand, *Submission 20*, p. 2.

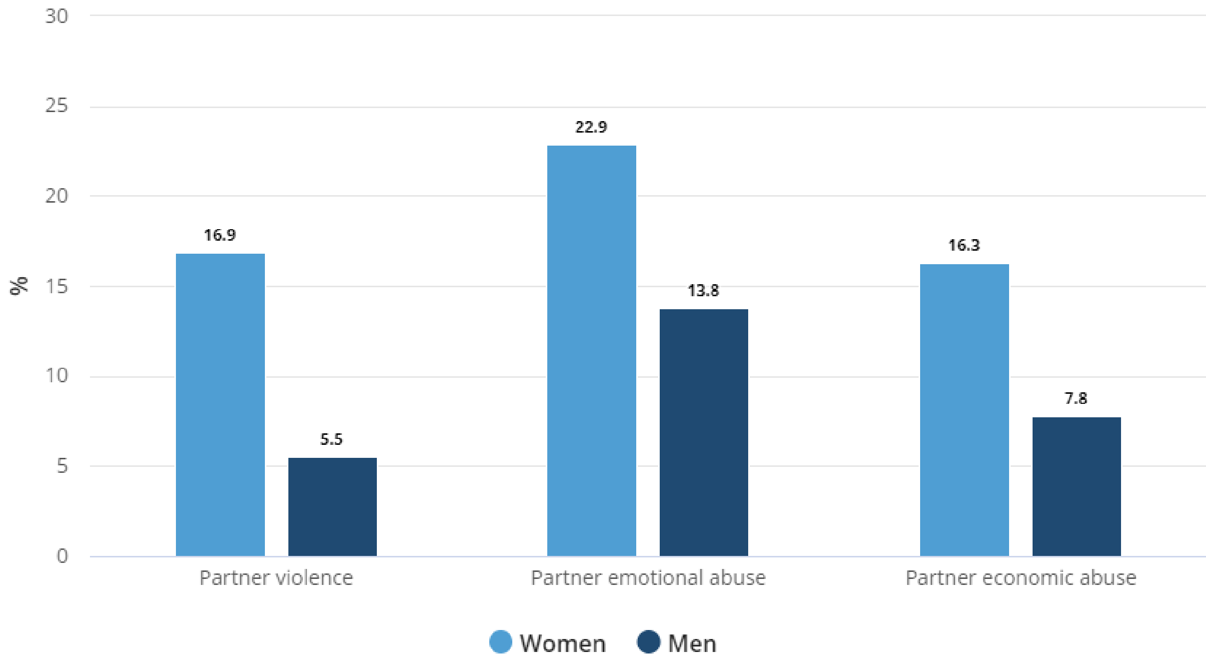
9 Anglicare WA, *Submission 107*, p. 3.

10 Women's Legal Services Australia, Submission 62, p. 4.

11 Ms Rebecca Glenn, Founder and Chief Executive Officer, Centre for Women's Economic Safety, *Committee Hansard*, 28 June 2024, p. 3.

12 Australian Bureau of Statistics (ABS), *Personal Safety Survey: Partner violence*, 2021–22, www.abs.gov.au/statistics/people/crime-and-justice/partner-violence/2021-22#prevalence-rates, (accessed 19 August 2024).

**Figure 1.1 Persons aged 18 years and over, prevalence of cohabiting partner(a) violence, emotional abuse, and economic abuse since the age of 15(b)**




*Source: ABS, PSS 2021–22, [www.abs.gov.au/statistics/people/crime-and-justice/partner-violence/2021-22#prevalence-rates](www.abs.gov.au/statistics/people/crime-and-justice/partner-violence/2021-22#prevalence-rates) (accessed 19 August 2024).*

*a. Refers to a partner the person lives with, or has lived with at some point, in a married or de facto relationship.*

*b. Refers to the number of men/women who have experienced cohabiting partner violence/emotional abuse/economic abuse since the age of 15, expressed as a percentage of all men/women aged 18 years and over.*

1.32 The ABS also noted that women with a disability were more likely than women without a disability to have experienced economic abuse by a partner (4.6 percent compared with 2.4 per cent).[13]

1.33 The ABS highlighted that women are more likely to have experienced economic abuse when they are in their main childbearing and rearing years (35 to 54 years). Additionally, this demographic includes both the median age for marriage (30.9 years in 2022) and the median year for divorce (43.7 years in 2022) (Figure 1.2).

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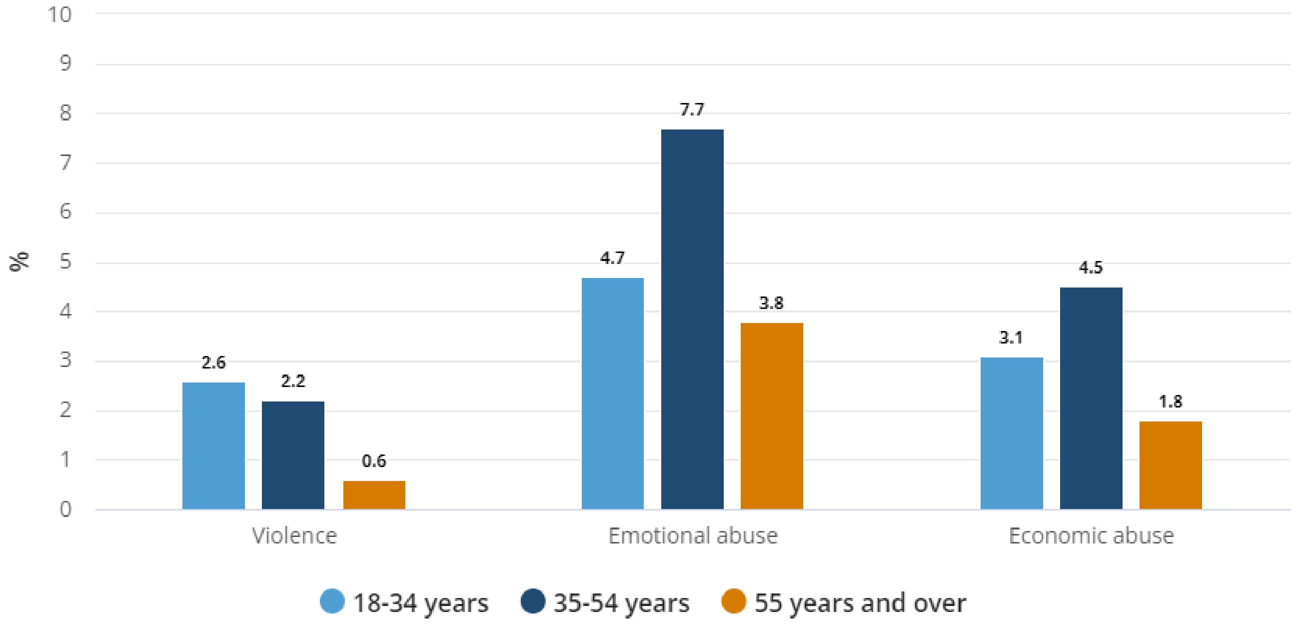
[13] Australian Bureau of Statistics (ABS), *Personal Safety Survey: Partner violence*, 2021–22, www.abs.gov.au/statistics/people/crime-and-justice/partner-violence/2021-22#prevalence-rates, (accessed 19 August 2024).

**Figure 1.2 Women aged 18 years and over, two-year partner violence, emotional abuse and economic abuse prevalence rates, by age**

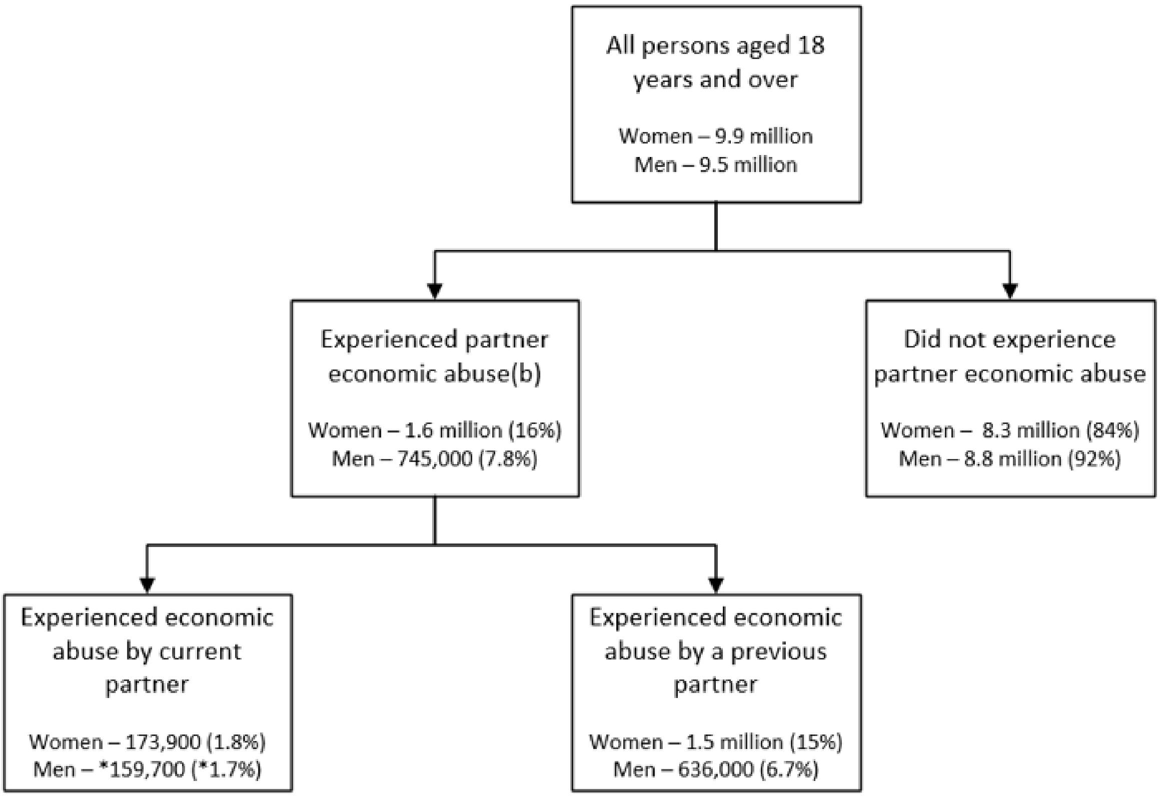



*Source: ABS, PSS 2021-22, www.abs.gov.au/statistics/people/crime-and-justice/partner-violence/2021-22#prevalence-rates (Accessed 19 August 2024).*

1.34 In the PSS, it was reported that people experience economic abuse at greater levels by previous partners compared to a current partner (Figure 1.3). The survey found that of the 1.6 million women in Australia experiencing economic abuse, 1.5 million had experienced it by a previous partner and only 173,000 women experienced financial abuse by a current partner.[14]

[14] ABS, *Personal Safety Survey: Partner violence*, 2021–22, www.abs.gov.au/statistics/people/crime-and-justice/partner-violence/2021-22#prevalence-rates (accessed 19 August 2024).

**Figure 1.3 Experiences of partner economic abuse since the age of 15, By type of partner**




*Source: ABS, PSS 2021-22, www.abs.gov.au/statistics/people/crime-and-justice/partner-violence/2021-22#prevalence-rates (accessed 19 August 2024).*

*Partner refers to a partner the person lives with, or has lived with at some point in a married or de facto relationship.*

1.35 The Multicultural Women's Alliance Against Family Violence observed that the ABS only measures cohabiting partner economic abuse rather than intimate partner and family member economic abuse. Furthermore, the current estimates of economic abuse are likely larger than the statistics indicate.[15]

1.36 The Economic Abuse Reference Group (EARG) highlighted a report by Deloitte Access Economics commissioned by the Commonwealth Bank of Australia (CBA), titled '*The cost of financial abuse in Australia*', which found that 43 Australian women were subjected to financial abuse every hour in 2020. However, the EARG further noted that the true prevalence is likely far higher given the underreporting of all forms of domestic and family violence.[16]

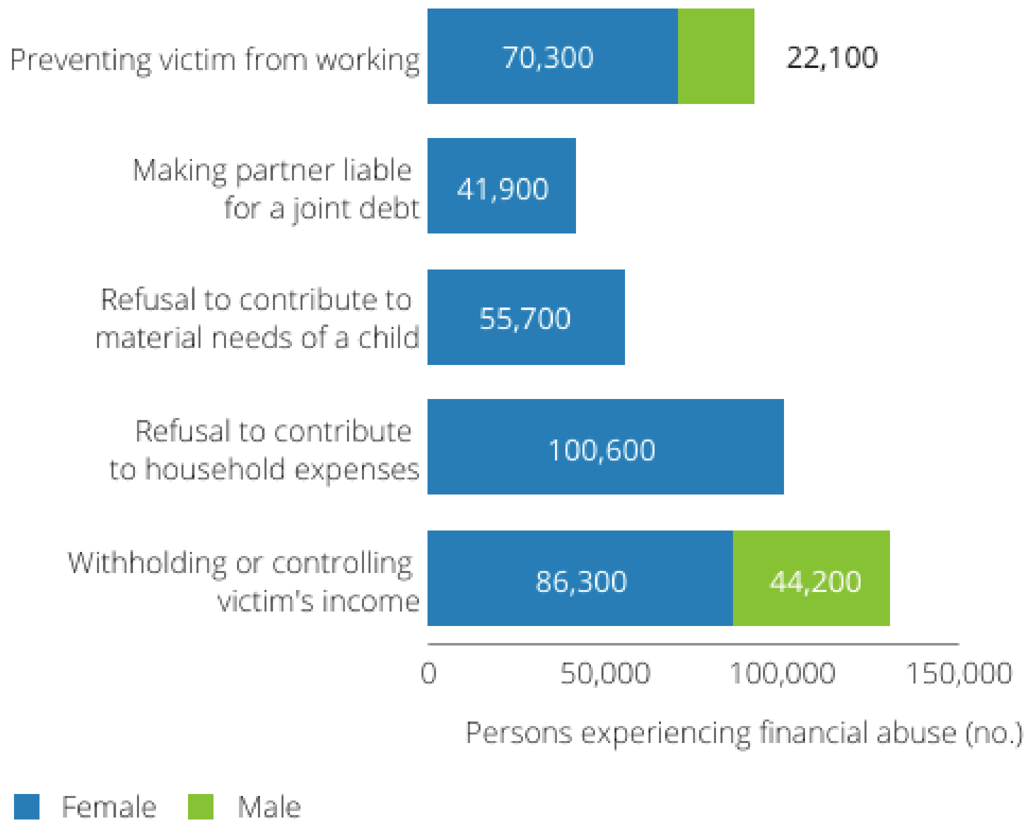
1.37 The Deloitte Access Economics report found that prevalence of specific forms of abuse differs depending on gender (Figure 1.4). The report also found that the

15 Multicultural Women's Alliance Against Family Violence, *Submission 40*, p. 1.

16 Economic Abuse Reference Group (EARG), *Submission 108*, p. 6.

most common form of financial abuse was withholding or controlling victims' income, followed by preventing the victim from working.

**Figure 1.4 Prevalence of financial abuse, by form of abuse**




*Source: Deloitte Access Economics analysis on behalf of CBA, The cost of financial abuse in Australia, 2022, [www.commbank.com.au/content/dam/caas/newsroom/docs/Cost%20of%20financial%20abuse%20in%20Australia.pdf](www.commbank.com.au/content/dam/caas/newsroom/docs/Cost%20of%20financial%20abuse%20in%20Australia.pdf) (accessed 20 August 2024).*

1.38 The Redfern Legal Centre's (RLC) Financial Abuse Service NSW assisted over 550 victim-survivors between 2019 and 2022 in NSW. RLC highlighted that this number increased in 2023 to over 300 victim-survivors requesting assistance, with over 1500 services provided. These services included:

- 561 legal advices;
- 443 legal tasks;
- 72 representation cases;
- 43 self-representation cases; and
- 417 referrals to other support services.[17]

1.39 Similar to RLC's Financial Abuse Service NSW, AFCA reported that complaints involving financial abuse have been increasing. In the period between

[17] Redfern Legal Centre (RLC), *Submission 115*, p. 2.

1 July 2022 to 31 May 2024, AFCA received 2,140 complaints flagged as cases involving or relating to family violence or financial abuse.[18]

1.40 Aboriginal Family Legal Service WA highlighted a report by Bankwest, titled '*Hidden Costs Report*', which found that 36 per cent of adults who participated in the report had experience financial abuse in 2023. This was an increase of 3 percent from 2022 and seven per cent from 2021.[19]

*Prevalence of financial abuse of older people*

1.41 The NSW Ageing and Disability Commission emphasised that, since the commission's commencement in 2019, calls have increased by 34 per cent and reports have increased by 85 per cent. The commission noted that the prevalence of financial abuse among older people is increasing due to a combination of factors, including:

- continued growth in the ageing population;
- the relatively greater wealth, including assets, of older generations and the pending generational transfer of this wealth; and
- financial and housing pressures on younger generations.[20]

1.42 Relationships Australia stated that one in six older Australians reported experiencing elder abuse in a 12-month period. Financial abuse was the third most common form of elder abuse (2.1 per cent) in Australia after psychological abuse and neglect.[21]

1.43 At the committee's public hearing in Canberra, Dr Susan Cochrane from Relationships Australia pointed out the prevalence of elder abuse in aged care:

> … the Royal Commission into Aged Care Quality and Safety indicated a figure in the realm of 39.2 per cent of abuse each year within residential aged care. [With reference to the Australian Institute of Family Studies findings that 14.8 per cent of people over the age of 65 will experience some form of abuse] …that 14.8 per cent translates to around 660,000 older people each year who will experience one or more subtypes of elder abuse.[22]

1.44 The National Elder Abuse phone line recorded a 36 per cent increase in calls in 2023-24 compared to previous years. Reports from state and territory elder

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18 AFCA, *Submission 132*, p. 7.

19 Aboriginal Family Legal Service WA, *Submission 37*, p. 4.

20 NSW Aging and Disability Commission, *Submission 81*, p. 8.

21 Relationships Australia, *Submission 21*, p. 13.

22 Dr Susan Cochrane, National Policy Manager, Relationships Australia, *Committee Hansard*, 28 June 2024, p. 38.

abuse services showed similar trends of increasing reports, with financial elder abuse becoming increasingly more common.[23]

1.45 Relationships Australia expressed concern that, over the next two decades, financial elder abuse will increase sharply amid the expected $3.5 trillion intergenerational wealth transfer.[24]

1.46 The Australian Human Rights Commission reported that, during this time, Australia's population will become the oldest it has ever been. The number of people aged 65 and over will double, and the number of working age people will decline. The commission noted that this shift will likely coincide with growing economic pressures including the rising cost of living, lack of affordable housing and low wage growth, which together with demographic changes and the rising trend of 'inheritance impatience' are likely to exacerbate the risk and prevalence of financial elder abuse.[25]

### Financial abuse and domestic and family violence

1.47 Financial abuse is a common form of domestic and family violence. Domestic abuse is an urgent national problem in Australia, with on average one woman killed every nine days by a current or former partner.[26]

1.48 Dr Amanda Gearing asserted that domestic and family violence is not always physical and that forms of coercive control, such as financial abuse, can be the main or only form of abuse until physical abuse occurs:

> … the most controlling coercive controllers do not use physical abuse—because they don't need to. If you look at the case of Hannah Clarke, the first physical attack on her was the murder. If we wait for a physical attack, we will have more women dying, and some men.[27]

1.49 Domestic and family violence takes a toll on women's health and wellbeing, as well as on families and communities. The Australian Institute of Health and Welfare reported that intimate partner violence contributes to more death, disability and illness in women ages 25 to 44 than any other preventable risk factors.[28]

1.50 The Australian National Research Organisation for Women's Safety (ANROWS) reported that in Australia 'an estimated 80–90 per cent of women who seek

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23 Australian Human Rights Commission, *Submission 105*, p. 8.

24 Relationships Australia, *Answers to questions on notice*, 28 June 2024 (received 26 July 2024).

25 Australian Human Rights Commission, *Submission 105*, p. 9.

26 Australian Retail Credit Association (ARCA), *Submission 53.1*, p. 4.

27 Dr Amanda Gearing, private capacity, *Committee Hansard*, 13 September 2024, p. 2.

28 Australian Institute of Health and Welfare, Family, domestic and sexual violence in Australia, 2018, www.aihw.gov.au/reports/family-domestic-and-sexual-violence/family-domestic-sexual-violence-in-australia-2018/summary (accessed 30 August 2024).

support for domestic and family violence have experienced financial abuse'.[29] ANROWS further reported that economic or financial abuse was present in over one quarter of cases where a female victim was killed by a male primary domestic violence abuser.[30]

1.51 The ABS report that, of the 2.7 million women who have experienced violence, or emotional or economic abuse by a cohabiting partner, 50 per cent have experienced both violence and financial abuse.[31]

1.52 At the committee's public hearing in Canberra, Dr Tessa Boyd-Caine, Chief Executive Office of ANROWS, asserted that financial abuse can be identified in isolation but is usually part of broader range of factors taking place in the context of domestic and family violence:

> It might be part of controlling behaviour; it might be part of emotional and other abuse; it might be part of a whole raft of non-physical forms of abuse. It's not necessarily experienced in isolation in a way that allows us to control that in isolation and assume that that has itself addressed the underlying experience of domestic and family violence.[32]

1.53 Dr Boyd-Caine also emphasised the impact of domestic and family violence on financial security and the ability to leave abusive relationships:

> The impact we see really clearly is that it has been framed as an impossible choice, that you can't escape the violence, if you're seeking to leave a relationship, if you don't have the financial independence and security to do that. The extent to which joint accounts or joint responsibility for accounts might limit peoples access to finances is a very real barrier to some of the choices they might want to make … But the very clear connection between financial independence, financial security and the resources that people have to ensure their own safety and to seek help when they're not, that evidence is really clear. And so, the absence of that financial independence, the absence of that financial security is a very real barrier to people being able to address their own safety concerns in the case of women and to being able to look after children in their own right when we're thinking about the impact that family violence has on children.[33]

1.54 This sentiment was echoed by WEstjustice, who emphasised that unresolved financial abuse and financial insecurity can have detrimental effects on victim-survivors' physical safety and health. WEstjustice observed that financial

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29 Australian National Research Organisation for Women's Safety (ANROWS), *Submission 12*, [p. 1].

30 ANROWS; Australian Domestic and Family Violence Death Review Network, *Australian Domestic and Family Violence Death review Network Data Report: Intimate partner violence homicides 2010–2018*, 2022, p. 55.

31 ABS, *Personal Safety Survey: Partner violence*, 2021–22, www.abs.gov.au/statistics/people/crime-and-justice/partner-violence/2021-22#prevalence-rates (accessed 19 August 2024).

32 Dr Tessa Boyd-Caine, Chief Executive Officer, ANROWS, *Committee Hansard*, 28 June 2024, p. 12.

33 Dr Tessa Boyd-Caine, Chief Executive Officer, ANROWS, *Committee Hansard*, 28 June 2024, p. 12.

insecurity and abuse could result in someone returning to an unsafe relationship.[34]

1.55 At the committee's public hearing in Perth, Ms Shenane Hogg—a victim-survivor of both financial abuse and domestic violence—shared her story about how physical violence was used to further her financial abuse:

> My personal experience began with financial exploitation. I found myself footing bills, lending money, losing control of my own finances and even having debts incurred in my name. I felt trapped and powerless. Attempts to resist only resulted in escalated aggression and abuse. Despite holding a respectable job, I was suffering silently at home. Eventually, a colleague noticed something was wrong. I was a victim—and I am a survivor—of financial abuse and domestic violence. I endured multiple head injuries and a nine-month coma, leaving me with lifelong health challenges.[35]

1.56 Although there is currently a lot of advocacy occurring in this space, Women's Legal Services Australia highlighted that, while there has been some progress, there is still insufficient understanding about family violence and the dynamics of financial abuse within many Australian banks and financial institutions.[36]

1.57 CAANZ's submission referred to a review undertaken by KPMG which provided extensive examples of the ways in which financial abuse can manifest (Figures 1.5 to 1.10). Such examples are essential for informing the training of frontline staff in both the financial services industry and in government agencies to better identify the ways in which financial abuse may manifest.[37]

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34 WEstjustice, *Submission 113*, p. 6.

35 Ms Shenane Hogg, Private capacity, *Committee Hansard*, 10 July 2024, p. 22.

36 Women's Legal Services Australia, *Submission 131*, p. 6.

37 CAANZ, *Submission 20*, p. 2; KPMG *Australia and Department of Prime Minister and Cabinet, Preventing the financial abuse of women: literature and desktop review*, 2020, pp 47-50.

## Figure 1.5 Interfering with a women's education and employment

| Type of behaviour | Specific examples of the behaviour |
|---|---|
| Not allowing her to go to college or work | • Wanting her to be at home all the time<br>• Telling her that she must look after the house and children<br>• Not wanting her to have contact with other men/people he does not know<br>• Not wanting her to earn her own income and support herself<br>• Not wanting people to witness how he is treating her |
| Doing things to stop her from going to college or work | • Not letting her learn English<br>• Complaining about her studying at home<br>• Not letting her have access to her school certificates/proof of qualifications<br>• Stealing her school satchel<br>• Destroying her text books<br>• Spending her student loan<br>• Not letting her have their son's birth certificate to apply for parent learning allowance<br>• Beating her up/inflicting visible injuries<br>• Orchestrating things so they are always together<br>• Destroying her confidence<br>• Making her afraid to go out to work<br>• Accusing her of having an affair with the manager<br>• Forcing her to restrict her working hours<br>• Destroying her phone so work could not contact her<br>• Not letting her out of the house by locking her in<br>• Destroying her clothes<br>• Ripping her clothes off her<br>• Keeping her up all night<br>• Doing things to make her miss the bus<br>• Arguing with her every morning<br>• Not being supportive of her doing well at work |

*Source: KPMG Australia and Department of Prime Minister and Cabinet, Preventing the financial abuse of women: literature and desktop review, 2020, pp 47–50*

### Figure 1.6 Interfering with a women's education and employment continued

| Type of behaviour | Specific examples of the behaviour |
|---|---|
| Harassing her at college or work | • Constantly phoning her at work<br>• Turning up at her work and stalking her<br>• Arranging for her to work at his workplace where he could monitor her actions |
| Making her leave college or work | • Forcing her to resign over the telephone<br>• Sending her abroad |
| Economically exploiting her | • Arranging for her to work for him and then not paying her properly<br>• Refusing to get a job himself<br>• Stealing her wages<br>• Making her claim benefits she was not entitled to |

*Source: KPMG Australia and Department of Prime Minister and Cabinet, Preventing the financial abuse of women: literature and desktop review, 2020, pp 47–50*

### Figure 1.7 Controlling her access to economic resources

| Type of behaviour | Specific examples of the behaviour |
|---|---|
| Controlling her access to money | • Not allowing her to have money<br>• Not giving her any money<br>• Taking away any money given to her<br>• Preventing her from accessing benefit money – including child benefit<br>• Not allowing her to have access to her bank account/making her close down her bank account<br>• Preventing her from having access to her debit card/cheque book<br>• Destroying her debit card/cheque book<br>• Changing her PIN number without telling her |
| Stealing her money | • Taking her wages and benefit money<br>• Taking child benefit money, chid tax credits, Sure Start grants and maternity pay<br>• Taking money from her bank account<br>• Spending money in the joint account<br>• Taking money from her purse<br>• Taking money left on the side<br>• Taking birthday money and selling on vouchers<br>• Taking her savings and the children's savings<br>• 'Borrowing' money from her and not giving it back<br>• Intimidating her into giving him money<br>• Ripping up her money<br>• Pawning her possessions<br>• Selling the children's possessions<br>• Gambling with her money |

*Source: KPMG Australia and Department of Prime Minister and Cabinet, Preventing the financial abuse of women: literature and desktop review, 2020, pp 47–50*

## Figure 1.8 Controlling her access to economic resources continued.

| Type of behaviour | Specific examples of the behaviour |
|---|---|
| Making her ask for money | • Making her justify why she needs the money – making her beg<br>• Using his ability to withhold money as a source of power over her, for example, sexually exploiting her |
| Giving her an allowance | • Setting a figure to cover certain expenditure<br>• Deciding how that money should be spent<br>• Pre-approving shopping |
| Monitoring her use of money and economic resources | • Taking her wage slips to see how much she is earning<br>• Going through her financial documents<br>• Not allowing her to shop alone<br>• Making her show him receipts<br>• Checking the change<br>• Checking that goods have been bought<br>• Arguing with her for spending money on friends and family<br>• Monitoring her use of economic resources such as telephone, gas and electric |
| Preventing her from having access to family/household income | • Not sharing details of wages and other financial information by hiding wage slips and bank statements<br>• Not allowing her to see or pay for household bills<br>• Not talking to her about financial decisions |

*Source: KPMG Australia and Department of Prime Minister and Cabinet, Preventing the financial abuse of women: literature and desktop review, 2020, pp 47–50*

## Figure 1.9 Refusing to contribute

| Type of behaviour | Specific examples of the behaviour |
|---|---|
| Refusing to contribute | • Refusing to work<br>• Refusing to claim benefits<br>• Refusing to pay rent, council tax and household bills<br>• Refusing to provide for the children<br>• Spending money on non-essential items<br>• Going on holiday alone |

*Source: KPMG Australia and Department of Prime Minister and Cabinet, Preventing the financial abuse of women: literature and desktop review, 2020, pp 47–50*

### Figure 1.10 Generating economic costs

| Type of behaviour | Specific examples of the behaviour |
|---|---|
| Getting her into debt | • Taking out loans, credit cards, store cards and contract mobile phones in her name<br>• Using her cheque book, debit card and overdraft<br>• Opening up and using bank accounts in her name<br>• Controlling when and how much she could pay off debts<br>• Running up rent arrears in her name<br>• Putting her name on financial liabilities |
| Making her incur costs | • 'Wheeling and dealing' and expecting her to pick up the bill<br>• Forcing her to pay his debts to avoid bailiffs coming to the house<br>• Putting economic liabilities such as the car tax in her name<br>• Writing cheques that bounced, resulting in financial penalties<br>• Destroying her belongings such as clothes and jewellery<br>• Destroying household items such as furniture and electrical goods<br>• Making her 'buy' things from him i.e. use of bicycle |

*Source: KPMG Australia and Department of Prime Minister and Cabinet, Preventing the financial abuse of women: literature and desktop review, 2020, pp 47–50*

### Financial elder abuse

1.58 Financial elder abuse or exploitation is the misuse or theft of an older person's money or assets. Financial elder abuse can cover a broad spectrum of behaviours including but not limited to:

- using the older person's finances without their permission;
- misusing a legal document such as an enduring power of attorney;
- withholding care for personal financial gain; and
- selling or transferring property against the older person's wishes.[38]

1.59 Compared to family and domestic violence, perpetrators of financial elder abuse are often family members, mostly adult children, which can make reporting financial elder abuse more difficult for older people. The Australian Human Rights Commission reported that only one third of older persons seek help when they are being abused.[39]

1.60 The Australian Human Rights Commission emphasised that financial elder abuse could have serious impacts on older people's physical and mental health, livelihoods and human rights. The Commission also expressed that financial elder abuse has been associated with higher levels of stress and depression, and an increased risk of nursing home placement and hospitalisation.[40]

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38 Australian Human Rights Commission, *Submission 105*, p. 6.

39 Australian Human Rights Commission, *Submission 105*, p. 7.

40 Australian Human Rights Commission, *Submission 105*, p. 6.

1.61 It was observed that financial elder abuse can look different for older people with a disability, older First Nations people and older people from culturally and linguistically diverse (CALD) backgrounds.[41]

1.62 The Aged Rights Advocacy Service (ARAS) highlighted the impacts that 'humbugging' has on older First Nations people. ARAS defines 'humbugging' as the:

> … unreasonable and repeated demands that are placed on an older Aboriginal person by a family member, for money, accommodation or payment of goods or services. Humbugging occurs as a result of a range of factors, including socio-economic and cultural obligations in Aboriginal communities.[42]

1.63 ARAS emphasise that the act of humbugging may compromise the well-being of elders if they give up money that was set aside to pay for their groceries, medications, housing or general wellbeing.[43]

## Inquiries and reports

1.64 This section summarises Federal parliamentary inquiries and government reports, and state and territory inquiries and royal commissions relevant to issues of financial abuse.

### *National Plan to End Violence against Women and Children 2022–2030*

1.65 The National Plan to End Violence against Women and Children 2022–2030 (National Plan) was released in October 2022 and is underpinned by two 5-year plans and a dedicated Aboriginal and Torres Strait Islander Action Plan.[44]

1.66 The National Plan identifies financial and economic abuse as a key area of focus for addressing gender-based violence in Australia. The National Plan highlighted that financial abuse can be used as a form of coercive control by using finances to control and regulate the day to day lives of victim-survivors.[45]

1.67 The National Plan outlines an expectation that financial institutions actively work to prevent abuse through their products and services.[46]

### *Domestic, Family and Sexual Violence Commission*

1.68 The Domestic, Family and Sexual Violence Commission (the Commission) was established on 1 July 2022 and is an independent agency that focuses on ending

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41 Australian Human Rights Commission, *Submission 105*, p. 7.

42 Aged Rights Advocacy Services, *Submission 15*, p. [8].

43 Aged Rights Advocacy Services, *Submission 15*, p. [8].

44 Attorney-General's Department (AGD), *Submission 102*, p. 2.

45 Commonwealth of Australia, *National Plan to End Violence against Women and Children 2022–2032*, 2022, p. 49.

46 Women's Legal Services Australia, *Submission 62*, p. 4.

gender-based violence and progressing the objectives outlined in the National Plan.[47]

1.69 In August 2024, the Commission published its *'Yearly Report to Parliament'*, which provided an update on progress towards the objectives of the National Plan. Although this report did not include any updates on financial abuse, financial abuse is a key area of focus in the National Plan.[48] The committee looks forward to seeing progress reported in future reports to parliament.

***Previous Federal Parliament inquiries and Government reports***

1.70 The House of Representatives Standing Committee on Social Policy and Legal Affairs tabled a report in 2021 titled *'Inquiry into family, domestic and sexual violence'* that examined non-physical forms of violence, including financial abuse. The Standing Committee on Social Policy and Legal Affairs defined financial abuse as follows:

> Financial abuse is a form of coercive control where a perpetrator takes control of a victim-survivor's financial affairs, such as personal expenditure and the management of bank accounts, investments, superannuation and assets such as the family home, in order to restrict the victim-survivor's access to economic resources, to hinder their financial independence and/or to inflict economic harm.[49]

1.71 The Standing Committee on Social Policy and Legal Affairs highlighted that women are especially vulnerable to financial abuse and noted that victim-survivors can be trapped in abusive relationships because they do not have the financial means to escape or, if they decide to leave, to stay away permanently. The committee tabled its final report in March 2021 and made the following recommendations in relation to financial abuse:

- **Recommendation 31:** The Committee recommends that the next National Plan provide funding for programs, including in schools, to improve the financial literacy and reduce the financial abuse of women;
- **Recommendation 32:** The Committee recommends that the Australian Government work with the states and territories (other than Victoria) to provide funding for an increased number of financial counsellors; and
- **Recommendation 33:** The Committee recommends that the Attorney-General take the following measures to enable the identification of financial information and facilitate superannuation splitting:

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47 Domestic, Family and Sexual Violence Commission, *Yearly Report to Parliament*, 21 August 2024, pp 2–3.

48 Domestic, Family and Sexual Violence Commission, *Yearly Report to Parliament*, 21 August 2024.

49 Standing Committee on Social Policy and Legal Affairs, *Inquiry into family, domestic and sexual violence*, March 2021, p. 144.

- develop an administrative mechanism to enable swift identification of financial information, including superannuation, by parties to family law proceedings or victim-survivors of family, domestic or sexual violence; and
- amend the *Family Law Act 1975* and relevant regulations to reduce the procedural and substantive complexity associated with superannuation splitting orders, including by simplifying forms required to be submitted to superannuation funds.[50]

1.72 Other parliamentary inquiries that also considered financial abuse include:

- The Finance and Public Administration Reference Committee tabled a report titled '*Domestic violence and gender inequality*' in November 2016, which included a section on financial literacy and government action to address financial abuse.[51]
- The Legal and Constitutional Affairs Reference Committee tabled a report titled '*The practice of Dowry and the incidence of dowry abuse in Australia*' in February 2019.[52]
- The Community Affairs References Committee tabled a report in 2015 on '*Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age-related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability*' that included a section on financial abuse and neglect.[53]

1.73 The Standing Committee of Attorneys-General commenced consultations on enduring powers of attorney and released a consultation paper in October 2023 titled '*Achieving greater consistency in laws for financial enduring powers of attorney*'. The consultation process focused on addressing financial abuse of older Australians.[54] The Attorney-General's Department advised further consideration of this topic will continue through 2024.[55]

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50 Standing Committee on Social Policy and Legal Affairs, *Inquiry into family, domestic and sexual violence*, March 2021, pp 165–166.

51 Finance and Public Administration Reference Committee, *Domestic violence and gender inequality*, November 2016, p. 40.

52 Legal and Constitutional Affairs, *The practice of Dowry and the incidence of dowry abuse in Australia*, February 2019.

53 Community Affairs Reference Committee, *Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age-related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability*, November 2025, pp 89–91.

54 AGD, Consultation paper, *Achieving Greater Consistency in Laws for Financial Enduring Powers of Attorney*, September 2023.

55 AGD, *Submission 102*, pp 5–6.

1.74 In 2022, The Department of Prime Minister and Cabinet's Office for Women alongside Swinburne University, RMIT University, South East Community Links, and Good Shepherd Australia New Zealand published the following guide: 'Supporting Women's Economic Safety: A guide to Prevention and Action on Financial Abuse within the Financial Service Sector'. The guide aims to support organisations in their capacity to build knowledge and awareness of financial abuse and develop industry best practice.[56]

***State and territory inquiries and reports***

1.75 The New South Wales Joint Select Committee on Coercive Control inquired into coercive control as a form of domestic abuse, which included mentions of financial and economic abuse. The Joint Select Committee tabled a report titled *'Coercive control in domestic relationships'* in June 2021. Although the report makes no direct recommendations regarding financial abuse, it does reference that almost half of all domestic violence murders involved financial abuse.[57]

1.76 The Queensland Women's Safety and Justice Taskforce have published two reports on proposed reforms to address domestic violence and the justice system. Volume 2 of the taskforce's first report, titled *'Hear her voice – Addressing coercive control and domestic and family violence in Queensland'*, includes discussion of financial and economic abuse. However, the report does not make any specific recommendations regarding financial abuse.[58]

1.77 The South Australian Government established a royal commission into Domestic, Family and Sexual Violence in late 2023. Although the terms of reference do not explicitly reference financial or economic abuse, they do refer to 'all forms of domestic, family and sexual violence'. The final report is due on 1 July 2025.[59]

1.78 The Victorian Government established a Royal Commission into Family Violence in 2015, which reported in 2016. The report consisted of eight volumes and examined the causes of financial insecurities, included economic abuse. The report looked at post-separation poverty and financial hardship, the

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56 Department of Prime Minister and Cabinet's Office for Women, Cook K, Mattila P, Symington N, Bowman Madaan R, Dilger K, Maury S, Taffe S, Pye, A, Sinclair S, Burgin R, Kocsis, Eversole R, Hiruy K, *Supporting Women's Financial Safety: A Guide to Prevention and Action on Financial Abuse within the Financial Service Sector*, 2022.

57 New South Wales Joint Select Committee on Coercive Control, *Coercive control in domestic relationships*, June 2021, p. 3.

58 Queensland Women's Safety and Justice Taskforce, *Hear her voice – Addressing coercive control and domestic and family violence in Queensland*, Volume 2, 2021, pp 28–30.

59 Royal Commission into Domestic, Family and Sexual Violence South Australia, *Terms of Reference*, 4 March 2024.

manipulation of child support payments and the connections between economic abuse and family violence.[60]

1.79 The report made two relevant recommendations:

- **Recommendation 111**: The Victorian Government encourage the Australian Bankers' Association, through its Financial Abuse Prevention Working Group, to develop a family violence–specific industry guideline [within 12 months]. This should be supported by training and education for relevant banking staff, to help them understand, identify and deal with economic abuse associated with family violence.
- **Recommendation 155**: Victoria Police, with advice from the Priority Community Division, scope options for a trial of a dedicated family violence and elder abuse response team in one Victoria Police local service area. The team should have the capacity to investigate financial abuse [within two years].[61]

### International comparisons

1.80 This section summarises relevant overseas jurisdictions and how financial abuse is expressly addressed in connection with financial services. This section will review the scope of financial services legislative and regulatory frameworks in Canada, Ireland and the United Kingdom.

#### *Canada*

1.81 Financial Services regulation in Canada is shared between federal and provincial governments. The federal government has jurisdiction over banks, which are governed by the *Bank Act*, whereas the provinces regulate other financial services such as credit unions.[62]

1.82 The Financial Consumer Agency of Canada regulates financial entities, and as part of this regulatory arrangement the Financial Consumer Agency of Canada monitors the Code of Conduct for the Delivery of Banking Services to Seniors. This code includes some principles relevant to financial and economic abuse:

- **Principle 1**: requires banks to establish and implement appropriate policies, procedures and processes, including in respect of identifying and escalating incidents of suspected financial abuse.

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[60] Royal Commission into Family Violence Victoria, *Volume IV Report and recommendations*, March 2016, pp 93–101.

[61] Royal Commission into Family Violence Victoria, *Volume I Summary and recommendations*, March 2016, pp 76 and 87.

[62] Ms Karen Man, Chair, Global Financial Services Regulatory, Baker McKenzie, *Who regulates banking and financial services in your jurisdiction? Canada*, 2021, https://resourcehub.bakermckenzie.com/en/resources/global-financial-services-regulatory-guide/north-america/canada/topics/who-regulates-banking-and-financial-services-in-your-jurisdiction (accessed 15 August 2024).

- **Principle 3**: specifies that banks will provide staff training regarding financial abuse, fraud and scams.
- **Principle 4**: requires banks to make appropriate resources available to employees, including regarding financial abuse.
- **Principle 5:** states that banks will endeavour to mitigate potential financial harm to seniors (including from financial abuse).[63]

1.83 The Canadian Bankers Association has published the following guides which seek to address financial abuse: Commitment on Powers of Attorney, and Joint Deposit Accounts and Protecting Yourself from Financial Abuse.[64]

### *Ireland*

1.84 Similar to other members of the European Union, Ireland is subject to the European Single Supervisory Mechanism for banking and, as such, the European Central Bank is the main regulator for significant institutions, and the Central Bank of Ireland for less significant institutions.[65]

1.85 Ireland's major representative body for the Irish financial services sector, the Banking and Payments Federation Ireland, have published principles on financial abuse. These principles include:

- raising awareness and encouraging disclosure;
- training staff;
- identifying and appropriately responding;
- minimising the need for customer to repeat their story within the same firm;
- helping customers to regain control of finances; and
- signposting and referring to services.[66]

### *United Kingdom*

1.86 The main framework in the United Kingdom (UK) for the banking, financial services and insurance industries is the *Financial Services and Markets Act 2023* (UK). The financial services firms and financial markets are regulated by the Bank of England's Prudential Regulation Authority and the Financial Conduct Authority (FCA).[67]

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63 Canadian Bankers Association, *Voluntary Commitments and Codes of Conduct Code of Conduct for the Delivery of Banking Services to Seniors*, 2019.

64 Please see: Canadian Bankers Association, *Voluntary Commitments and Codes of Conduct Code Commitment on Powers of Attorney and Joint Deposit Accounts*, 2014; Canadian Bankers Association, *Protecting yourself from financial abuse*.

65 European Central Bank, *Single Supervisory Mechanism*, www.bankingsupervision.europa.eu/about/thessm/html/index.en.html (accessed 15 August 2024).

66 Banking and Payments Federation Ireland, *BPFI Principles on Financial Abuse*, 2022.

67 Please see: Financial Services and Markets Act 2023; Bank of England, Prudential Regulation Authority; Financial Conduct Authority.

1.87 The FCA has published guidance titled '*Guidance for firms on the fair treatment of vulnerable customers*', which sets out what financial firms should do to comply with their obligations to treat vulnerable customers fairly.[68]

1.88 In 2021, the UK implemented significant reforms to domestic abuse laws, through the *Domestic Abuse Act 2021* (UK), which included economic abuse. In response to this Act, the Home Office issued guidance to financial services firms regarding the expectations of firms to support victim-survivors.[69]

1.89 UK Finance, a trade association for the UK financial services sector, has developed a financial abuse code. The code guides industry responses to vulnerable customers who have experience economic or financial abuse. The code sets out number of principles for financial services firms, including:

- raising awareness of the existence and impacts of financial and economic abuse;
- making information available for financial institutions on how they can help those experiencing financial and economic abuse;
- measures to strengthen customer services for those experiencing financial and economic abuse, including encouraging disclosure and offering support;
- training to improve skills and capability of staff and support for these staff; and
- undertaking continuous improvement, monitoring and evaluation.[70]

The UK Financial Ombudsman Service investigates complaints from customers in regard to a wide range of financial matters. The Financial Ombudsman Service receives complaints from people who have been impacted by economic or domestic abuse and can consider if financial business could have done more to help or step in to support vulnerable customers.[71]

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68 Financial Conduct Authority, Guidance for firms on the fair treatment of vulnerable customers, February 2022, www.fca.org.uk/publications/finalised-guidance/guidance-firms-fair-treatment-vulnerable-customers (accessed 15 August 2024).

69 *Domestic Abuse Act 2021* (UK), para. 1(3)(d) and ss. 1(4); Home Office, *Domestic Abuse Act 2021 Statutory Guidance*, July 2022, p. 16.

70 UK Finance, *Financial Abuse Code*, December 2021, //www.ukfinance.org.uk/system/files/2022-12/Financial-Abuse-Code-2021_Updated_2022.pdf (accessed 15 August 2024).

71 Financial Ombudsman Service, *Complaints involving economic and domestic abuse*, 6 December 2023, www.financial-ombudsman.org.uk/businesses/complaints-deal/complaints/complaints-involving-economic-domestic-abuse (accessed 15 August 2024).

# Chapter 2
# Current legislation and regulatory arrangements

2.1 This chapter of the report explores the effectiveness of existing legislation and regulatory arrangements that govern the ability of financial institutions to prevent and respond to financial abuse. This chapter will explore the effectiveness of the following legislation:

- the *National Consumer Credit Protection Act 2009*;
- the *Privacy Act 1988* (Cth);
- the *Australian Securities and Investments Commission Act 2001*;
- the *Insurance Contracts Act 1984*;
- the *Superannuation Industry (Supervision) Act 1993*;
- the *Family Law Act 1975* (Cth); and
- state and territory laws and regulations.

2.2 The Australian Securities and Investments Commission (ASIC) highlighted that currently there are no financial services laws explicitly directed towards how financial institutions should treat consumers experiencing financial abuse.[1]

2.3 The Centre for Women's Economic Safety (CWES) echoed this point and noted that most of the laws listed above were written before there was a good understanding of financial or economic abuse. CWES expressed that:

> Some of the problems this has created have been addressed through legislative amendments, common law, and regulatory guidance, but there is more that can be done.[2]

2.4 Diva Advocacy Solutions reported '[t]hese legislative measures, while well-intentioned, fall short in their practical application, allowing perpetrators to exploit gaps and continue their abusive practices'.[3]

## National Consumer Credit Protection Act 2009

2.5 The *National Consumer Credit Protection Act 2009* (NCCP Act) is in place to protect consumers who borrow money. The NCCP Act came into effect on 1 July 2010, and it's key protections include:

- lenders, brokers and other credit assistance companies must check that loans they provide are affordable and suitable for your needs;
- the right to apply for a repayment arrangement if you fall into financial hardship;

1 Australian Securities and Investments Commission (ASIC), *Submission 48*, p. 9.

2 Centre for Women's Economic Safety (CWES), *Submission 82*, p. 15.

3 Diva Advocacy Solutions, *Submission 19*, p. 14.

- a default notice giving at least 30 days to repay any arrears before court action or repossession;
- set procedures are to be followed when repossessing goods, including cars;
- lenders, brokers and other credit assistance companies must be a member of the Australian Financial Complaints Authority (AFCA); and
- caps on fees and interest for some types of loans.[4]

2.6 The NCCP Act applies to most personal credit in Australia, including personal loans, home loans, consumer leases, credit cards, payday loans and investment loans for residential properties. Notably, the NCCP Act does not apply to buy now pay later (BNPL) products and pawnbroking loans.[5]

2.7 More information on BNPL products can be found in Chapter 3 of this report.

**Responsible lending framework**

2.8 The NCCP Act places clear Responsible Lending Obligations (RLOs) on credit providers to ensure they are not selling unsuitable credit to individuals. Credit would be unsuitable for a consumer if:

- the consumer is unable to comply with the financial obligations under the contract, or if they could only comply with substantial hardship; or
- the contract does not meet the consumer's requirements and objectives.[6]

2.9 Before individuals are given a loan or lease, credit providers must ask *reasonable* questions about the individual's needs, goals, financial circumstances, and take *reasonable* steps to check the information received is correct.[7] ASIC's Regulatory Guide 209 provides guidance on what is considered reasonable. However, ASIC does note:

> The process of determining the kinds of inquiries and steps that are reasonable has been described as 'scalability'. [As a credit provider you] … need to apply your own judgment in determining what is reasonable in the individual circumstances.[8]

2.10 Where the provision or extension of credit has been assessed as unsuitable, the credit provider must not assist the consumer to enter into or extend the credit arrangement.[9]

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4 Financial Rights Legal Centre, *National Credit Act*, 23 February 2023, www.financialrights.org.au/factsheet/national-credit-act/ (accessed 17 September 2024).

5 Financial Rights Legal Centra, *Submission 112*, p. 27.

6 WEstjustice *Submission 113*, p. 6.

7 Financial Rights Legal Centre, *National Credit Act*, 23 February 2023, www.financialrights.org.au/factsheet/national-credit-act/ (accessed 17 September 2024).

8 ASIC, *Regulatory Guide 209, Credit licensing: Responsible lending conduct*, December 2019, p. 28.

9 Australian Retail Credit Association (ARCA), *Submission 53*, p. 7.

2.11 The Economic Abuse Reference Group (EARG) highlighted that RLOs can be used as a mechanism to help victims of financial abuse. RLOs can provide redress for irresponsible lending practices, for example in cases where victim-survivors are coerced into taking out credit facilities from which they derive no benefit.[10]

2.12 However, National Legal Aid expressed concern that credit providers often miss opportunities to identify financial abuse by failing to comply with RLOs. If lenders do not inquire with the victim about their financial situation when presented with information that is inconsistent or indicates that the victim could not repay the loan without substantial hardship, they are not complying with RLOs.[11]

**Box 2.1 Case Study – Nicole's Story**

Nicole entered into a car loan under pressure and coercion from her ex-partner. Nicole's ex- partner wanted to purchase a new car for his own use. He told Nicole that he was unable to apply for a loan in his own name because of his credit rating, and pressured Nicole to apply for the loan in her name. Nicole feared that her ex-partner would retaliate if she didn't agree. She felt that she didn't have a choice, and this was a pattern throughout their relationship.

Nicole was taken to the caryard on one occasion to view the vehicle and sign paperwork. She does not recall being asked any questions about her finances or her reasons for purchasing the vehicle. She instructs that much of the paperwork had already been completed and she was only asked to sign the loan documents, without explanation of key terms of the loan.[12]

2.13 National Legal Aid recommends that, where the financial institution did not comply with its RLOs, the financial institution should release victim-survivors of financial abuse from their loans and refund repayments the victim was coerced into making; and any evidence of the loan should be expunged from a victim-survivors' credit report.[13]

2.14 WEstjustice proposed that the NCCP Act be amended to include:

- an express requirement that the lender must be satisfied a borrower is not experiencing financial abuse; and

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10 Economic Abuse Reference Group (EARG), Submission 108, p. 19.

11 National Legal Aid, *Submission 78*, p. [17].

12 Case study provided by National Legal Aid, Submission 78, p. [18].

13 National Legal Aid, *Submission 78*, p. [18].

- an express requirement that the lender must independently verify the requirements and objectives of all borrowers.[14]

2.15 WEstjustice also recommended that ASIC's Regulatory Guide 209 should be updated to reflect the above suggestions.[15]

2.16 The Australian Banking Association (ABA) agreed with WEstjustice's recommendation and further specified that financial abuse should be formally recognised as a reasonable cause for a debtor's inability to meet their obligations.[16]

*Assessment of suitability*

2.17 The Australian Retail Credit Association (ARCA) brought to the committee's attention the negative impact of RLOs on victim-survivors of financial abuse. ARCA noted that RLOs provide a credit provider with no or limited ability to extend or increase credit to victim-survivors of financial abuse or domestic violence in cases involving circumstances beyond their control. This means that a victim-survivor whose ability to earn an income, or maintain their usual income level, has been limited as a result of abuse may therefore fail to meet a potential credit provider's 'suitability criteria'.[17]

2.18 ARCA also highlighted that, due to the financial abuse suffered, credit providers may deem victim-survivors a 'credit risk' and therefore are unable to provide or extend credit. Victim-survivors may have, unknowingly or due to coercion, had many small amount credit contacts such as 'pay day' loans taken out in their name by the perpetrator, which mean that, under RLOs, there is an automatic assumption that additional credit is unsuitable.[18]

2.19 This sentiment was echoed by the Women's Legal Service Victoria which highlighted that, when leaving an abusive relationship, victim-survivors might need to obtain further small loans to afford rent and essentials, which plunges them into a cycle of debt. This further debt can prevent victim-survivors from accessing mainstream credit and other services, such as utilities and phone contracts.[19]

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14 WEstjustice, *Submission 113*, p. 7.

15 WEstjustice, *Submission 113*, p. 7.

16 Australian Banking Association (ABA), *Submission 99*, p. 5.

17 ARCA, *Submission 53*, p. 8.

18 ARCA, *Submission 53*, p. 8.

19 Women's Legal Service Victoria, *Submission 131*, p. 22.

**Box 2.2 Case Study – Vanessa's Story**

Vanessa is a single mother with 4 children. She was fleeing a domestic violence (DV) relationship with her four children and needed money for bond, rent, car repairs and moving costs.

She found a non-bank lender online and applied for a $5,000 loan. A representative called Vanessa about her online loan application but did not enquire accurately about her expenses. They also told her to 'underestimate your expenses so we can approve your loan'. Vanessa told them she was fleeing a DV relationship and needed money, at this point they should have referred Vanessa to more suitable emergency relief options rather than approving her for a high interest loan contract.[20]

2.20 When victim-survivors are deemed unsuitable for credit, it can have serious consequences by hindering victim-survivors trying to leave abusive relationships, or victim-survivors who seeking credit to make a very challenging financial situation less difficult and who are taking steps to reduce the risk of further abuse.[21]

2.21 Women's Legal Service Victoria emphasised that credit providers' 'assessment of suitability' is problematic, and reported:

> … 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.[22]

2.22 ARCA recommended that further clarification is needed in relation to the application of RLOs when victims of family and domestic violence, including financial abuse victim-survivors, are seeking to obtain credit. ARCA specify that such clarification should be informed by the lived experience of victims and victim-survivors, and could be in the form of regulatory guidance.[23]

**National Credit Code**

2.23 Schedule 1 of the NCCP Act includes the National Credit Code (NCC), which replaced the previous state-based consumer credit codes and the Uniform Consumer Credit Code. The NCC is administered by ASIC, and applies to contracts where:

- the lenders is in the business of providing credit;

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20 Case study provided by the Financial Rights Legal Centre, *Submission 112*, p. 8.

21 ARCA, *Submission 53*, p. 8.

22 Women's Legal Service Victoria, *Submission 131*, p. 22.

23 ARCA, *Submission 53*, p. 8.

- a charge is made for providing credit;
- the debtor is an individual or strata corporation; and
- the credit was provided for:
  - domestic purposes; or
  - to purchase or renovate residential property for investment purposes or to refinance credit.[24]

2.24 The NCC provides that a debtor may give the credit provider a hardship notice if they believe that they will be unable to meet their obligations under a credit contract.[25]

2.25 Hopgood Lawyers highlight that the NCC currently has no specific obligations on financial institutions targeted at reducing financial abuse.[26]

2.26 Commonwealth Bank of Australia (CBA) emphasised that, in circumstances of family and domestic violence, a borrower may wish to leave a joint loan or account that was established under financial abuse without informing the other borrower (often the perpetrator). However, this causes difficulty under the NCC because financial institutions are required to notify all borrowers of changes to credit contracts such that, to comply with the victim survivor's request, there may be a breach of relevant requirements under the NCC.[27]

2.27 In 2022, ASIC provided a temporary exemption, via a 'no-action' letter, with respect to these requirements for situations where a joint debtor is or was a victim of family and domestic violence, and the perpetrator of this abuse is the other joint debtor.[28]

2.28 Many inquiry participants recommended that this no-action letter from ASIC be made permanent within the National Credit Code and NCCP Act.[29] The CBA also noted that it may be valuable to review the outcomes delivered under the no-action approach.[30]

2.29 CWES submitted that the NCC should have special conditions for victims of family and domestic violence to support them to stay in their own homes. CWES

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24 ASIC, *National Credit Code*, https://asic.gov.au/regulatory-resources/credit/credit-general-conduct-obligations/national-credit-code/ (accessed 19 September 2024).

25 ASIC, *National Credit Code*, https://asic.gov.au/regulatory-resources/credit/credit-general-conduct-obligations/national-credit-code/ (accessed 19 September 2024).

26 Hopgood Lawyers, *Submission 49*, p. 7.

27 Commonwealth Bank of Australia (CBA*), Answers to questions on notice*, 8 July 2024 and 20 August 2024 (received 22 August 2024).

28 ANZ, *Submission 95*, p. 6.

29 ANZ, *Submission 95*, p. 6; Westpac Group, *Answers to questions on notice*, 9 and 19 July 2024 (received 16 August 2024); and CBA, *Submission 69*, p. 10.

30 CBA, *Submission 69*, p. 10.

recommended that ASIC provide an instrument and guidance within Regulatory Guide 209 to exempt credit providers from certain requirements that might prevent them writing a home loan to enable victim-survivors to stay in their own homes.[31]

2.30 CWES stated that this regulatory relief would enable lenders to write a mortgage for an individual who was previously on a joint account and has now separated from the abusive other party.[32]

## Customer privacy and consent

### Privacy Act 1988

2.31 The *Privacy Act 1998* (Privacy Act) protects individuals' personal information and regulates how Australian Government agencies and private sector organisations (with an annual turnover of more than $3 million) can collect, use and disclose personal information. Part IIIA of the Privacy Act regulates consumer credit reporting.[33]

2.32 Part IIIA of the Privacy Act sets out requirements applicable to credit reporting, including restrictions on the types of credit information that may be disclosed to credit reporting bodies, the circumstances in which that information may be disclosed by credit reporting bodies to credit providers and affected information recipients, and their handling of that disclosed information.[34]

2.33 The NSW Ageing and Disability Commission highlighted that there are currently significant limitations on what financial institutions can proactively do in response to suspected financial abuse, primarily as a result of the Privacy Act.[35]

2.34 The Privacy Act includes 13 Australian Privacy Principles (APPs) that apply to the agencies and organisations stipulated above, which are collectively known as 'APP entities'. The APPs that are relevant to this inquiry include:

- APP 3 – outlines when an APP entity may collect personal information about an individual;
- APP 5 – provides that entities should take reasonable steps to ensure individuals are aware of certain matters when collecting personal information; and

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31 CWES, *Submission 82*, p. 16.

32 CWES, *Submission 82*, p. 16.

33 Attorney-General's Department (AGD), *Submission 102*, p. 7.

34 Office of the Australian Information Commissioner, *Privacy (Credit Reporting) Code 2014 (Version 2.3)*, www.oaic.gov.au/privacy/privacy-registers/privacy-codes/privacy-credit-reporting-code-2014-version-2.3 (accessed 23 September 2024).

35 NSW Aging and Disability *Commission*, *Submission 81*, p. 7.

- APP 6 – provides that an APP entity must not use or disclose personal information for a purpose other than that for which it was collected (the primary purpose), unless the individual consents or an exception applies.[36]

2.35 Many financial institutions are APP entities and therefore regulated by the Privacy Act. Consistent with APP 5, financial institutions must inform customers of the purpose for which information is being collected. Financial institutions are permitted under the Privacy Act to make disclosures for another purpose (secondary purpose) if:

- the individual has consented to a secondary use or disclosure;
- the individual would reasonably expect the secondary use or disclosure, and that purpose is related to the primary purpose of collection or, in the case of sensitive information, directly related to the primary purpose;
- the secondary use or disclosure is required or authorised by or under an Australian law or court/ tribunal order;
- a permitted general situation exists in relation to the secondary use or disclosure of the personal information by the APP entity;
- the APP entity is an organisation, and a permitted health situation exists in relation to the use or disclosure of the information by the entity; and
- the APP entity reasonably believes that the secondary use or disclosure is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body.[37]

2.36 Westpac highlighted that, under privacy law, it is a requirement to obtain express, informed consent from a customer to record any sensitive information on their accounts, including extra-care flags.[38]

2.37 The ABA echoed this concern and noted that restrictions imposed by the Privacy Act often mean that financial providers cannot support customers further when concerns are detected but a customer does not consent to having the matter reported.[39]

2.38 The ABA further explained the challenges experienced by banks to respond to financial abuse as a result of the Privacy Act, specifically in relation to elder abuse:

> The challenge arises where the bank suspects financial abuse (based on a customer's financial transaction data), is not able to engage with the directly customer and is concerned for their financial welfare. The bank may seek to refer the case to a third party such as the police for a welfare check or adult

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36 AGD, *Submission 102*, p. 8.

37 AGD, *Submission 102*, pp 8–9.

38 Westpac, *Response to questions seeking further information on processes to identify, respond to and report financial abuse,* received 5 July 2024, p. 4.

39 ABA, *Answers to questions on notice*, 8 July 2024 (received 12 August 2024), p. 6.

safeguarding authority. However, the bank is not permitted to share personal and/or sensitive information with a third party / organisations without express informed consent, which in some circumstance, for example an older person with capacity limitations, is not able to provide.[40]

**Box 2.3 Case study – Edith's story**

Edith is 83 years old and lives with her daughter and son-in-law, Henrietta and Tom Swan. Edith has an account with the bank where her age pension is deposited. The account has a balance of $202,430.

Edith has appointed Henrietta as her attorney under her Enduring Power of Attorney. One day, Henrietta attempts to transfer $120,000 from Edith's account to a building contractor. The transaction description lists 'Henrietta Swan – Renovation.'

The Bank notices the transaction and is concerned that this payment may not be for Edith's benefit. It places a block on Edith's account while further enquiries are made about the purposes of the transaction.

The bank tries to speak directly with Edith to confirm she is aware of the transaction and to raise its concerns. However, the contact details listed for the account are managed by Henrietta, who does not allow the bank to speak with Edith over the phone. Henrietta also refuses to bring Edith to the branch to discuss the transaction.

The bank has genuine concerns for Edith's financial welfare. It has no basis to conclude that Edith has diminished capacity and would like to refer the matter to the State police force for a welfare check. The bank cannot rely on the 'permitted general situation' exceptions under section 16A of the Privacy Act as these exceptions do not extend to a threat to an individual's economic wellbeing.[41]

2.39 Most small businesses are not currently covered under the Privacy Act and the associated APPs. WEstjustice highlighted that protections involving the use, disclosure and security of personal information, and appropriate rights to access and correct information, are important for victim-survivors but may not be available depending on the size of the entity that holds the information, even where they are providing financial or essential services.[42]

2.40 The Attorney-General's Department (AGD) undertook a review of the Privacy Act between 2020 and 2022, which was published in February 2023. The Government's response to the Privacy Act review agreed or agreed in-principle

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40 ABA, *Submission 99*, p. 6

41 Case study provided by the ABA, *Submission 99*, p. 7.

42 WEstjustice, *Submission 113*, p. 15.

to 106 of the report's 116 proposals.[43] The Australian Government agreed in-principle that the small businesses exemption should be removed in light of privacy risks applicable in the digital environment.[44]

2.41 Flequity Ventures recommended the Australian Government accelerate the planned review of the Privacy Act to ensure it does not impede support for victim-survivors of financial abuse.[45]

2.42 Westpac recommended that the Privacy Act be amended to remove the onus of explicit consent from the customer to record sensitive information on an account. Westpac asserted that this would enable banks to proactively place notes or customer-care flags on accounts when it identifies actual or suspected financial abuse, helping the bank to respond and provide support accordingly.[46]

### *Credit reporting*

2.43 The credit reporting regime is set out in Part IIIA of the Privacy Act, and includes the associated Privacy (Credit Reporting) Code 2014. The Credit Reporting Code is a written code of practice about credit reporting under the Privacy Act. The Credit Reporting Code defines the obligations of Credit Reporting Bodies, Credit Providers and affected information recipients.[47]

2.44 The Privacy Act sets out laws relating to consumer credit reporting, and it permits a wide range of creditors to report or obtain information from credit reports. This includes unregulated creditors such as BNPL providers, utilities and communications companies and businesses that lease goods.[48]

2.45 For businesses to participate in credit reporting, they must subscribe to one or more credit reporting agency and the business must be a member of a recognised external dispute resolution scheme such as AFCA, the Telecommunications Industry Ombudsman or one of the state-based Energy and Water Ombudsman schemes.[49]

2.46 Paragraph 20.5 of the Credit Reporting Code stipulates that an individual is allowed to request the removal of default information if the overdue payment

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43 AGD *Submission 102*, p. 8.

44 Australian Government, *Government Response, Privacy Act Review*, September 2023, p. 6.

45 Flequity Ventures, *Submission 88*, p. 8.

46 Westpac, *Response to questions seeking further information on processes to identify, respond to and report financial abuse*, received 5 July 2024, p. 5.

47 Office of the Australian Information Commissioner, *Privacy (Credit Reporting) Code 2014 (Version 2.3)*, www.oaic.gov.au/privacy/privacy-registers/privacy-codes/privacy-credit-reporting-code-2014-version-2.3 (accessed 23 September 2024).

48 Economic Abuse Reference Group, *Credit Reporting and Economic Abuse*, May 2022, p. 7

49 Economic Abuse Reference Group, *Credit Reporting and Economic Abuse*, May 2022, p. 7

'occurred because of the unavoidable consequences of circumstances beyond the individual's control, such as a natural disaster, bank error in processing a direct debit or fraud' and the individual has paid the debt or entered into a new arrangement to pay it off. EARG noted that, although family and domestic violence was not contemplated when Paragraph 20.5 was developed, it could likely be relied upon in cases of family and domestic violence to remove credit accrued as a result of financial abuse.[50]

2.47 EARG reported that the group's members see inconsistent practices by credit reporting bodies and credit providers. These include, for example:

- offering a debt waiver due to family and domestic violence circumstances but insisting on reporting the default; and/or
- refusing a request from a victim-survivor who wants a default or other negative information removed from their credit report.[51]

2.48 Neither family and domestic violence or financial abuse is listed as a reason that a credit report can be amended. Women's Legal Service Victoria proposed that, where family violence and financial abuse has impacted a victim-survivor's credit score, there should be a systemic means to address this and support their recovery. Women's Legal Service Victoria suggested that family and domestic violence be included as a discretionary reason that credit reports can be amended/repaired.[52]

2.49 EARG recommended that the Credit Reporting Code be amended to specify that family and domestic violence, including financial abuse, should be considered 'circumstances beyond the individual's control'; and that ARCA develop a best practice financial abuse guideline for credit reporting bodies and credit providers.[53]

2.50 Similarly, National Legal Aid proposed that credit reporting bodies develop guidelines for responding to financial abuse as well as a streamlined process for removing fraudulent entries on victim's credit report. National Legal Aid also stipulated that the guidelines should provide that credit reporting bodies have authority under the Privacy Act to amend a credit report in fraudulent circumstances.[54]

2.51 In February 2024, the Attorney General and Assistant Treasurer established an independent review of Australia's Credit Reporting Framework in Part IIIA of the Privacy Act and Part 3-2CA of the NCCP Act. The review released an issues

50 EARG, *Credit Reporting and Economic Abuse*, May 2022, p. 10.

51 EARG, *Submission 108*, p. 27.

52 Women's Legal Service Victoria, *Submission 131*, pp 22–23.

53 EARG, *Submission 108*, p. 27.

54 National Legal Aid, *Submission 78*, p. 4.

paper in April 2024 and sought public feedback on the operation of credit reporting in Australia, including in relation to financial abuse. The review is due to report in late 2024.[55]

*Access to information for victim-survivors*

2.52 In situations where victim-survivors are not named on a mortgage—which can often be as a result of a perpetrator's economic or financial control—but have been making monetary contributions to the mortgage, victim-survivors often have difficulty accessing information about or managing the loan and mortgage account even where they remain as the occupant of the house. This includes:

- not being able to obtain any information about the loan's terms or any arrears; and
- not being able to put forward arrangements with respect to a home loan account to ensure they remain in the home.[56]

2.53 This means that where victim-survivors are able to stay in the family home post-separation they are left in an ongoing state of uncertainty waiting for a default notice or order of possession to potentially come to the premises with no fixed right to receive these. WEstjustice emphasised that there is currently no specific provision in privacy legislation that canvasses this situation, or any consumer credit laws and associated guidance documents.[57]

2.54 At the committee's public hearing in Adelaide, Mr Adrian Ahern, Group Customer Advocate for Westpac Banking Corporation, noted that financial abuse is not a consideration under the Privacy Act:

> … [Under] section 16A of the Privacy Act … there's an exception … to be able to report serious threat to life, health and safety, but it doesn't refer to financial abuse …[58]

2.55 WEstjustice asserted that the threat of homelessness constitutes a serious threat to health and safety of victim-survivors and children, especially where it may expose them to continued violence.[59]

2.56 At the committee's public hearing in Melbourne, Ms Dacia Abela, a program manager from WEstjustice, spoke of an example of the significant impact that this issue has on victim-survivors:

> … Abboudi, who is a single mother and has experienced significant violence. She's not listed on the mortgage or the title of the property, despite

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55 AGD, *Submission 102*, p. 11.

56 WEstjustice, *Submission 113*, pp 13–14.

57 WEstjustice, *Submission 113*, p. 13.

58 Mr Adrian Ahern, Group Customer Advocate, Westpac Banking Corporation, *Committee Hansard*, 9 July 2024, pp 6–7.

59 WEstjustice, *Submission 113*, p. 13.

> her financial contributions. After she separated, she remained living in the family home with her children. Unfortunately, in that case, the perpetrator stopped making repayments to the mortgage, and he told her directly that he wanted them to be evicted from the property. Obviously, that places her in a great deal of stress. She's worried every day about the imminent threat of eviction. This was a case where WEstjustice tried to contact the bank to find information about the possibility of the eviction and enforcement action being carried out. However, the bank would not provide us with any of that information, despite us simply asking that the enforcement of that just be put on hold until they sort out their family law property settlement.[60]

2.57 EARG recommended the Privacy Act amended to specifically provide that circumstances like family violence and homelessness constitute a serious threat to life, health and safety of an individual.[61]

2.58 This recommendation was supported by the ABA. However, the ABA specified that amendments to the Privacy Act should not be limited to family violence and homelessness and should cover financial elder abuse that takes place outside a family or domestic context.[62]

**Box 2.4 Case Study – Name withheld**

I married my ex-husband in 2018, and I moved to Australia in 2019, he was already living in Australia. We purchased our home in 2019, at this time I was unaware of the system and regulations around purchasing a home and trusted my ex-husband completely. My parents gave me $35 000 to pay towards the deposit for the house. I didn't know at the time, but later realised that my ex-husband bought the house solely in his name, along with applying for the mortgage only in his name.

Initially, he made the mortgage payments whilst he worked FIFO, and I stayed at home due to becoming pregnant … he stopped all mortgage payments in August 2021 which is when the relationship ended due to family violence.

As I was able to remain in the family home, with a restraining order in place preventing my ex-husband from returning to the home, the Family court put an injunction on the house preventing the house from being sold. He also stopped the mortgage payments because I was living in the house, and I was ordered by the court to transfer money into my ex-husbands account so that he could make the mortgage payments.

60 Ms Dacia Abela, Program Manager, Economic Justice Program, WEstjustice, *Committee Hansard*, 8 July 2024, p. 22.

61 EARG, *Submission 108*, p. 28.

62 ABA, *Answers to questions on notice*, 8 July 2024 (received 12 August 2024).

> I contacted the bank to request if I could pay the mortgage directly, I was told this was not possible due to the mortgage not being in my name. This was the first time I found out about my name not being on the mortgage.[63]

## Australian Securities and Investments Commission Act 2001

2.59 ASIC was established under the *Australian Securities and Investments Commission Act 2001* (ASIC Act) and is tasked with overseeing financial services and protecting consumers. The ASIC Act grants ASIC the authority to:

- regulate financial markets;
- ensure market integrity; and
- safeguard consumer interests. [64]

2.60 ASIC administers the consumer law framework for financial products and services in Australia, which provides prohibitions on financial firms engaging in unconscionable, or misleading or deceptive conduct.[65]

2.61 The Economic Abuse Reference Group Western Australia submitted that the ASIC Act empowers ASIC to oversee financial services and enforce compliance with NCCP Act and *Corporations Act 2001*.[66]

2.62 At the committee's public hearing in Canberra, Mr Alan Kirkland, an ASIC Commissioner, emphasised the limitations ASIC have to interfere with the functions of financial institutions:

> … our role is in relation to understanding how firms are complying with the obligations they have to their consumers. To the extent that we might sometimes get involved in ideas such as recovering money, it might be where there is clear evidence that there has been misconduct that means consumers have suffered financial loss because a firm has failed to live up to its obligations. We might seek court orders requiring compensation, or we might seek agreement from the firm that they will compensate those consumers. It is typically about the relationship between the firm and the consumer that they have a contract with. Any extension into notions of financial abuse, where you're bringing in other relationships that, in one sense, overlap with the relationship with the financial system and, in another sense, exist outside it, would be a significant reform.[67]

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63 Name Withheld, *Submission 17*, pp [1–2].

64 Diva Advocacy Solutions, *Submission 19*, p. 22.

65 ASIC, *Submission 48*, p. 9.

66 Economic Abuse Reference Group Western Australia, *Answers to questions on notice*, 10 July 2024 (received 7 Augus 2024), p. [5].

67 Mr Alan Kirkland, Commissioner, ASIC, *Committee Hansard*, 28 June 2024, p. 69.

## Insurance Contracts Act 1984

2.63 There are two relevant legislative and regulatory frameworks for general insurance, the *Insurance Contracts Act 1984* (IC Act) and the Design and Distribution Obligations (DDO). Both the IC Act and the DDO are administered by ASIC.[68]

2.64 The IC Act provides the legal framework for general insurers, outlining the rights and obligations of insurance contracts. The IC Act outlines the responsibilities of both insurers and those who are insured, including the duty of utmost good faith and the duty to take reasonable steps to not make a misrepresentation. The IC Act also addresses fraudulent claims, pre-existing defects, and subrogation.[69]

2.65 National Legal Aid emphasised that the IC Act and the *Insurance Contracts Regulations 2017* (Cth) do not contain any specific provisions for consumers experiencing or impacted by family and domestic violence or financial abuse.[70]

2.66 National Legal Aid further noted that the main source of guidance for insurers and consumers comes from the General Insurance Code of Practice and the Insurance Council of Australia's guide to helping customers affected by family violence.[71] Further information on the code and guide can be found in Chapter 3.

2.67 At the committee's public hearing in Canberra, Ms Catherine Fitzpatrick highlighted the IC Act's limitations in this regard, noting the experience of victim-survivors trying to claim on insurance policies:

> If you look at the Insurance Contracts Act, for example, it has a very detailed description of what a flood is and how you might respond to claims relating to a flood. It doesn't include anything to do with domestic and financial abuse, and yet there are a huge number of claims that relate to property damage that are caused by perpetrators of domestic violence. What we don't know is some of the figures. While we know that there are a number of claims that are denied because of a malicious damage exclusion— which means that you can't smash up the house and then claim on it—in the case of a domestic violence matter you might have a perpetrator that deliberately damages assets or property, and the victim-survivor is penalised for that action and can't make a claim. The insurers know that, but the Insurance Contracts Act doesn't provide for those kinds of matters.[72]

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68 Ms Catherine Fitzpatrick, *Designed to Disrupt: Reimagining general insurance products to improve financial safety (CWES Discussion Paper 2)*, 2024, p. 10.

69 Financial Rights Legal Centre, *Submission 112*, p. 54.

70 National Legal Aid, *Submission 78*, p. [17].

71 National Legal Aid, *Submission 78*, p. [17].

72 Ms Catherine Fitzpatrick, Founder and Director, Flequity Ventures, *Committee Hansard,* 28 June 2024, pp 26–27.

2.68 Wotton and Kearney expanded on Ms Fitzpatrick's point and noted that, in joint policy holder situations, a perpetrator can make fundamental changes to a policy without the knowledge of the victim-survivor. A victim-survivor may find that they are unable to claim for damage caused by the perpetrator because they have cancelled the policy, changed the benefits, or the policy lapsed because the premium was unpaid without their knowledge.[73]

2.69 Ms Fitzpatrick pointed out to the committee how perpetrators can cancel insurance policies to inflict further abuse on victim-survivors:

> In insurance, for example, you can cancel a joint insurance policy by calling or just doing it online. Most insurers don't check with the co-insured or ask, 'Are you comfortable with this?' which leaves somebody uninsured.[74]

**Box 2.5 Case study – Maddy's story**

*Background: A month after Maddy paid her home insurance premium, jointly held with her partner, he threatened to burn the house down with her and the kids inside. At this point she kicked him out of the house. But four months later she discovered that the home wasn't insured. Her ex-partner had cancelled the policy, and the insurance company had provided him a refund as he'd asked them to.*

My concern is if he had followed through with his threat to burn the house down would I have been punished too and made to pay the mortgage for a house that we couldn't live in and not be able to rebuild because insurance wouldn't cover it. There needs to be tighter controls and something in policy legislation to cover this situation.

They knew we had separated. Why did they let him cancel the policy and refund him the money without giving me a call to let me know the house and contents were no longer insured or not do it before speaking to me first?[75]

2.70 Wotton and Kearney pointed out that damage to property is a common feature of domestic violence and can be left without insurance when their property is intentionally damaged by a perpetrator and their policy has been cancelled.[76]

2.71 To address this issue, it was recommended that the Part V, Division 2 of the IC Act be amended to include the incorporation of a 'Conduct of Others' clause as a standard term in retail insurance policies. This clause would provide insurers with the discretion to approve repairs, settlement payments, or item

73 Wotton and Kearney, *Submission 80*, p. 3.

74 Ms Catherine Fitzpatrick, Founder and Director, Flequity Ventures, *Committee Hansard,* 28 June 2024, p. 28.

75 Case study provided by CWES, *Submission 82*, p. 19.

76 Wotton and Kearney, *Submission 80*, p. 3.

replacements for damage intentionally caused by a joint policyholder, that would typically be excluded from coverage because the damage was intentional.[77]

2.72 Wotton and Kearney also proposed that the IC Act be amended to introduce a requirement that insurers must notify both policyholders of any request to cancel or modify the terms of the insurance policy.[78]

2.73 CWES highlighted that, if a victim-survivor has a claims history because of damage caused by the perpetrator, they will also face more expensive premiums in the future.

2.74 The Financial Rights Legal Centre recommended the IC Act be amended to provide insurers with more leeway to deem a joint insurance policy to be a composite policy in situations involving separation or divorce of co-insurers, or in situations where a victim-survivor's claim would ordinarily be denied due to financial abuse or coercive control.[79]

## Superannuation Industry (Supervision) Act 1993 and Superannuation Industry (supervision) Regulations 1994

2.75 The *Superannuation Industry (Supervision) Act 1993* (SIS Act) and *Superannuation Industry (supervision) Regulations 1994* (SIS Regulations) are the main relevant legislation for the superannuation industry.[80]

2.76 The SIS Act provides provisions for the management of certain superannuation funds, approved deposit funds and pooled superannuation trusts and for their supervision by ASIC, the Australian Prudential Regulation Authority (APRA) and the commissioner of Taxation.[81]

2.77 Superannuation is often the largest asset people own besides their home, and the many inquiry participants identified that the legislative and regulatory systems in super are not adequately supporting victim-survivors of financial abuse.[82]

77 Wotton and Kearney, *Submission 80*, p. 2; CWES, *Submission 82*, p. 19.

78 Wotton and Kearney, *Submission 80*, p. 3.

79 Financial Rights Legal Centre, *Submission 112*, p. 56.

80 CWES, *Submission 82*, p. 22.

81 *Superannuation Industry (Supervision) Act 1993* (SIS Act), s. 3.

82 Economic Abuse Refence Group, *Submission 108*, p. 40; Ms Julie Adams, *Submission 104*, pp 1–5; Super Consumers Australia, Submission 97, p. 10.

**Self-Managed Super Funds**

2.78 Self-Managed Superannuation Funds (SMSF) are vulnerable to manipulation by perpetrators, due to their lack of regulatory oversight. Public Trustees of Australia highlighted that there is currently $900 billion of assets in SMSFs.[83]

2.79 Future Group highlighted that, although APRA is the prudential regulator for the superannuation industry, it does not regulate SMSFs. SMSF are supervised by the Australian Tax Office (ATO). The Future Group further highlighted that there is a greater risk of financial abuse in relation to SMSFs as a result of the regulatory framework for SMSFs. As SMSFs are designed on the premise of self-protection, there is reduced government intervention through regulation. As members of SMSFs protect their own interests, these funds are subjected to a less onerous prudential regime under the SIS Act.[84]

2.80 Future Group explained how SMSFs can be used by perpetrators to commit financial abuse for victim-survivors:

> For SMSFs the threat arises because the members of the super fund are its trustees. In circumstances of family violence involving the trustees of a SMSF, there is greater potential for one partner or family member to coerce another into making decisions or managing the SMSF in a certain way, and less external regulatory involvement or oversight to prevent that from occurring.[85]

2.81 The Future Group also explained that, for SMSFs, the threat arises because the members of the super fund are its trustees. In circumstances of family and domestic violence involving the trustees of a SMSF, there is greater potential for one partner or family member to coerce another into making decisions or managing the SMSF in a certain way, and less external regulatory involvement or oversight to prevent that from occurring.[86]

2.82 The Financial Wellbeing Collective echoed the Future Groups comments, and further noted that superannuation-related financial abuse can occur when a perpetrator steals personal information and commits fraud by establishing an SMSF in another name and transferring the funds to that account, which they control.[87]

2.83 Ms Christina Hobbs, General Manager of Future Group, emphasised the ease with which a perpetrator can use an SMSF to take a victim-survivors superannuation:

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83 Public Trustees of Australia, *Submission 32*, p. 8.

84 Future Group, *Submission 110*, p. [7].

85 Future Group, *Submission 110*, p. [7].

86 Future Group, *Submission 110*, p. [7].

87 Financial Wellbeing Collective, *Submission 39*, p. 5.

> Virtually anyone, regardless of their financial acumen, can shift their entire superannuation savings into an SMSF and out of the regulated environment of traditional funds, often with their partner as a co-trustee. Without a doubt, there are now thousands of victims of financial abuse whose abusers are also the trustee of their super funds. Our submission includes the example of Tracy Hall, a single mum who had $300,000 of her super, her entire life savings, stolen by her partner through an SMSF. It only took a few clicks and one signature. I'd like to note that Tracy Hall was actually an experienced executive in the financial industry.[88]

2.84 A major disadvantage of SMSFs is that, unlike industry and retail funds, victims of theft or fraud (related or unrelated to financial abuse) cannot receive assistance from AFCA.[89]

**Box 2.6 Case study – Jane's story**

Jane was a 37 year old single mum when she met Bill. She had always considered herself to be financially savvy and in control of her finances. Bill was charming and Jane soon moved in with him. Over time Bill convinced Jane that she wasn't good with her own money. He began restricting how she spent money and ordered her to change how her small amount of investments were managed. He also began to control who Jane spent time with, and ultimately convinced Jane to reduce her hours spent in paid employment and to spend more time caring for their home.

Bill had told Jane that he had extensive investment experience and convinced her to open a SMSF. Jane believed that the account was in her name and that she controlled the investments. However, when abuse in the home escalated, Jane left the family home and tried to access the SMSF. At that point she realised that Bill had transferred funds into an account only he could access. Getting access to the funds has now become incredibly complex and has cost so much in legal and accounting fees that Jane doubts there will be much of the asset left if, and when, she is able to reclaim it.[90]

2.85 The Future Group recommended that the Australian Government invest in areas of research relating to better understand how financial abuse intersects with the superannuation system, particularly where one trustee of an SMSF is committing domestic violence against another.[91]

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88 Ms Christina Hobbs, General Manager, Advocacy and Impact, Future Group, *Committee Hansard*, 13 September 2024, p. 52.

89 Financial Wellbeing Collective, *Submission 39*, p. 5.

90 Case study provided by Future Group, *Submission 110*, [p. 7].

91 Future Group, *Submission 110*, [p. 18].

### Super death benefits

2.86 Super Consumers Australia emphasised that 'the super death benefit system is well and truly stacked against victim-survivors of financial abuse and DFV [domestic and family violence]'.[92]

2.87 Super isn't automatically included as part of a person's estate after they die. Instead, super fund members nominate beneficiaries directly to their fund to receive any super and life insurance they held, as their death benefit.[93]

2.88 Under Section 10 and 10A of the SIS Act, a person can leave their death benefit to a 'financial dependent' or their legal representative. A 'financial dependent' includes:

- a 'spouse' (legal spouse or a person who, although not legally married to the person, lives with the person ion 'a genuine domestic basis in a relationship as a couple'); or
- someone with whom they have an 'interdependency relationship'. An 'interdependency relationship' includes relationships between two people who live together, and one or each of them provides the other with financial and domestic support.[94]

2.89 Super Consumers Australia pointed out the differences between binding and non-binding death benefit nominations:

> A binding nomination must be actioned by the super fund so long as it is considered valid under the rules … [in the SIS Act], but it is quite complex for members to put in place. Binding nominations require two adult witness signatures and typically involve submitting a hard copy form, which is inaccessible to many members – these nominations have to be renewed up to every three years. Alternatively, members can make a 'non-binding' nomination which is easier to do, as it typically involves filling in a simple online form. The fund can take non-binding nominations into consideration, but ultimately retains the discretion to distribute the benefit as it sees fit in accordance with the law.[95]

2.90 Super Consumers Australia further point out that many people do not have a death benefit nomination in place, and for those that do it is common that the nomination is invalid under the SIS Act or is overturned by the super fund or AFCA.[96]

2.91 The SIS Act and regulations do not permit super funds to adequately consider financial abuse or more broadly family and domestic violence circumstances

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92 Super Consumers Australia, *Submission 97*, p. 10.

93 Super Consumers Australia, *Submission 97*, p. 6.

94 Super Consumers Australia, *Submission 97*, p. 6.

95 Super Consumers Australia, *Submission 97*, p. 7.

96 Super Consumers Australia, *Submission 97*, p. 7.

when determining beneficiaries and the split of benefits when a member passes away. Super Consumers Australia asserted that this is a result of:

- rigid definitions of financial dependence. For example, a victim-survivor may not meet the standard of financial dependence due to a temporary separation while, inversely, a perpetrator of financial abuse may meet the standard simply because they lived with the deceased or met the definition of a spouse;
- a lack of legal clarity of how the presence of financial abuse impacts the nature and characteristics of financial dependence, which should be able to be weighed up when a trustee is making decisions about the distribution of super;
- a requirement for valid binding death benefit nominations to be honoured even where there is a change in relationship circumstances—for example, where a couple is separated due to family and domestic violence; and
- evidence thresholds for demonstrating financial dependence and spousal relationships that are difficult for many victim-survivors of financial abuse to meet but are often straightforward for perpetrators to meet.[97]

**Box 2.7 Case study**

A woman passed away and her $353,000 death benefit was paid to her five daughters by her super fund. A man claiming to be the woman's spouse complained about this distribution to AFCA, seeking the benefit instead. Some of the adult daughters provided evidence that the mother's spousal relationship with the complainant was over, and that their mother was a victim of intimate partner violence at the hands of the complainant. They provided statutory declarations and a police report, and they argued that the complainant did not attend their mother's funeral. One of the daughters said that the complainant bribed her to sign a statutory declaration that he was living with her mother up until she died.

However, citing Ievers v SCT and SIS Act, AFCA determined that the complainant was the sole financial dependent of the woman who died despite evidence they were not living together in a genuine domestic partnership. AFCA overturned the super fund's decision, awarding the full death benefit to an alleged perpetrator of intimate partner violence.[98]

2.92 Ms Julie Adams, the mother of Molly Wilkes, a victim of family and domestic violence whose superannuation upon her death went to her perpetrator, highlighted that:

> … there are no requirements for a trustee of a superannuation fund to ensure that a binding death benefit nomination is made voluntarily and without

97 Super Consumers Australia, *Submission 97*, p. 8.

98 Case study provided by Super Consumers Australia, *Submission 97*, p. 9.

> coercion or duress. The requisite form simply must be completed and witnessed correctly and submitted to the trustee.[99]

2.93 AFCA commented that, in situations where a victim-survivors perpetrator is the only person who legally qualifies as a dependent under the SIS Act, the perpetrator will receive the victim-survivor's death benefit payment.[100]

2.94 AFCA further commented that current superannuation legislation does not clarify the application of the common law rule of forfeiture to payment of death benefits:

> Where it is established that the perpetrator was responsible for the death and morally culpable, the common law rule of forfeiture—that a person who unlawfully kills another cannot acquire a benefit because of the killing—may apply in the superannuation context. However, there is no legislation and no case law that establishes this.[101]

2.95 The Future Group pointed out that elder financial abuse give rise to similar issues. A child who is successfully financially abusing and controlling their parent will often meet the criteria of being 'financially dependent' because of their abuse, whereas other siblings may not meet the requirement of dependency. Therefore, even in cases where a parent may have nominated multiple children as their superannuation beneficiaries, it is often the perpetrator of abuse that receives the superannuation balance where the victim has not explicitly directed their superannuation to their estate and established a valid will.[102]

2.96 Ms Fiona Galbraith, Director of Policy for the Association of Superannuation Funds of Australia, noted that payment of death benefits can be the first instance of identification of financial abuse:

> The payment of a death benefit represents the one circumstance where the trustee is more likely to become aware of financial abuse, in particular where the deceased member was subject to abuse, but on occasion it also will be that the deceased member has perpetrated the abuse.[103]

2.97 Ms Misha Schubert, CEO of the Super Members Council, emphasised the restrictions current legislation places on super funds when processing death benefit payments:

> … legally, if an abuser is an eligible beneficiary, super funds must pay that death benefit out to that person; there's currently no discretion. Payments

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99 Ms Julie Adams, *Submission 104*, p. 3.

100 Australian Financial Complaints Authority (AFCA), *Submission 132*, p. 23.

101 AFCA, *Submission 132*, p. 22.

102 Future Group, *Submission 110*, p. 7.

103 Ms Fiona Galbraith, Director, Policy, Association of Superannuation Funds of Australia, *Committee Hansard*, 8 August 2024, pp 59–60.

> must be made even in cases of documented and systemic abuse, even if a coroner finds the abuse contributed to the person's death.[104]

2.98 Super Consumers Australia recommended that Section 10 and 10a of the SIS Act be amended to allow super funds to consider financial abuse circumstances when determining claimed beneficiaries' eligibility, including where a binding nomination is in place.[105]

2.99 The Association of Superannuation Funds in Australia recommended a potential change to superannuation legislation as follows:

> … under the Life Insurance Act, there's a mechanism to pay the proceeds of a life insurance policy directly to a court and the court determines to whom it is to be paid. We recommend that consideration be given to examining the costs and benefits of creating a similar provision in the superannuation legislation which would allow a death benefit in these circumstances to be paid to the court, and the court could then look at the appropriate distribution of that death benefit.[106]

2.100 Future Group recommended that the SIS Act be amended so that a spouse or child who has perpetrated domestic or family abuse against the superannuation account holder in the past two years is considered an invalid beneficiary.

## Family Law Act 1975 (Cth)

2.101 The *Family Law Act 1975* (Cth) (Family Law Act) is the main legislation relating to divorce, separation, children, parenting arrangements and property and financial matters. The Family Law Act sets out the law that the courts must apply when determining family law disputes.[107]

2.102 Currently, the Family Law Act lacks specific financial abuse provisions but does include family violence. Section 4AB of the Family Law Act describes family violence as 'violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the family member) or causes the family member to be fearful'.[108]

2.103 At the committee's public hearing in Canberra, Ms Christina Hobbs expressed concern regarding the use of the court system to continue financial abuse against victim-survivors:

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104 Ms Misha Schubert, CEO, Super Members Council, *Committee Hansard*, 8 August 2024, p. 58.

105 Super Consumers Australia, Submission 97, p. 4.

106 Ms Fiona Galbraith, Director, Policy, Association of Superannuation Funds of Australia, *Committee Hansard*, 8 August 2024, p. 60.

107 NSW Government, *Factsheet: Family Law Overview*, last updated 13 February 2024 (accessed 30 September 2024)

108 Federal Circuit and Family Court of Australia, *Family violence: Overview*, https://www.fcfcoa.gov.au/fl/fv/overview (accessed 30 September 2024).

> The final act of control that many abusers have when their victims leave is to financially ruin them for life, often by hiding and preventing access to any of the savings or liquid assets of the partnership and then drawing out any attempt at a settlement process, meaning that the victims can't afford rent, can't afford to pay the mortgage if required and, importantly, can't even fund their own legal fees to ensure a fair settlement, exploiting failings in the court system and financial regulation.[109]

2.104 The division of superannuation is considered as part of property settlements under Part VIIIB of the Family Law Act. These provisions allow the Family Court to make orders that split superannuation entitlements between parties in a divorce or separation, thus enabling an abuser to potentially exploit this process to gain financial benefits from their victim's superannuation.[110]

**Box 2.8 Case study – Name withheld's story**

The things that really got me was that I had to pay him half my super. After everything I endured, all the police reports and everything, family law was just horrendous. And because of the screwy co-parenting orders of the Court, I can't engage in the corporate world in the same way anymore, so it's impossible to get back to where I was.[111]

2.105 CWES recommended that Part VIIB of the Family Law Act be amended to protect victim-survivors superannuation from claims by perpetrators of family and domestic violence.[112]

**Bankruptcy**

2.106 EARG highlighted the issues of bankruptcy and the Family Law Act. Victim-survivors are often forced into bankruptcy as a result of financial abuse, and this not only compounds the impact of financial abuse, but it also advantages the perpetrator in their family law proceedings.[113]

2.107 If a victim-survivor of financial abuse is forced into bankruptcy, they are unable to seek orders pertaining to property that has vested in the trustee. However, the perpetrator is still able to seek an order for a property settlement and request that they be prioritised over the creditor, because a non-bankrupt spouse can seek an interest in property that has vested in the trustee, even where their conduct has contributed to the forced bankruptcy.[114]

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109 Ms Christina Hobbs, General Manager, Advocacy and Impact, Future Group, *Committee Hansard*, 13 September 2024, p. 52.

110 CWES, *Submission 82*, p. 22.

111 Case study provided by CWES, *Submission 82*, p. 23.

112 CWES *Submission 82*, p. 23.

113 EARG, *Submission 108*, p. 42.

114 EARG, *Submission 108*, p. 42.

2.108 EARG acknowledged that the interaction between the *Bankruptcy Act 1966* and the Family Law Act is intended to protect the non-bankrupt spouse but pointed out that perpetrators of family violence often exploit the system to the detriment of the victim-survivor who is left bankrupt, has no standing in family law proceedings, and often loses their home, while the perpetrator is able to seek priority over the property vested in the trustee.[115]

2.109 EARG recommended the Family Law Act be amended to allow a victim-survivor who is made bankrupt because of financial abuse, to have standing to seek orders in relation to vested bankruptcy property.[116]

**Family Law Act amendments**

2.110 On 22 August 2024, the government introduced the Family Law Amendment Bill 2024 (the bill) into the House of Representatives. The AGD stated that the focus of the bill is to amend the Family Law Act to:

> … ensure the economic impact of family violence, including economic or financial abuse, is considered as part of a property settlement or a spousal maintenance matter, where relevant.[117]

2.111 The bill would amend the definition of family violence in the Family Law Act to specifically identify economic or financial abuse-related conduct as examples of family violence. The AGD highlighted that the amendments would include the following examples as finically abusive behaviours:

- forcibly controlling money or assets, including superannuation;
- sabotaging employment or income, including potential employment or income;
- forcing a family member to take on a financial or legal liability or status;
- forcibly or without knowledge, accumulating a debt in a family member's name; and
- dowry abuse.[118]

2.112 Additionally, the bill would insist that separated couples provide all relevant financial information and documents to each other and the court when a party prepares to start court proceedings or during court proceedings about a financial or property matter. This condition aims to assist victim-survivors of family and domestic violence, including financial abuse by supporting the early

115 EARG, *Submission 108*, p. 42.

116 EARG, *Submission 108*, p. 43.

117 AGD, *Answers to questions on notice*, 15 August 2024 (received 13 September 2024), p. 2.

118 AGD, *Answers to questions on notice*, 15 August 2024 (received 13 September 2024), pp 2–3.

and transparent disclosure of all relevant financial information to ensure a just and equitable resolution of property and financial matters.[119]

2.113 The bill also proposes a less adversarial approach to property and financial matters by providing the court with additional powers to manage evidence, particularly where family and domestic violence is present. This is intended to provide safeguards to protect and support victim-survivors by enabling courts to actively manage proceedings in a safer as well as less formal and less intimidating manner.[120] For example, the bill would enable the courts to dictate how evidence is to be presented, to limit or not allow cross examination of a particular witness, and to give directions or orders about the length of written and oral evidence.[121]

## State and territory legislation and regulations

### Enduring powers of attorney

2.114 Powers of attorney are formal legal arrangements made under state and territory legislation that allow a person (the principal) to appoint another adult person or persons to make certain decisions on their behalf. Enduring powers of attorney (EPOA), unlike general powers of attorney, are instruments designed to continue in force should the person lose decision-making capacity in the future.[122]

2.115 EPOAs are intended to promote the interests of the principal by allowing them to nominate who will make future decisions on their behalf, and to inform and guide what those decisions should be. However, if EPOAs are misused or applied incorrectly, whether intentionally or unintentionally, they may facilitate financial abuse.

2.116 The Australian Human Rights Commission highlighted that financial institutions play a key role in preventing, detecting and responding to financial abuse through misuse of EPOAs. However, the commission noted that, under the current arrangements the inconsistencies in EPOA laws across Australian jurisdictions can cause unnecessary confusion, uncertainty and practical challenges for financial institutions required to act on EPOAs.[123]

2.117 Currently, different states and territories have distinct forms, definitions and requirements relating to EPOAs. Further, the circumstances under which an EPOA becomes effective can differ, with some requiring medical certification of

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119 AGD, *Answers to questions on notice*, 15 August 2024 (received 13 September 2024), p. 3.

120 AGD, *Answers to questions on notice*, 15 August 2024 (received 13 September 2024), p. 3.

121 AGD, *Answers to questions on notice*, 15 August 2024 (received 13 September 2024), p. 3.

122 AGD, *Submission 102*, p. 5.

123 Australian Human Rights Commission, *Submission 105*, p. 11.

incapacity and others activating immediately upon signing. The extent of authority granted to attorneys can vary, with different restrictions and permissions in place across jurisdictions. Some states require EPOAs to be formally registered while others do not.[124]

2.118 Many inquiry participants have highlighted the benefit of greater consistency in EPOA laws in Australia.[125] This was echoed by the consultation process conducted by the Standing Council of Attorney-Generals (SCAG), which commenced in September 2023.

2.119 Dementia Australia and the Australian Human Rights Commission recommended the establishment of a national EPOA registry to ensure consistent registration and monitoring of EPOAs.[126]

2.120 Westpac also supported the recommendation to implement a national EPOA register, but further recommended that a reporting body be established to manage the register. Westpac noted that this would result in banks validating and responding to active arrangements that are in place.[127]

2.121 The Law Council of Australia emphasised the importance of the implementation of consistent laws relating to EPOAs before the government considers the development of a national register of EPOAs. The Law Council also supported the AGD's recommendation regarding greater emphasis on education and awareness raising aimed at reducing elder abuse occurring through EPOAs, and EPOAs being the focus of future law reform work.[128]

2.122 The SCAG proposed that, rather than undertaking further work on a national register, the focus of its EPOA work should be on achieving greater consistency in state and territory EPOA laws and greater emphasis on education and awareness raising to reduce elder abuse occurring through EPOAs.[129]

2.123 The Australia Human Rights Commission also emphasised that addressing the inconsistencies in EPOA legislation will 'become more urgent and pressing as Australia's ageing population increases'.[130]

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124 Australian Human Rights Commission, *Submission 105*, p. 11.

125 Australian Human Rights Commission, *Submission 105*, p. 12; Dementia Australia, *Submission 31*, p. 5; Law Council of Australia, *Submission 127*, p. 12.

126 Dementia Australia, *Submission 31*, p. 5; Australian Human Rights Commission, *Submission 105*, p. 12.

127 Westpac, *Response to questions seeking further information on processes to identify, respond to and report financial abuse,* received 5 July 2024, p. 5.

128 Law Council of Australia, *Submission 127*, p. 12.

129 AGD, *Submission 102*, p. 5.

130 Australian Human Rights Commission, *Submission 105*, p. 13.

## Committee view

2.124 The evidence received by the committee has shown that there are gaps within current legislation that limit the ability of financial institutions to prevent and respond to financial abuse. The committee is encouraged to see that there are bills currently before the Australian Senate that would amend current legislation to better support victim-survivors but feels strongly that more can be done to in relation to credit, insurance and superannuation.

2.125 The committee wishes to thank the victim-survivors who bravely shared their lived experiences, which provided invaluable information to the committee and contributed to the committee's understanding of the real-world impacts and gaps experienced by victim-survivors of financial abuse in Australia. The committee wishes to also acknowledge that any future reform in this space should be done in consultation with victim-survivors. This consultation should seek to ensure that there are not adverse consequences resulting from implementation of reforms in a manner which is not trauma-informed, or responsive to the lived experience victim-survivors.

**Recommendation 1**

**2.126 That the Australian Government establish a mechanism for co-design with victim-survivors of financial abuse (including through representative groups) in relation to the implementation of legislative, regulatory and sector-driven reforms aimed at mitigating the prevalence and impact of financial abuse, including the recommendations of this report.**

**National Consumer Credit Protection Act 2009**

2.127 The NCCP Act provides consumer protection law for credit in Australia and governs those who provide credit, as well as contracts and transactions, and aims to ensure responsible lending. The NCCP Act sets out obligations for responsible lending, and the committee heard how RLOs can be used as a mechanism to help victim-survivors of financial abuse.

2.128 Evidence received by the committee highlighted that RLOs can provide redress for negligent lending practices, such as victim-survivors who are coerced into taking out credit facilities from which they derive no benefit. However, the committee is concerned about the effectiveness of RLOs in providing redress in cases where lenders do not make sufficient inquiries about the financial situation of the victim-survivor as a party to the contract.

2.129 The committee believes that expanding the NCCP Act and ASIC's Regulatory Guide to specifically require lenders to be satisfied that all borrowers satisfy lending requirements, and that neither borrower is experiencing financial abuse is an important step in preventing irresponsible loans to victim-survivors who are coerced into taking out credit.

2.130 The committee sees significant benefit in reviewing the current RLOs to consider options for supporting victim-survivors of family and domestic violence to obtain credit to support themselves and their families. The committee considers that keeping victim-survivors in their family home is extremely important, and that a review into the NCC and RLOs is needed to consider the best options to facilitate this outcome.

**Recommendation 2**

**2.131 That the Australian Government amend the *National Consumer Credit Protection Act 2009* and ASIC's Regulatory Guide 209 to specifically require:**

- **that the lender must take reasonable steps to be satisfied that a borrower and any guarantor is not experiencing financial abuse; and**
- **that the lender must take reasonable steps to verify the lending requirements and objectives of each borrower and any guarantor.**

**Recommendation 3**

**2.132 That the Australian Government establish a review of Responsible Lending Obligations and the National Credit Code, informed by the lived experience of victim-survivors, to consider options for:**

- **protecting victim-survivors of family and domestic violence to obtain credit; and**
- **the inclusion of specific conditions to support victim-survivors of family and domestic violence to stay in their own homes.**

2.133 In 2022, ASIC provided a temporary exemption (via a no-action letter) with respect to the NCC's requirements to notify all borrowers of changes to credit contract for situations where a joint debtor is or was a victim of family and domestic violence, and the perpetrator of this abuse is the other joint debtor.

2.134 The committee heard unanimous support from inquiry participants to make ASIC's no-action letter permanent through amendments to the NCC and NCCP Act. The committee supports this proposal as a step to aid financial institutions to better support victim-survivors of financial abuse.

**Recommendation 4**

**2.135 That the Australian Government amend the National Credit Code to require financial institutions to inform all borrowers of changes to joint credit contracts in circumstances of reasonably suspected family and domestic violence, including financial abuse.**

**Customer privacy and consent**

2.136 The Privacy Act protects individuals' personal information and regulates how Australian Government agencies and private sector organisations can collect, use and disclose personal information, including credit reporting.

2.137 Evidence received by the committee has shown that financial institutions are hindered by the Privacy Act in relation to identifying, responding to and reporting financial abuse. Financial institutions emphasised to the committee that, under privacy law, it is a requirement to obtain express, informed consent from a customer to record any sensitive information in their accounts, including suspected financial abuse.

2.138 The committee acknowledges that the Privacy Act currently presents a significant barrier to financial institutions providing appropriate support to victim-survivors. The committee considers it essential that the Australian Government consider potential mechanisms, including legislative action if required, to better enable financial institutions to document actual or suspected financial abuse.

2.139 Given the barriers to receiving explicit consent for such action from individuals who may be experiencing financial abuse and other forms of domestic and family violence, the committee considers it necessary for the Australian Government to consider mechanisms to enable the documentation of suspected abuse, including in instances where a customer has not granted explicit consent to such documentation.

**Recommendation 5**

**2.140 That the Australian Government consider how to best allow financial institutions to document and/or flag actual or suspected financial abuse against their customers when detected or reasonably suspected, including without explicit consent from customers. This may include amendments to the *Privacy Act 1988*.**

2.141 The Privacy Act sets out laws relating to consumer credit reporting and permits a wide range of creditors to report to or obtain information from credit reports. The Credit Reporting Code stipulates that an individual is allowed to request the removal of payment default information if the overdue payment 'occurred because of the unavoidable consequences of circumstances beyond the individual's control', and cites examples such as a natural disaster or bank error in processing a direct debit or fraud.

2.142 The committee notes that domestic abuse is included as a reason for allowing correction of a person's credit record. However, the committee is concerned that this may not be specific enough and victim-survivors of financial abuse are not being appropriately represented in the current legislation. The committee sees significant benefits to amending the Credit Reporting Code to reflect capture financial abuse specifically, alongside the development of best practice guide by ARCA to assist credit reporting bodies and credit providers to ensure victim-survivors' credit reports are accurate and that any negative credit reports arising from financial abuse are treated appropriately.

2.143 The committee is encouraged to see that the Attorney General and Assistant Treasurer has established an independent review of Australia's Credit Reporting Framework in the Privacy Act and the NCCP Act. The committee notes the review will examine the relationship of credit reporting with financial abuse and looks forward to seeing the report when published.

**Recommendation 6**

**2.144 That the Australian Government amend the Credit Reporting Code to specify that financial abuse is considered 'circumstances beyond the individual's control'; and that ARCA develop a best-practice financial abuse guideline for credit reporting bodies and credit providers.**

2.145 In circumstances involving financial abuse or coercive control, where a victim-survivor is not named on a mortgage but has been making contributions to mortgage payments, the committee notes with concern that situations arise where, post-separation, victim-survivors remain as the occupant of their home but are unable to obtain any information about or manage the mortgage loan. This impedes the ability of victim-survivors in such cases to track mortgage payments and arrears, and to manage the home loan account and alter loan arrangements to ensure they can remain in the home. As a result, victim-survivors are left in an ongoing state of uncertainty, often leading to loss of the home and damaged financial prospects. The committee heard strong concerns regarding the lack of specific provisions in privacy legislation and credit laws to address this situation.

2.146 The committee heard evidence that the Privacy Act includes an exception in circumstances of a serious threat to life, health and safety, but that the exception does not refer explicitly to financial abuse. Inquiry participants argued that homelessness and family and domestic violence constitute serious threats to the life, health and safety of victim-survivors. In addition, elder abuse may also constitute a serious threat to the life, health and safety of an individual.

2.147 The committee therefore considers that there are significant potential benefits to be gained from amending the Privacy Act to specify that circumstances of family violence, elder abuse and homelessness constitute a serious threat to the life, health and safety of an individual.

**Recommendation 7**

**2.148 That the Australian Government undertake appropriate action, including legislation, to clarify that circumstances of family violence, elder abuse and**

**homelessness constitute a serious threat to the life, health and safety of an individual. This may include amendments to the *Privacy Act 1988*.**

**Insurance Contract Act 1984**

2.149 The IC Act provides the legal framework for general insurers, outlining the rights and obligations of insurance contracts. Evidence received by the committee has shown that IC Act and the *Insurance Contracts Regulations 2017* (Cth) do not contain any specific provisions for consumers experiencing or impacted by family and domestic violence or financial abuse.

2.150 The committee heard evidence that damage to property is a common feature of family and domestic violence and that victim-survivors can be left without insurance coverage when their property is intentionally damaged by a perpetrator leading to their policy being void or cancelled. The committee heard recommendations supporting the inclusion of 'conduct of others' clauses in insurance contracts, and this is further discussed in Chapter 3 of the report.

2.151 The committee heard concerns regarding how perpetrators can make fundamental changes to a policy without the knowledge of the victim-survivor, and the committee has recommended above that the IC Act be amended to introduce a requirement that insurers must notify both policyholders of any request to cancel or modify the terms of the insurance policy. However, the committee notes that this requirement could be used by perpetrators to find out information about victim-survivors that should remain private in the interests of the safety or financial wellbeing of the victim-survivor.

2.152 The committee therefore considers that insurers require more leeway to deem a joint insurance policy to be a composite policy in situations involving separated couples, and in situations of family and domestic violence where safe separation may not be a feasible option for a victim-survivor.

**Recommendation 8**

**2.153 That the Australian Government amend the *Insurance Contracts Act 1984* to allow insurers to deem a joint insurance policy to be a composite policy in situations involving separation or divorce of co-insurers, and in situations where a victim-survivor's claim would ordinarily be denied due to the conduct of their perpetrator of financial abuse or coercive control.**

**Superannuation**

2.154 The committee heard that superannuation is often the largest asset people own besides their home, and many inquiry participants submitted that the legislative and regulatory systems for superannuation are not adequately supporting victim-survivors of financial abuse.

2.155 In particular, inquiry participants highlighted that SMSFs are vulnerable to manipulation by perpetrators due to their lower levels of regulatory oversight, which is based on the premise of individual self-protection. This gives rise to a greater risk that SMSFs can be used as vehicles for financial abuse.

2.156 The committee strongly recommends a review into the intersection between financial abuse and the superannuation system, particularly in relation to SMSFs. Noting the very large amount of equity currently within SMSFs, the committee is concerned that SMSFs represent a significant pool of funds that are vulnerable and attractive to would-be perpetrators of financial abuse. The committee notes that financial abuse perpetrated through SMSFs has the potential for devastating impacts on victim-survivors' financial and retirement prospects.

**Recommendation 9**

**2.157 Recognising the legitimate choice of Australians to have self-managed superannuation funds, the committee recommends that the Australian Government undertake a review of the intersection between financial abuse and the superannuation system, particularly in relation to self-managed superannuation funds; and ensure that the review is informed by the lived experience of victim-survivors.**

2.158 The SIS Act and regulations do not permit super funds to adequately consider financial abuse, or more broadly, family and domestic violence circumstances when determining beneficiaries and the split of death benefits when a member passes away. The committee heard that 'legally, if an abuser is an eligible beneficiary, super funds must pay that death benefit out to that person' and that there is currently no discretion for super funds to withhold payments in circumstances involving family and domestic violence and financial abuse.[131]

2.159 The committee is greatly concerned that, by allowing perpetrators to claim death benefits, the current arrangements effectively allow a perpetrator to continue to commit financial abuse even after death of a victim-survivor, including in circumstances of domestic violence related suicide. The committee therefore believes that the SIS Act should be amended to ensure that the payment of death benefits arrangements account for circumstances of domestic and family violence including financial abuse.

2.160 The committee considers that this issue is not isolated to the superannuation industry, and that a review into all financial products and services, as well as government services, would allow for greater protection of and support for victim-survivors.

[131] Ms Misha Schubert, CEO, Super Members Council, *Committee Hansard*, 8 August 2024, p. 58.

**Recommendation 10**

**2.161 That the *Superannuation Industry (Supervision) Act 1993* be amended to provide a mechanism so that a beneficiary who has perpetrated domestic or family abuse, including financial abuse, and domestic violence related suicide, against the superannuation account holder can be declared an invalid beneficiary of the account holder's superannuation death benefits.**

**Recommendation 11**

**2.162 That the Australian Government undertake a review of all financial products and services and government services to ensure that a perpetrator cannot financially benefit from the death of victim-survivors, including in circumstances of domestic violence related suicide.**

### Family Law

2.163 The Family Law Act is the main legislation relating to divorce, separation, children, parenting arrangements, property and financial matters. The committee notes that, while the Family Law Act does include provisions for family violence, it does not specifically reference financial abuse.

2.164 The committee heard serious concerns about the family law system being manipulated by perpetrators to continue their financial abuse of victim-survivors:

> The final act of control that many abusers have when their victims leave is to financially ruin them for life, often by hiding and preventing access to any of the savings or liquid assets of the partnership and then drawing out any attempt at a settlement process, meaning that the victims can't afford rent, can't afford to pay the mortgage if required and, importantly, can't even fund their own legal fees to ensure a fair settlement, exploiting failings in the court system and financial regulation.[132]

2.165 The committee is encouraged by some of the measures proposed in the Family Law Amendment Bill 2024, which is currently before the Australian Senate, including amendments to the Family Law Act to specifically identify economic or financial abuse as an example of family violence. The committee notes the complexity of the family law system and therefore considers that, once enacted, the bill's amendments should be reviewed after 12 months to consider their effectiveness specifically in relation to supporting victim-survivors of financial abuse.

2.166 The committee received evidence regarding adverse Family Court outcomes, including those in which lawyers representing perpetrators actively enabled financial abuse of victim-survivors. The committee does not view the active enabling of financial abuse as legitimate representation of a client and believes

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[132] Ms Christina Hobbs, General Manager, Advocacy and Impact, Future Group, *Committee Hansard*, 13 September 2024, p. 52.

that it is appropriate for state and territory Law Societies to undertake reviews of whether suborning financial abuse is adequately captured by applicable ethical and professional standards as behaviour capable of resulting in the deregistration of lawyers within that jurisdiction.

**Recommendation 12**

**2.167 That the Australian Government continue to monitor the effectiveness of the *Family Law Act 1975* in recognising financial abuse.**

**Recommendation 13**

**2.168 That state and territory law societies undertake a review of the ethical obligations of legal practitioners in relation to receipt of instructions which may have a financial abuse motive and available penalties for members who actively enable or facilitate financial abuse on behalf of their clients where there is no other reasonable basis underlying the instruction given by the client.**

**Enduring Powers of Attorney**

2.169 EPOAs are intended to promote the interests of the principal who grants the power of attorney to another person, by allowing the principal to nominate who will make future decisions on their behalf and to inform and guide what those decisions should be. However, the committee heard that, if EPOAs are misused or applied incorrectly, whether intentionally or unintentionally, EPOAs can be a significant and potent vehicle for facilitating and perpetrating financial abuse.

2.170 The committee heard evidence that suggested the implementation of a national EPOA register would support financial institutions to identify elder financial abuse. However, other submitters considered that pursuing greater consistency between state and territory EPOA schemes would be a more practical and efficient way to create nationally consistency in EPOAs schemes, which will reduce the potential for their misuse and thus better protect victim-survivors. Additionally, the committee notes the recommendation of the Standing Council of Attorneys-General that the focus of reform in relation to EPOAs should be also to implement education and awareness raising programs aimed at reducing elder abuse occurring through EPOAs. The committee considers that the harmonisation of state and territory schemes along with the resourcing of education and awareness raising should be pursued in the first instance, with the establishment of a national scheme to be considered in the event that inconsistencies between state and territory schemes prove to be intractable.

**Recommendation 14**

**2.171 That the Australian Government implement measures to achieve greater consistency in state and territory EPOA laws applying best practice to prevent**

**financial abuse; and to promote education and awareness programs aimed at reducing elder abuse occurring through misuse of EPOAs.**

# Chapter 3
# Financial providers

3.1 Unlike physical abuse, where there can be limited opportunity for third parties to intervene, financial abuse very often involves the manipulation of financial products and services, which provides some opportunity for financial product and service providers to detect and respond to suspected financial abuse.

3.2 This chapter of the report explores the issues identified by inquiry participants in relation to financial abuse and the financial services industry, being specifically providers of banking, insurance and superannuation products and services.

3.3 This chapter also explores possible areas and issues for reform, including potential changes to financial providers' systems and processes, the similarities and differences between fraud and financial abuse, industry self-regulation, and options for policy modernisation.

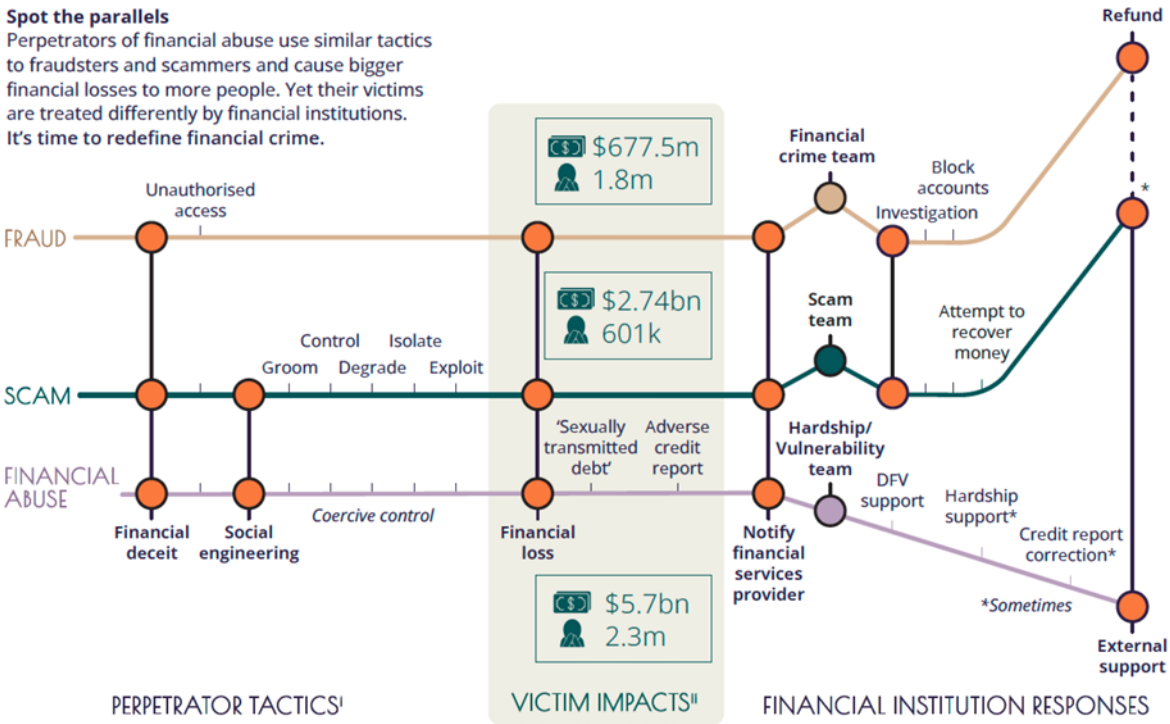
## Similarities and differences between fraud and financial abuse

3.4 Flequity Ventures reported that the direct cost to victim-survivors of financial abuse has been estimated at $5.7 billion, which is almost $3 billion more than Australians lost to scams in 2023 (Figure 3.1).[1] Further, financial abuse has been estimated as costing the economy $5.2 billion annually resulting in a staggering estimated cost of $10.9 billion.[2]

1 Flequity Ventures, *Submission 88*, p. 5.

2 Department of Social Services, *Answers to questions on notice*, 28 June 2024 (received 13 August 2024), p. 1.

**Figure 3.1 The hidden connection: Financial abuse and fraud**




*Source: Flequity Ventures, Submission 88, p. 5.*

3.5 Ms Catherine Fitzpatrick, Founder and Director of Flequity Ventures, highlighted the connection between fraud and financial abuse:

> … It is a conversation that I have had a number of times: 'Why don't we consider [financial abuse] … to be fraud?' If you take out a debt in somebody else's name without their knowledge or consent, that is fraud. That's a very clear case, and you would see that most organisations might waive the debt if they found that to be the situation. I think it is a cultural belief that if a stranger does something to you then you're blameless but if you love somebody and they take advantage of you or try to control you then you're partly to blame.[3]

3.6 Ms Fitzpatrick asserted that, although many of the tactics of financial abuse are similar to those used to commit fraud, victim-survivors of financial abuse are treated differently by financial institutions:

> When it comes to financial abuse, it goes to the hardship or the vulnerability team. It's not treated as a crime. In a way it's good, because those teams treat you as somebody who needs sensitivity and empathy, and they have more training these days … But in another way, when it's debt, it's: 'Too bad, so sad; you've got this debt, and you need to repay it.' It's not: 'You are a victim of crime; therefore, how do we restore you to where you were before that crime?' And then there are a whole lot of other provisions—credit reporting corrections and those sorts of things—that might happen. I've not seen a

3 Ms Catherine Fitzpatrick, Founder and Director, Flequity Ventures, Committee Hansard, *28 June 2024*, p. 33.

> bank try to recover the money from the perpetrator of financial abuse, like they would try to recover the money from fraud.[4]

3.7 ANZ pointed out the differences between financial abuse and fraud, and the challenges associated with addressing both the same way:

- perpetrators of financial abuse are often legally entitled to the funds within a victim-survivor's account (for example, where the perpetrator and victim-survivor share a joint account) or may be legally authorised to act on a victim-survivor's account (for example in a power of attorney situation);
- financial abuse losses may not involve a specific transfer of funds to a perpetrator and can instead relate to controlling behaviour or a refusal to contribute to bills and expenses; and
- victim-survivors may be dependent on a perpetrator and/or unable to advocate for themselves.[5]

3.8 ANZ further pointed out that victim-survivors of financial abuse may be experiencing significant change in their life circumstances and may be experiencing vulnerability. They may require domestic and family violence support.[6]

3.9 Compared to fraud or scams, the legal basis for recovering or transferring funds for financial abuse may also be less clear. As such, a referral to a bank's specialist teams may be more appropriate to enable the institution to carefully consider the circumstances of each case and determine an appropriate solution.[7]

## Banking

3.10 The Customer Owned Banking Association (COBA) emphasised that:

> Banks play an important role in identifying, preventing and responding to financial abuse. However, due to the sensitive and complex nature of financial abuse, we acknowledge that banks alone cannot solve this problem. Disruption of financial abuse requires a multi-faceted approach involving collaboration between banks, government agencies, community organisations, and other stakeholders.[8]

3.11 This section of the report will examine the following issues identified in the banking sector by inquiry participants:

- the transition to online platforms;
- loans and joint accounts, including buy now pay later; and

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4 Ms Catherine Fitzpatrick, Founder and Director, Flequity Ventures, Committee Hansard, *28 June 2024*, p. 33.

5 ANZ, *Answers to questions on notice*, 19 August 2024 (received 9 September 2024), p. [3].

6 ANZ, *Answers to questions on notice*, 19 August 2024 (received 9 September 2024), p. [3].

7 ANZ, *Answers to questions on notice*, 19 August 2024 (received 9 September 2024), p. [3].

8 Customer Owed Banking Association (COBA), *Submission 115*, p. 3.

- the current mechanisms of self-regulation.

**Transition to online platforms**

3.12 The shift from financial products to online platforms has been happening over a number of years, and ANZ reported that, in the 2023 financial year, over 99 per cent of all banking transactions occurred digitally. ANZ further submitted that, between 2019 and 2023, branch transactions decreased by 47 per cent, while online and app transactions increased by 39 per cent.[9]

3.13 Bendigo and Adelaide Bank stated that, while online products have made banking simpler, quicker and more convenient for customers, it has also meant perpetrators can use online banking features to inflict abuse.[10]

3.14 COBA emphasised that the increasing shift of financial products to online platforms makes it increasingly difficult to identify potential 'red flags' and effectively manage instances of financial abuse. COBA further emphasised that this results in banks being heavily reliant on personal interactions with customers to identify financial abuse.[11]

3.15 COBA observed the following features of online platforms that can facilitate financial abuse:

- the ability to access a wide range of products and services and transactional capability online without the need for any assistance from a bank (customer self-serve) makes it easier for perpetrators of financial abuse to access and control a victim's accounts;
- the Consumer Data Right makes it simpler and easier for a perpetrator to gain access to and track all accounts and activity through banking apps;
- new fee-free forms of electronic payments have made it easier for perpetrators to abuse through transaction descriptions that harass, coerce and threaten accountholders;
- applying for an account, loan or credit card online can make it easier for a perpetrator to impersonate the identity of a victim-survivor and open products in their name without their knowledge, or to subject them to duress;
- customers saving their bank passwords on devices at home can enable others to access their bank accounts through that device; and
- increased utilisation of third-party authorities and powers of attorney have increased the opportunity for these third parties to conduct 'conflicted

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9 ANZ, *Response to questions seeking further information on processes to identify, respond to and report financial abuse,* received 3 July 2024, p. 3.

10 Bendigo and Adelaide Bank, *Response to questions seeking further information on processes to identify, respond to and report financial abuse,* received 3 July 2024, p. 6.

11 COBA, *Submission 115*, p. 13.

transactions' without the knowledge of customers (especially older customers who may not be using online platforms).[12]

3.16 The Economic Abuse Reference Group (EARG) pointed out that the shift to online platforms and applications results in:

> … reduced ability [to] engage in any kind of check beyond an algorithmic assessment of available transaction history and the consumer's credit report, so there will be less opportunity to verify consent for joint applications, or identify whether the credit is for the applicant's benefit.[13]

3.17 At the committee's public hearing in Canberra, Ms Iresha Lehane, a financial counsellor with Lifeline Australia, emphasised the ease with which online platforms can be manipulated to further elder financial abuse:

> … we had a client, an older lady, whose daughter held up the phone to get the facial ID so that she could get into the app to take out the loans. That's all it took. It was that easy.[14]

3.18 COBA acknowledged that online platforms do present banks the opportunity to use technology to assist with identifying cases of financial abuse, as well as supporting customers. An example of this is the implementation of a 'quick exit' feature on webpages; to allow a person to immediately close the webpages they were accessing and clear their browser history to protect their privacy and safety.[15]

3.19 ANZ echoed COBA's point of view in stated that the shift to online platforms provides the opportunity to identify abuse through data analysis, and that digital banking is particularly useful for this purpose as it provides comprehensive client use data. The use of machine learning to search through large volumes of data in 'real-time' provides the potential to identify signs of increased risk of financial abuse very quickly.[16]

3.20 Latitude Financial advised that it has also recently deployed an artificial intelligence solution, which aims to monitor all interactions between its contact centre and customers. Latitude Financial considered that this new capability will further strengthen its ability to identify hardship triggers and ensure that

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12 COBA, *Submission 115*, p. 13.

13 Economic Abuse Reference Group (EARG), *Submission 108*, p. 10.

14 Ms Iresha Lehane, Financial Counsellor, Lifeline Northern Beaches, *Committee Hansard*, 13 September 2024, p. 64.

15 COBA, *Submission 115*, p. 13.

16 ANZ, *Response to questions seeking further information on processes to identify, respond to and report financial abuse,* received 3 July 2024, p. 4.

vulnerable customers and those experiencing hardship are being offered the most appropriate form of support.[17]

3.21 At the committee's public hearing in Melbourne, Ms Jasmine Opdam, Senior Policy and Advocacy officer from Redfern Legal Centre, expressed concern that the online application processes that financial providers use for their products and services is often too streamlined, and noted that more 'friction' in application processes is important in that it provides opportunities for the identification of financial abuse:

> All we need is to introduce, in many cases, the bare minimum of friction to an application process. We see this all the time in the buy-now pay-later space, where it's an almost completely frictionless process and it's ripe for abuse by perpetrators. What we're talking about is introducing the bare minimum of friction so that there are opportunities to identify where financial abuse is occurring and, at a bare minimum, perhaps speaking to both co-borrowers.[18]

3.22 EARG recommended that electronic transactions have added checks and balances in place to protect against financial abuse including, but not limited to, the requirement for witnessing. It is further noted that these checks and balances should be culturally appropriate and accessible.[19]

**Box 3.1 Case study – 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

17 Latitude Financial, *Answers to questions on notice*, 8 August 2024 (received 9 September 2024), p. 9.

18 Ms Jasmine Opdam, Senior Policy and Advocacy Officer, Financial Abuse Service NSW, Redfern Legal Centre, *Committee Hansard*, 8 July 2024, p. 26.

19 EARG, *Submission 108*, pp 10–11.

> 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.[20]

*Impacts on elder abuse*

3.23 Uniting Communities highlighted that the shift to online and digital banking platforms has created significant challenges, particularly for people living in regional areas, culturally and linguistically diverse people and older people who do not have access to digital technologies or adequate digital literacy skills. They are then forced to rely on others (family members/non-relatives) to access their bank services, inadvertently making them susceptible to financial abuse.[21]

3.24 While some older people are familiar and skilled with using online banking platforms, there is still a considerable proportion of older people who have poor digital literacy. In 2023, the Australian Digital Inclusion index found that older people have considerably lower digital literacy compared to the national average. Eastern Community Legal Centre (ECLC) asserted that lower digital literacy and the transition to online banking platforms can lead to an increased risk of financial elder abuse.[22]

3.25 ECLC further observed that online financial elder abuse can occur when older people have their online login details stolen by others, both family members and non-relatives, who then use those details to make unauthorised transactions. It was also observed that financial elder abuse can be exacerbated when an appointed attorney under an enduring power of attorney has access to the older person's online banking platforms and misuses their authority for their own benefit.[23]

3.26 Many inquiry participants highlighted the benefits of physical bank branches, which can provide an important financial abuse safeguard for victim-survivors, especially older people.[24] The NSW Ageing and Disability commission explained that branch staff can play an important role in identifying and intervening in instances of financial abuse, as they are familiar with their

20 Case study provided by Women's Legal Service Victoria, *Submission 131*, p. 18.

21 Uniting Communities, *Submission 36*, p. 7.

22 Eastern Community Legal Centre, *Submission 126*, p. 10.

23 Eastern Community Legal Centre, *Submission 126*, p. 10.

24 NSW Ageing and Disability Commission, *Submission 81*, p. 5; Uniting Communities, *Submission 36*, p. 8; Women's Legal Service Victoria, *Submission 131*, p. 17.

customers and can identify changes in customer behaviour, raise questions about the customer's decision-making capability or arrangements, and pursue concerns about interactions between family members and a customer in relation to their money or accounts.[25]

3.27 ECLC proposed the following recommendations to address the impacts on older Australians resulting from the shift to online platforms:

- voluntary 'opt-in' online services: online banking should be opt-in and banks should not encourage older customers to get online services if they are not confident using them; and
- warnings about getting help from family members: financial providers should provide warnings to elderly customers about the risks of financial abuse if they seek support from family and friends with online banking.[26]

3.28 EARG echoed the ECLC's recommendation that all electronic banking services should be 'opt-in'.[27]

### *Abusive language in payment descriptions*

3.29 A prominent example of the negative impact that the transition to online platforms has had on victim-survivors is the use of abusive language in the payment description field for bank transfers and payments.[28]

3.30 Some perpetrators have developed a tactic where they make one or more electronic funds transfer of a small amount of money to the victim-survivor and use the description field to send an abusive message. This is often used when other options for communication have been blocked.[29]

3.31 Commonwealth Bank of Australia (CBA) explained that technology-facilitated abuse through transactions has a range of impacts on victim-survivors. These include that victim-survivors can relive abuse when they see these messages throughout their account statements. Additionally, CBA highlighted that, if the victim-survivor applies for any type of credit or submits a rental application, these transactions appear on the victim-survivor's statements that may be required to secure the credit or rental contract.[30]

3.32 Transaction monitoring for financial abuse is becoming common practice for banks. Bank of Queensland submitted that its customer advocate office receives

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25 NSW Ageing and Disability Commission, *Submission 81*, p. 5.

26 Eastern Community Legal Centre, *Submission 126*, p. 2.

27 EARG, *Submission 108*, p. 11.

28 Bendigo and Adelaide Bank, *Response to questions seeking further information on processes to identify, respond to and report financial abuse,* received 3 July 2024, p. 6.

29 EARG, *Submission 108*, p. 11.

30 Commonwealth Bank of Australia (CBA), *Submission 69*, p. 6.

frequent reports on outbound payment transfers that have been identified as potentially abusive, threatening or harmful, or which includes inappropriate language. Bank of Queensland further advised that perpetrators identified through this process are issued warning letters from the bank.[31]

3.33 EARG asserted that the CBA's model for identifying and responding to abusive electronic money transfers is best practice. It was noted that CBA have developed several interventions that can be offered to customers, including:

- setting up new, safe accounts for victim-survivors;
- de-linking the victim survivor's bank account from PayID so the perpetrator can no longer send abusive transactions to their email address, mobile number or ABN;
- sending warning letters to perpetrators;
- removing a perpetrator's access to digital banking for a period of 3 months;
- referring victim-survivors to external support organisations including the Good Shepherd Financial Independence Hub; and
- in extreme cases, termination of a perpetrator customer's banking relationship if they continue to act in breach of the bank's relevant acceptable-use policy.[32]

3.34 CBA highlighted that, in 2020, it implemented an automatic block on some of the most offensive and abusive language on its online banking platforms, which has resulted in nearly one million blocked transactions since its implementation.[33]

3.35 The Salvation Army recommended that financial institutions continue to work to minimise the impacts of financial abuse and harassment communicated through transaction descriptions.[34]

3.36 EARG recommended that all authorised deposit-taking institutions adopt the Commonwealth Bank model to identify and respond to abusive electronic money transfers.[35]

### Loans and joint accounts

#### *Joint accounts*

3.37 Having a joint account with a spouse is often seen as a symbol of togetherness and partnership. However, in financially abusive relationships joint accounts

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31 Bank of Queensland, *Response to questions seeking further information on processes to identify, respond to and report financial abuse,* received 9 July 2024, p. 3.

32 EARG, *Submission 108*, p. 11.

33 CBA, *Submission 69*, p. 6.

34 The Salvation Army, *Submission 34*, p. 11.

35 Economic Abuse Reference Group, *Submission 108*, p. 11.

can often lead to significant financial, physical and mental harm to victim-survivors.[36]

3.38 WEstjustice identified the following ways that joint accounts can be used by perpetrators to commit financial abuse:

- limiting access to joint funds;
- withdrawal of significant amounts of money by one party;
- refusing to repay debt;
- damage to credit scores; and
- using transactions to stalk or monitor a person's movements and spending.[37]

3.39 Even though it may not be in the perpetrators best interests to stop payment or default on a joint debt, they may do so knowing that it will cause further harm to the victim-survivor.[38]

3.40 Westpac noted that in circumstances of separation, whether or not as a result of family and domestic violence, it has protection measures in place so joint accounts are not misused. These measures include options for customers to put 'two to sign' authority on joint accounts, to freeze accounts and to place auto-blocks on credit cards.[39]

3.41 The Hon. Anna Bligh, Chief Executive Officer of the Australian Banking Association (ABA), highlighted the difficulties associated with designing safe financial products:

> To illustrate the complexity, dual authorisation arrangements were introduced as a measure to stop an individual withdrawing cash from joint accounts or redraw facilities without the consent of both partners. Unfortunately, banks have subsequently seen that these arrangements can also be used as a tool of abuse to prevent the other joint account holder using the account independently or setting up recurring payments from the account, for example.[40]

3.42 Bendigo and Adelaide Bank presented a case study that identified a new approach for joint accounts. A subsidiary of Bendigo and Adelaide Bank, Up, released a product in 2021, called 2Up, that allows customers to open a 2Up account with another Up customer, creating a shared account while retaining individual accounts. Customers can contribute to shared financial goals or commitments while retaining their own personal accounts and continuing to work towards their own financial goals. The product encourages transparency

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36 WEstjustice, Submission 113, p. 24.

37 WEstjustice, Submission 113, p. 24.

38 Financial Rights Legal Centre, *Submission 112*, p. 22.

39 Westpac, *Answers to questions on notice*, 9 and 19 July 2024 (received 16 August 2024), p. 7.

40 The Hon. Anna Bligh, Chief Executive Officer, ABA, *Committee Hansard*, 8 July 2024, p. 40.

and makes it easy for linked customers to see the incoming and outgoing funds. This product is aimed at ensuring financial independence alongside joint financial commitments.[41]

3.43 The Centre for Economic Safety's first *Designed to disrupt* report proposed potential design options to prevent misuse of joint accounts. Key design options included:

- the application of fraud monitoring analysis to large withdrawals and red flags that identify potential abuse behaviour;
- simplified separation processes to de-link accounts from perpetrators without notification;
- once aware of the separation, restrictions on withdrawals by each person to half the funds and require both parties to sign for the remainder until property settlement;
- information for customers to inform them of the safest account settings;
- reporting functions for online products, to provide avenues for customer concerns or employee safety concerns to be actions; and
- improvements to the hardship process.[42]

3.44 WEstjustice recommended that when a financial institution establishes a joint account, it has the responsibility to ensure the following:

- that each joint account holder has their own access to the account;
- what information will be visible and/or shared with the other account holder; and
- explaining what mechanisms exist to ensure safety of the account, such as a 'two to sign' requirement before withdrawals can be made.[43]

***Financial hardship***

3.45 The National Credit Code provides a framework for customers to advise their lender of their inability to meet their obligations. If a lender is given notice by a customer that they are unable to meet their obligations under a credit contract (hardship notice), the lender decides whether to agree to change the contract or not as follows:

(a) the lender agrees to change the contract—if this occurs, the lender must give the customer written notice stating that the change has been agreed and setting out the details of the change; or

41 Bendigo and Adelaide Bank, *Response to questions seeking further information on processes to identify, respond to and report financial abuse,* received 3 July 2024, p. 7.

42 Ms Catherine Fitzpatrick, *Designed to Disrupt: Reimagining banking products to improve financial safety (CWES Discussion Paper 1),* 2024, p. 20.

43 WEstjustice, Submission 113, p. 24.

(b) the lender does not agree to change the contract—if this occurs, the lender must give the customer written notice that includes reasons for their decision, contact details for the AFCA scheme and the customer's rights under that scheme.[44]

3.46 While s72(2) of the National Credit Code specifies that the lender is not required to agree to change the credit contract, the section is accompanied by a note that explains what may constitute reasonable cause for a consumer's inability to meet their obligations, 'such as family violence, illness or unemployment'.[45]

3.47 Under the mandatory comprehensive credit reporting regime, large banks are required to provide credit information about consumers to credit reporting bodies—this includes information about financial hardship arrangements.[46]

3.48 The reasons why a customer may experience financial hardship are many and varied, financial abuse being one of the reasons. Financial hardship can be the first line indicator of financial abuse or as a result of separation.[47]

3.49 Large lenders have developed hardship streams, which allow customers to delay payments, manage accounts and, in some circumstances, waive the entire debt.[48]

3.50 The Australian Securities and Investments Commission (ASIC) published a report in May 2024 titled '*Hardship, hard to get help: Lenders fall short in financial hardship support*' (hardship report).[49] The hardship report outlined findings from ASIC's review of ten large home lenders and found that landers were failing to identify and respond to their customers' hardships.[50]

3.51 ASIC's hardship report found that most lenders had an organisation-wide policy and staff training to identify and respond to customers experiencing vulnerability. However, ASIC also identified a range of issues with how lenders

44 Australian Securities and Investment Commission (ASIC), *Hardship, hard to get help: Lenders fall short in financial hardship support*, May 2024, https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-783-hardship-hard-to-get-help-lenders-fall-short-in-financial-hardship-support/ (accessed 16 October 2024).

45 ASIC, *Submission 48*, p. 11.

46 ASIC, *Submission 48*, p. 12.

47 Australian Financial Complaints Authority (AFCA), *Submission 132*, p. 16.

48 The Salvation Army, *Submission 34*, p. 27.

49 ASIC, *Hardship, hard to get help: Lenders fall short in financial hardship support*, May 2024, https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-783-hardship-hard-to-get-help-lenders-fall-short-in-financial-hardship-support/ (accessed 16 October 2024).

50 Consumer Action Law Centre, *Submission 134*, p. 11.

handled hardship notices from vulnerable customers. ASIC observed 35 per cent of customers dropped out of the assessment process at least once [51]

3.52 The Salvation Army explained that, although financial institutions have made efforts to make hardship arrangements trauma-informed for those experiencing financial hardship and financial abuse, the administrative processes of hardship applications will always have a retraumatising effect.[52]

3.53 ASIC highlighted that it is a positive step that some lenders have introduced special support teams for consumers experiencing financial abuse, while cautioning that this additional support serves little benefit if consumers that need specialised assistance can't access it.[53]

3.54 The Consumer Action Law Centre expressed concern that:

> When core financial hardship obligations are being inadequately met, it raises concerns that the more subtle but well-known markers of financial abuse are not being identified or responded to. Preventing and responding to financial abuse are key to meeting financial hardship obligations.[54]

3.55 The Australian Financial Complaints Authority (AFCA) stated that fair, flexible and inclusive design of hardship processes (for example, accessible communications, call scripts, system flags, sensitively designed online forms, good call notes and staff training) can better identify and support tailored hardship responses for all customers, and provide particular sensitivity to the proportion of hardship cases involving financial abuse.[55]

**Box 3.2 Case study – Helena's story**

Helena called the National Debt Helpline in April 2024 seeking help. She had separated from her ex-partner, who was perpetrating physical, emotional and financial abuse against her, at the end of 2023. Around the time they separated, Helena discovered that her ex-partner hadn't been paying the mortgage and their joint loan had been in hardship for six months.

Helena says her lender refused to consider a further hardship variation and had just advised that it would foreclose on the property in 12 days. Helena was scared that she and her two kids would be homeless.[56]

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51 ASIC, *Submission 48*, p. 16.

52 The Salvation Army, *Submission 34*, p. 27.

53 ASIC, *Submission 48*, p. 16.

54 Consumer Action Law Centre, *Submission 134*, p. 11.

55 AFCA, *Submission 132*, p. 17.

56 Case study provided by Consumer Action Law Centre, *Submission 134*, p. 11.

3.56 In response to the hardship report, ASIC asserted that it expects all lenders to take the following steps to improve their financial hardship practices[57]:

- identify where consumers may be experiencing vulnerability and take extra care with, and provide additional support to, these consumers; and
- have in place adequate systems, resourcing, training, compliance and other arrangements to enable hardship functions to operate effectively.[58]

3.57 AFCA supported the ASIC hardship report's recommendations to improve lenders responses to financial hardship, including applying a financial abuse lens to hardship applications to better identify those cases involving financial abuse and potential interventions.[59]

3.58 The Centre for Women's Economic Safety (CWES) supported ASIC's hardship report recommendations, but further noted that, while the report only refers to home loan lenders, the recommendations should actually apply to all lending.[60]

3.59 Financial institutions must ensure that hardship arrangements are flexible, responsive and easily navigable by vulnerable customers. The Salvation Army recommended that financial institutions continue to develop accessible, trauma-informed resources and continue to invest in hardship arrangements to minimise the barriers to access for those experiencing financial abuse and other trauma.[61]

3.60 EARG observed that financial institutions tend to respond to financial-abuse related debts by waiving them on the basis of financial hardship or on compassionate grounds, even where the victim-survivor or their advocate has engaged in alleged breaches of the *National Consumer Credit Protection Act 2009* or raised other legal causes of action.[62]

3.61 Additionally, EARG noted that financial intuitions are often reluctant to engage in disputes about misconduct or maladministration in the delivery of the financial product, preferring instead to seek information about the victim-survivor's current financial circumstances and, if appropriate, provide an outcome based on addressing their financial hardship.[63]

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57 A full list of ASIC's recommendations can be found in Appendix 3.

58 ASIC, *Submission 48*, p. 16.

59 AFCA, *Submission 132*, p. 17.

60 Centre for Women's Economic Safety, *Submission 82*, p. 10.

61 The Salvation Army, *Submission 34*, p. 28.

62 EARG, *Submission 108*, p. 8.

63 EARG, *Submission 108*, p. 8.

3.62 Ms Bronwyn Davis, Family Violence Financial Counsellor at Women's Legal Service Victoria, echoed this sentiment:

> The path of complaint changes to hardship. They'll waive it and the client will be satisfied with that because it means they can move on, and we don't always get to see accountability [of the perpetrator] or the outcome for what it actually is.[64]

3.63 It was proposed that financial institutions be required to report on the proportion of complaints alleging financial abuse which are resolved on the basis of financial hardship alone. NAB, Westpac and ANZ reported that currently they do not capture complaints data in this manner.[65]

3.64 At the committee's public hearing in Melbourne, Ms Darlene Mattiske-Wood, Board Director of COBA, noted her support for mandating the proposed requirement to report on the proportion of complaints alleging financial abuse.[66]

### *Buy Now Pay Later*

3.65 Buy Now Pay Later (BNPL) is a short-term instalment loan that allows consumers to pay for goods and services over a few weeks. The first instalment is often due at time of purchase with three further instalments then due every two weeks.[67]

3.66 The Financial Rights Legal Centre observed that BNPL is an example of a credit product that has been purposely designed to prioritise frictionless and easy on-boarding and usage over safety. Minimal identification requirements in addition to minimal sign-up hurdles can result in perpetrators using BNPL products to financially abuse victim-survivors. Victim-survivors of financial abuse can potentially only find out they have a BNPL debt in their name when they are being pursued by a debt collector and their credit score has been negatively impacted.[68]

3.67 Zip Co highlighted the steps conducted to ensure the individual applying for the Zip product is who they say they are. These steps include collection and independent verification of identification documents, undertaking a credit check, requiring applicants to connect a third-party bank account, obtaining confirmation that the applicant's bank account is held in the same name as the

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64 Ms Bronwyn Davis, Family Violence Financial Counsellor, Women's Legal Service Victoria, *Committee Hansard*, 8 July 2024, p. 33.

65 NAB, *Answers to questions on notice*, 8 July 2024 (received 5 August 2024), [p. 2]; Westpac, *Answers to questions on notice*, 8 July 2024 (received 16 August 2024), p. 8; ANZ, *Answers to questions on notice*, 19 August 2024 (received 9 September 2024), p. [5].

66 Ms Darlene Mattiske-Wood, Board Director, COBA, *Committee Hansard*, 8 July 2024, p. 9.

67 Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024, *Explanatory Memorandum*, p. 169.

68 Financial Rights Legal Centre, *Submission 112*, pp 9–10.

applicant and requiring email and mobile numbers for two-factor authentication when transacting on, or updating an account.[69]

**Box 3.3 Case study**

A Money Clinic client discovered a line of credit in her name from a BNPL provider that had been obtained by her abusive partner. He had access to all her identity documents, along with control of her phone, email, and bank accounts. He would change the passwords and PINs so she could not access her own accounts.

The line of credit application was done in her name and the perpetrator had used the funds to purchase a laptop computer.

Once she ended the relationship and was able to access her accounts and email again, she found a statement from the BNPL provider in her email and realised that money was being taken out of her bank account each month to repay the debt.

She immediately called them and was given the run around. After many months trying to navigate the various departments of the provider, they were unwilling to recognize that their product formed part of the financial abuse she experienced.

The case was escalated to AFCA which found in the client's favour. The amount in question was $2000, and the whole process took more than 6 months and extraordinary stress because the BNPL provider did not believe the client in the first instance and refused to acknowledge that their product was able to be used to commit financial abuse.[70]

3.68 Currently, BNPL providers are not subject to responsible lending obligations under the *National Consumer Credit Protection Act 2009* and are not required to undertake any credit checks or other affordability assessments prior to providing credit.[71] While BNPL debts may be for small amounts, perpetrators can accumulate multiple debts from different providers that can add up to amounts in the thousands.[72]

3.69 National Legal Aid asserted that the prevalence of BNPL contracts in the context of family violence has been identified as a growing trend. National Legal Aid identified that BNPL products are liable to financial abuse because accounts can

69 Zip Co, *Response to questions seeking further information on processes to identify, respond to and report financial abuse*, received 13 September 2024, p. 2.

70 Case study provided by Centre for Women's Economic Safety, *Submission 82*, p. 13.

71 Economic Abuse Reference Group, *Submission 108*, p. 24.

72 Consumer Action Law Centre, *Submission 134*, p. 8.

be easily opened and operated online from a victim's phone using basic personal information.[73]

3.70 The Salvation Army identified the following ways BNPL can impact victim-survivors experiencing financial abuse:

- a person using violence may take out debt in the name of the victim-survivor without their knowledge;
- a person using violence may force the victim-survivor to take out a debt in their name through fear of violence; and
- the victim-survivor may be forced to take out a debt for accessing vital funds to leave their unsafe environment, or to purchase necessities within the household.[74]

3.71 VincentCare Victoria brought to the committee's attention the concerning trend of BNPL products being used to facilitate financial elder abuse as a result of the increasing cost of living crisis.[75]

*Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024*

3.72 In June 2024, the Australian Government introduced the Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024 (BNPL Bill) to regulate the BNPL industry. The BNPL Bill would amend several acts to extend the application of the *National Consumer Credit Protection Act 2009* to BNPL services.[76]

3.73 The Consumer Action Law Centre acknowledged that the BNPL Bill introduces beneficial measures, including credit licence obligations and the requirement of BNPL providers to be a part of the Australian Financial Complaints Authority. However, the Consumer Action Law Centre expressed concern regarding the BNPL Bill's 'scaled' responsible lending obligations, which results in BNPL providers not having the same suitability and affordability requirements and objectives as ordinary credit providers.[77]

3.74 The Salvation Army noted that further legislation may be required to provide more comprehensive protection, however concluded that the BNPL Bill is 'a step

73 National Legal Aid, *Submission 78*, p. 7.

74 The Salvation Army, *Submission 34*, p. 20.

75 Vincentcare Australia, *Submission 10*, p. 7.

76 Senate Economics Legislation Committee, *Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024*, August 2024, p. 1.

77 Consumer Action Law Centre, *Submission 134*, p. 6.

in the correct direction to better protect community members from unsuitable sources of credit'.[78]

3.75 EARG made clear that it supports the BNPL Bill, but highlighted that several of its key concerns about the proposed legislation were not addressed in the BNPL Bill, including:

- the lack of income verification, which would ensure the BNPL provider's assessment of the consumer's financial situation is based on correct information and that consumers are not sold unaffordable credit;
- the lack of recognition of family and domestic violence (including financial abuse) as a factor that may lead to identity theft and fraud;
- the rebuttable presumption that BNPL products under $2000 meet the requirements and objectives of the consumer, as the requirements and objectives limb of responsible lending obligations can help identify applications for credit where the named borrower is unlikely to receive any benefit; and
- inadequate financial hardship and family violence practices and policies.[79]

3.76 The Ecstra Foundation echoed the above concern regarding the adequacy of protections for amounts under $2000, which could leave victim-survivors of financial abuse vulnerable to further abuse.[80]

3.77 The Consumer Action Law Centre recommended the following stronger measures to make BNPL less vulnerable to financial abuse:

- a requirement for BNPL providers to conduct a suitability assessment including for amounts less than $2000
- introduce a requirement for BNPL providers to consider if a customer is at risk of financial abuse and family and domestic violence as part of a suitability assessment for entering a new contract or increasing the credit limit of an existing contract; and
- a requirement for BNPL providers to implement safeguards to prevent identity theft in BNPL, including by perpetrators of financial and family and domestic violence.[81]

3.78 The Salvation Army recommended the *National Consumer Credit Protection Act 2009* be amended to extend greater Responsible Lending Obligations

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78 The Salvation Army, *Answers to questions on notice*, 9 August 2024 (received 6 September 2024), p. 3.

79 EARG, *Submission 108*, p. 24.

80 Ecstra Foundation, *Submission 67*, p. 2.

81 Consumer Action Law Centre, *Submission 134*, p. 8.

compliance requirements to BNPL lending to maximise the protection of victim-survivors from financial abuse and include identity-verification requirements.[82]

3.79 For more information on the BNPL Bill, the Senate Economics Legislation Committee published a report in August 2024 that addressed the key issues relating to BNPL, separate to those specifically related to financial abuse.[83]

**Box 3.4 Case study – Mel's story**

Mel was in a domestically violent relationship where her ex-partner perpetrated physical, emotional and financial abuse against her. This included obtaining a number of loans and wage advance products in Mel's name for his own benefit, using access he had to her phone and bank accounts. He used her phone to apply for the wage advance products and transferred the funds to his own account for his own use.

While Mel knew what her ex-partner was doing, due to the abusive nature of their relationship she felt that she couldn't tell him to stop.[84]

## Self-regulation

### *Banking Code of Practice*

3.80 The Banking Code of Practice (Banking Code) is a set of enforceable standards of practice and services in the Australian banking industry, and provides safeguards and protections not set out in the law.[85] All 20 of the ABA's members must adopt the Banking Code, and it binds member banks as a matter of contract.[86]

3.81 The Banking Code requires member banks to take extra care with vulnerable customers, including victim-survivors of family or domestic violence or elder abuse.[87]

3.82 The Banking Code requires banking staff to be trained to act with sensitivity, respect and compassion, and to work with customers to find suitable ways to undertake their banking. Banks are also required to be respectful of confidentiality, make communications easy, provide guidance to help

82 The Salvation Army, *Submission 34*, p. 21.

83 For full report please see Senate Economics Legislation Committee website: www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/TLABBuyNowPaylater/Report

84 Casy study provided by Financial Right Legal Centre, *Submission 112*, p. 11.

85 Australian Banking Association (ABA), *Banking Code of Practice*, 1 March 2020 (revised 5 October 2021), p. 4.

86 Financial Rights Legal Centre, *Submission 112*, p. 28.

87 ABA, *Submission 99*, p. 3.

customers maintain and regain control of finances, and refer customers to external support services where appropriate.[88]

3.83 The ABA highlighted the other Banking Code requirements, which include:

- not approving a new loan or an increase where the co-borrower does not receive a substantial benefit, unless the bank has taken reasonable steps to ensure the customer understands the risks being a co-borrower, has accepted reasons for why the customer wants to be a co-borrower on the loan, and is satisfied the customer is not experiencing financial abuse;
- ending liability under a loan in certain circumstances;
- various protections for those making guarantees including limiting liability, providing certain information, and requiring a minimum of three days to review the guarantee unless additional requirements are met;
- changing joint account authorities, at the request of one party, for both to approve future withdrawals; and
- assisting a joint account holder experiencing financial difficulty without involving the other person initially, if requested.[89]

3.84 Member banks' compliance with the Banking Code is monitored by the Banking Code Compliance Committee (BCCC), which is overseen by an independent Chair, a consumer representative and an industry representative.[90]

3.85 The BCCC identified the following main commitments aimed at identifying, deterring and responding to financial abuse:

- the obligation to take extra care with customers experiencing vulnerability and financial abuse (Chapter 14);
- obligations to protect co-borrowers from financial abuse when lending (Chapter 17);
- obligations to assist guarantors to make informed and independent decisions when guaranteeing loans (Chapters 26, 27, 28 and 29);
- the obligation to manage withdrawal authorities on joint accounts in line with customer preferences (Chapter 35); and
- the best interest duty: where the bank believes the representative is not acting in the best interest of the customer (Chapter 39, paragraph 163).[91]

3.86 The Australian Human Rights Commission noted that the Banking Code is the only industry code with ASIC approval and offers consumer protections

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88 Australian Human Rights Commission, *Submission 105*, p. 14.

89 ABA, *Submission 99*, p. 3.

90 Banking Code Compliance Committee (BCCC), *Submission 86*, p. 2.

91 BCCC, *Submission 86*, p. 3.

through a set of enforceable rights and entitlements that operate in addition to the law.[92]

3.87 The 2025 Banking Code comes into effect in February 2025 and expands on the current Banking Code protections for vulnerable people by including the following:

- encouraging vulnerable customers to tell banks about their circumstances so that banks can work with their customers in relation to their banking services; and
- committing member banks to take reasonable steps to ensure that a meeting is held with guarantors. Part of the rationale for this new commitment is to provide an additional opportunity for any vulnerability flags (including financial abuse) to be identified.[93]

3.88 The first inclusion is a result of the 2021 independent review of the Banking Code, which identified that the Banking Code should adopt similar wording to Clause 93 of the General Insurance Code. Clause 93 encourages vulnerable customers to inform the financial institutions about their circumstances, including any financial abuse.[94]

3.89 St Vincent de Paul Society National Council of Australia (St Vincent de Paul Society) asserted that the responsibility of banks to take extra care with customers experiencing vulnerability is weakened by non-committal statements included in the Banking Code. St Vincent de Paul Society highlighted that statements such as 'we may become aware of your circumstances only if you tell us about them' , 'we will be respectful of your need for confidentiality' and 'we will try and make it easier for you to communicate with us' does not incentivise victim-survivors to disclose financial abuse and does not guarantee confidentiality or access to secure and easy forms of communication.[95]

3.90 St Vicent de Paul Society noted the 2025 Banking Code has partially addressed this issue, but proposed the following recommendation:

> While this is an improvement, it does not go far enough. The Society recommends that the ABA fund research to inform the development of 'red flags' which could be used by banks in a proactive manner to identify potential instances of financial abuse.[96]

3.91 Uniting Communities also highlighted issues with supporting vulnerable customers, noting that 'taking extra care with customers who are experiencing

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92 Australian Human Rights Commission, *Submission 105*, p. 13.

93 ABA, *Answers to questions on notice*, 12 August 2024 (received 2 September 2024), p. 1.

94 ABA, *Answers to questions on notice*, 12 August 2024 (received 2 September 2024), p. 2.

95 St Vincent de Paul Society National Council of Australia, *Submission 45*, p. 1.

96 St Vincent de Paul Society National Council of Australia, *Submission 45*, p. 2.

vulnerability' does not specifically include an obligation to monitor uncharacteristic or unusual patterns in transaction activities. Additionally, the duty to take extra care is limited to only when the customer tells their bank about their vulnerable circumstances. Uniting Communities point out that victim-survivors are often reluctant to identify themselves as vulnerable and may not even realise they would be considered vulnerable by their bank.[97]

3.92 Uniting Communities recognised that the ABA's industry guidelines provide further details on providing extra care for vulnerable customers, including that a 'bank should be aware of potential warning signs of financial abuse … [when the customer] makes unusual or uncharacteristic transactions'.[98]

3.93 Uniting Communities emphasised that there is a mismatch between the common law, which says banks do not generally have an obligation to monitor a customer's use of funds on their behalf, and what the ABA encourages member banks to incorporate into their internal processes, procedures and policies.[99]

3.94 The BCCC submitted that changes should be made to the Banking Code to:

- address the lack of onus on banks under the existing Code to proactively identify customers who may be experiencing vulnerability and offer support; and
- include an obligation requiring banks to utilise their data capability and to develop systems to proactively identify customers at risk of experiencing vulnerability.[100]

3.95 The Financial Rights Legal Centre identified that the Banking Code cannot be enforced by a regulator, such as ASIC, and victim-survivors of financial abuse can struggle to enforce contractual rights. Although, the Financial Rights Legal Centre did note that AFCA will take the Banking Code into account when determining disputes.[101]

### *Customer Owned Banking Code of Practice*

3.96 The Customer Owned Banking Code of Practice (COBCOP) is the code of practice for Australia's mutual banks, credit unions and building societies. Currently 55 customer-owned banks subscribe to the 2022 COBCOP.[102]

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97 Uniting Communities, *Submission 36*, p. 6.

98 Uniting Communities, *Submission 36*, p. 7.

99 Uniting Communities, *Submission 36*, p. 7.

100 BCCC, *Submission 86*, p. 5.

101 Financial Rights Legal Centre, *Submission 112*, p. 29.

102 COBA, *Submission 114*, p. 8.

3.97 COBA highlighted the following COBCOP clauses that are relevant to supporting victim-survivors of financial abuse:

- Clause 26 – We will adapt our customer service standards where reasonably practicable, and take extra care where we are aware that you are experiencing vulnerable circumstances; and
- Clause 27 – We will train our staff how to identify customers experiencing vulnerability, and how to adapt our customer service standards for them in a sensitive and helpful way. Our training will include awareness of vulnerable circumstances as a result of domestic violence and elder abuse.[103]

3.98 Bank of Us and Transport Mutual Credit Union further acknowledged the COBCOP vulnerability provisions, and noted that they specifically reference domestic violence, elder abuse and financial abuse.[104]

3.99 The Financial Rights Legal Centre acknowledged that the COBCOP has similar protections to the Banking Code. It highlighted that the COBCOP also has similar limitations, such as the requirement of customers to self-identify themselves as victim-survivors of financial abuse or family and domestic violence in order to invoke any protections.[105]

***Australian Finance Industry Association codes of practice***

3.100 The Australian Finance Industry Association (AFIA) has four industry codes in place that apply to some members depending on the code. AFIA's four current codes of practice are:

- Online Small Business Lenders Code of Practice;
- Buy Now Pay Later Code of Practice;
- Car Rental Code of Practice; and
- Insurance Premium Funding Code of Practice.

3.101 AFIA has also released the Finance Industry Code of Practice, which is Australia's first non-bank lending code of practice, for consultation. The proposed code includes industry guidelines on financial difficulties, vulnerability, family and domestic violence and financial abuse.[106]

3.102 The Online Small Business Lenders Code of Practice and Insurance Premium Funding Code of Practice include provisions relating to financial hardship and working with customers in good faith if they are experiencing financial

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103 COBA, *Submission 114*, p. 9.

104 Bank of Us, *Response to questions seeking further information on processes to identify, respond to and report financial abuse*, received 2 July 2024, p. 1; Transport Mutual Credit Union, *Response to questions seeking further information on processes to identify, respond to and report financial abuse*, received 1 July 2024, p. 2.

105 Financial Rights Legal Centre, *Submission 112*, p. 30.

106 Australian Finance Industry Association (AFIA), *Submission 96*, p. 8.

difficulties in meeting any financial obligations. Neither code includes specific provisions that address financial abuse.[107]

3.103 The Car Rental Code of Practice ensures an industry standard is set in regard to transparency of pricing and credit card charging practices, rental contract terms and damage assessment and billing. Currently, the Card Rental Code of Practice does not include any specific provisions addressing financial abuse; however, AFIA noted that this code is currently being updated to include clauses related to expectations around financial hardship, vulnerability and financial abuse. AFIA emphasised that these updates would ensure that car rental providers treat customers experiencing financial difficulties with sensitivity and respect and provides appropriate support.[108]

*Buy Now Pay Later Code of Practice*

3.104 The AFIA Buy Now Pay Later Code of Practice (BNPL Code) was established in 2021 and sets out best practice standards for the sector, strengthening customer protections. AFIA reported that 90 per cent of BNPL companies have signed up to the code.[109]

3.105 AFIA highlighted that the BNPL Code includes protections for customers experiencing financial hardship, mandatory training to assist staff with identifying vulnerable customers and requirements for information on hardship assistance to be readily available on websites and any digital platforms. AFIA further highlighted that the BNPL Code specifically identifies family and domestic violence as a factor that may contribute to a customer's vulnerability.[110]

3.106 EARG noted that, similar to other industry codes, the BNPL Code places the onus on customers to disclose their vulnerabilities rather than forcing BNPL providers to proactively identify warning signs of financial abuse. EARG also noted that, although it is a requirement for BNPL providers to have information readily available, publicly accessible information about BNPL providers' approaches to financial hardship and family and domestic violence varies greatly by provider, with some not having accessible numbers or contact information for their hardship teams.[111]

## Insurance

3.107 Insurance is supposed to be a safety net, but it can be weaponised in family and domestic violence situations. The manipulation of insurance policies within the

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107 AFIA, *Submission 96*, pp 5–6.

108 AFIA, *Submission 96*, p. 6.

109 AFIA, *Submission 96*, p. 7.

110 AFIA, *Submission 96*, p. 7.

111 EARG, *Submission 108*, p. 24.

context of family and domestic violence exacerbates victim-survivors vulnerabilities and provides an avenue for continued financial abuse.

3.108 This section of the report examines issues identified in the general, health and life insurance sector by inquiry participants.

**General insurance**

3.109 In general insurance, perpetrators may deliberately seek to misuse products to limit access to information, cancel policies to leave the victim-survivor without an economic safety net, and impact the claims process to exert control by leaving their partner financially vulnerable and with damaged or irreparable assets.[112]

3.110 The Financial Rights Legal Centre highlighted the following ways a perpetrator can use a general insurance product to commit financial abuse:

- a perpetrator can take control of the family insurances through cancelling the policy or varying the policy, removing the victim-survivor as a co-insured party or third-party beneficiary. This is done to ensure that a victim-survivor is not covered by the policy, claim or payment;
- a perpetrator can refuse to access a benefit under a policy in their own name, such as temporary accommodation under home and contents insurance, because it is the victim-survivor (and possibly children) living in the home and in need of the benefit;
- a perpetrator can use insurance to stalk their ex-partner by accessing new contact and address details; and
- a perpetrator can force victim-survivors to pay an excess following an accident.[113]

3.111 National Legal Aid reported that perpetrators can misappropriate insurance payouts under joint policies. The perpetrator takes an insurance payment made under a joint policy for their own benefit and without the agreement of the other party. National Legal Aid also noted that, in some instances, the perpetrator lodges the insurance claim online and receives payment without the victim-survivor/joint policy holder's knowledge.[114]

3.112 The Financial Rights Legal Centre observed that some insurers ask claimants to act in a way that could compromise their safety, specifically in cases when insurers require victim-survivors to inform police in the case of a 'malicious act'. This can pose significant risk in cases of family and domestic violence and the Financial Rights Legal Centre proposed that insurers should abandon that

112 Insurance Council of Australia, *Submission 35*, pp 2–3.

113 Financial Rights Legal Centre, *Submission 112*, p. 48.

114 National Legal Aid, *Submission 78*, p. [9].

requirement due to the undue encumbrance the requirement can place on claimants.[115]

3.113 The Insurance Council of Australia submitted that, unlike a customer's relationship with a bank where the financial institution readily has access to a customer's transactions, insurance is a product generally only used by the customer when the unexpected happens, without customers wanting or requiring daily interaction with their insurer.[116]

3.114 Furthermore, outside of an active claims scenario, an insurer's relationship with customers is limited to once-a-year at the time of policy renewal. The Insurance Council of Australia pointed out that many general insurers may not see possible signs of vulnerability until a claim is made. The Insurance Council acknowledged that the general insurance industry needs to improve its ability to identify and support vulnerable customers.[117]

3.115 AFCA submitted its recommendation for the general insurance industry to invest and improve its processes to enable early identification and response to financial hardship and vulnerability. AFCA also suggested insurers should, when handling claims, anticipate claimants are likely to be experiencing some form of vulnerability and reduce the onus on claimants to disclose and demand more assistance from insurers.[118]

### *Conduct of others clause*

3.116 Many general insurance policies have intentional or malicious damage clauses which, depending on the policy, could leave victim-survivors unable to claim for damage to or loss of the home or contents caused intentionally by the perpetrator.[119]

**Box 3.5 Case study – Vivi's story**

Vivi took out home contents insurance after moving in with her partner. Her partner perpetrated domestic violence against her. Vivi had to flee the home leaving her contents behind (some were destroyed/damaged by partner).

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115 Financial Rights Legal Centre, *Submission 112*, p. 52.

116 Insurance Council of Australia, *Submission 35*, p. 6.

117 Insurance Council of Australia, *Submission 35*, p. 6.

118 AFCA, *Submission 132*, p. 21.

119 Financial Rights Legal Centre, *Submission 112*, p. 50.

> Vivi tried to claim on the contents insurance and was initially told property damage by 'family' was excluded but the insurer would consider an ex-gratia payment.
>
> Vivi was made to jump through hoops responding to the insurer. She asked for a female assessor to come to her property, but insurer sent a male. There were other broken promises by the insurer and overall poor handling of the claim caused Vivi significant stress.
>
> After all this the insurer fell back to their position that they would offer nothing as not covered under policy. The only reason Vivi had agreed to continue the claim was she thought the insurer was making assessments to decide on the ex-gratia payment.[120]

3.117 The reason why these clauses act against the interest of victim-survivors is because of the joint nature of the policy. A joint policy indemnifies co-insureds where there is a joint loss and is typically used for home or car insurance. A composite policy, which is generally used for business insurance, allows for each insured to have a separate and distinct claim.[121]

3.118 In 2020, Suncorp introduced a 'conduct of others' clause, which aims to protect customers by making it easier for Suncorp's claims teams to respond when a policyholder may have been prejudiced by the acts of another policy holder/s or those who have a financial interest in the policy, such as the perpetrator of financial abuse. Where a perpetrator causes property damage, they work with the customer experiencing the abuse and may be able to accept claims that would normally not be covered.[122]

3.119 The Insurance Council of Australia highlighted that the conduct of others clause provides greater protection to victim-survivors by providing flexibility to allow claims to be paid in cases of wrongful conduct by other policy holders in family and domestic violence situations, even where there is no legal requirement to do so.[123]

3.120 The Insurance Council of Australia shared the following case study which illustrates the benefits of this clause:

> Susan lodged a claim as her husband Peter had forced her out of the family home, separating her from her two young children, and then damaged her jewellery, furniture, and other items plus sold her personal belongings on Facebook marketplace without consent. Peter has a police record, has been incarcerated and is the subject of active apprehended violence orders from

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120 Case study provided by Financial Rights Legal Centre, *Submission 112*, p. 51.

121 Financial Rights Legal Centre, *Submission 112*, pp 51–52.

122 Suncorp, *Response to questions seeking further information on processes to identify, respond to and report financial abuse*, received 22 August 2024, p. 4.

123 Insurance Council of Australia, *Submission 35*, p. 5.

> Susan and his parents. Police helped Susan to re-enter the home briefly to collect the children and some essential items. She and the children have been living with her mother-in-law with only a backpack of their belongings each. Under 'conduct of others', Suncorp was able to cover some items maliciously damaged/ stolen including the children's beds, hair straightener and camera. Without the 'conduct of others' coverage available, none of the damage/replacement cost of these items would be coverable under the policy guidelines.[124]

3.121 Similar to Wotton and Kearney's recommendation in Chapter 2, the Insurance Council of Australia further recommended that a 'conduct of others' clause be added to the Insurance Code. The inclusion of this clause in the Insurance Code would require insurers to provide flexible responses and provide that claims under this clause are excluded from future premium calculations.[125]

3.122 AFCA noted its strong support for a systemic and consistent approach to the handling of claims in circumstances of family and domestic violence and support for the introduction of the 'conduct of others' clause for all general insurers.[126]

### *The General Insurance Code of Practice*

3.123 The 2020 General Insurance Code of Practice (Insurance Code) sets out the best-practice standards that go beyond the requirements legislated under the *Insurance Contracts Act 1984* (IC Act), *Corporations Act 2001* (Corporations Act), *Australian Securities and Investments Commission Act 2001* (ASIC Act) and the *Privacy Act 1988* (Privacy Act).[127]

3.124 The Insurance Code is voluntary and ensures insurers follow the included standards when conducting business and interacting with customers, including the provision of extra care and support for vulnerable customers.[128]

3.125 The Insurance Council of Australia pointed out that the Insurance Code does not cover all general insurance products, such as workers' compensation, marine insurance, medical indemnity, motor vehicle insurance, domestic builders' insurance and warranty insurance. Additionally, the Insurance Code does not apply to non-general insurance products.[129]

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124 Insurance Council of Australia, *Submission 35*, p. 5.

125 Wotton and Kearney, *Submission 80*, pp 5–6.

126 AFCA, *Submission 132*, p. 20.

127 Insurance Council of Australia, *Submission 35*, p. 3.

128 Insurance Council of Australia, *Submission 35*, p. 3.

129 Insurance Council of Australia, *Answers to questions on notice*, 8 August 2024 (received 2 September 2024), p. 1.

3.126 The Insurance Council of Australia highlighted that Part 9 of the Insurance Code, titled *Supporting customers experiencing vulnerability*, contains commitments for code subscribers to have internal policies and training to understand how to best support customers experiencing vulnerability, including those affected by family and domestic violence. This includes the commitment to have a publicly available policy on their website detailing how they will support customers affected by family and domestic violence.[130]

3.127 The Insurance Code is currently being reviewed by an independent panel. The Insurance Council of Australia made a recommendation to the independent panel that general insurers should endeavour to consider how the design of their products and processes could be improved for greater customer inclusion.[131]

3.128 Wotton and Kearney proposed that the Insurance Council of Australia amend Part 9 of the Insurance Code to ensure consistency, clarity and compliance across the industry when providing support to vulnerable clients, including provisions which:

- require insurers to treat joint policy as a composite policy to protect the interests of victim-survivors;
- clarify the meaning and expectations of 'support measures' and 'vulnerable customers';
- provide that an 'invitee' forfeits their status when they cross into the realm of a violent intruder, rendering any prior exclusion null and void;
- provide for discretionary emergency assistance payments;
- standardise the inclusion of quick exit buttons on insurer websites; and
- require insurers to include statements in their annual report that qualify and describe the ways in which their domestic violence policies have been implemented.[132]

3.129 WEstjustice proposed similar recommendations to Wotton and Kearney, and further recommended that the Insurance Code be modernised to increase the financial safety of victim survivors of family violence, including defining family violence and financial abuse.[133]

3.130 The Zahra Foundation expanded on this recommendation and proposed that the modernisation of the Insurance Code should include a requirement for

130 Insurance Council of Australia, *Submission 35*, p. 3.

131 Insurance Council of Australia, *Submission 35*, p. 4.

132 Wotton and Kearney, *Submission 80*, p. 5.

133 WEstjustice, *Submission 113*, p. 18.

insurers to maintain victim-survivors' no-claim status and allowing claims to be made without involving perpetrators.[134]

**Health insurance**

3.131 Private Healthcare Australia submitted that health funds frequently encounter people separating who wish to terminate a joint health insurance policy and create a new one for themselves, often with dependents involved.[135]

3.132 Private Healthcare Australia further noted that health funds regularly assist a separated couple to have their children named on two policies so both parents can assist their children to use their health insurance policy and attend health services. In these circumstances, health funds ensure dependents can use their full entitlement from one insurance policy facilitated through their parents' two membership cards or numbers.[136]

3.133 In circumstances of family and domestic violence, without a court order it is challenging for health fund staff to know when someone trying to remove a partner or dependent from their health insurance policy is engaging in financial abuse, as these requests commonly follow amicable relationship separations.[137]

3.134 Private Health Care Australia highlighted that some health funds are currently updating their processes to ensure victim-survivors are not disadvantaged by being removed from a health insurance policy.[138]

**Life insurance**

3.135 Life insurance products have been used by perpetrators to commit financial abuse, coercive control and physical threats. In some cases, perpetrators have used the existence of life insurance to threaten someone's personal safety or life on the basis that they will be able to claim on a policy.[139]

3.136 The Council of Australian Life Insurers (CALI) further pointed out that it was aware of instances where a perpetrator has committed murder and sought to claim on an insurance policy on their victim's life. However, CALI noted that in these cases the common law principle of forfeiture prevents a perpetrator who is criminally responsible for someone's death from receiving a financial benefit from that death, including life insurance payments.[140]

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134 The Zahra Foundation, *Submission 128*, p. 5.

135 Private Healthcare Australia, *Submission 87*, p. 2.

136 Private Healthcare Australia, *Submission 87*, p. 2.

137 Private Healthcare Australia, *Submission 87*, p. 3.

138 Private Healthcare Australia, *Submission 87*, p. 3.

139 Council of Australian Life Insurers (CALI), *Submission 50*, [p. 1]

140 CALI, *Submission 50*, [p. i]

3.137 CALI submitted that, although life insurance policies are most commonly held by individuals over their own lives, policies can be jointly owned. This occurs in situations where a couple shares a policy that insures both their lives, where one person owns a policy over the life of another person or where it is owned by the trustee of a self-managed superannuation fund (SMSF).[141]

3.138 Issues with these arrangements generally arise when the relationship between the parties breaks down, including in cases of family and domestic violence or financial abuse. In these situations, the victim-survivor will need the consent and cooperation of the perpetrator to be removed from the joint policy.[142]

3.139 CALI highlighted that victim-survivors may be unwilling to approach the perpetrator to request the authorisation or it may be unsafe to do so and there is currently no legislative mechanism that triggers a reassessment of the policy.[143]

3.140 The Financial Rights Legal Centre recommended the establishment of a mechanism for joint policies to be cancelled or replaced with individual policies to reduce the risk of harm to the victim-survivor of financial abuse. This could include insurers adopting standard clauses in terms and conditions that enable one party to end life insurance policies over their life or to convert them to some form of their own life insurance policy. It could potentially involve commitments made under the Life Insurance Code of Practice.[144]

### *The Life Insurance Code of Practice and industry policies*

3.141 The Life Insurance Code of Practice (Life Code) establishes enforceable standards that subscribed life insurers agree to uphold. CALI emphasised that the Life Code includes specific commitments for customers experiencing vulnerability or financial hardship, including due to financial abuse and family and domestic violence. CALI noted the following commitments:

- take extra care to support vulnerable customers. Vulnerability is broadly defined and includes people affected by family and domestic violence and financial abuse; and
- have publicly available policies on their websites about how they will support people if they are affected by family violence and financial abuse.[145]

141 CALI, *Submission 50*, p. 3.

142 CALI, *Submission 50*, p. 3.

143 CALI, *Submission 50*, p. 3.

144 Financial Rights Legal Centre, *Submission 112*, pp 62–63.

145 CALI, *Submission 50*, p. 1

3.142 Additionally, to support the Life Code the life insurance industry has developed the Life Insurance and Family Violence Policy, which sets out areas that should be covered under life insurers policies. These areas of inclusion include:

- making sure that safety is paramount for customers affected by family and domestic violence through the protection of private and confidential information. These measures include taking the customer's reasonable communication preferences into account, with mechanisms to ensure adherence to these and using technology to improve customer safety;
- a commitment to the customer that their family and domestic violence situation will have no adverse effect on their claim if applicable; and
- taking family and domestic violence into consideration when designing products.[146]

3.143 The Financial Rights Legal Centre pointed out that the Life Insurance and Family Violence Policy is an 'aspirational document', as it is voluntary and does not bind insurers or have any legal requirements.[147]

3.144 The Financial Rights Legal Centre undertook an audit of the Life Insurance and Family Violence Policy and noted its assessment found that Life Code subscribers' family violence insurance policies greatly differed, and only one insurer met the 11 areas that a policy 'should' have. It was further noted that over half of the 17 subscribers only scored 5.5 out of 11 or less.[148]

3.145 To address this issue, the Financial Rights Legal Centre recommended that the Life Insurance Family and Domestic Violence Policy guide be incorporated into the Life Code and be made contractually enforceable.[149]

## Superannuation

3.146 While the uses of superannuation are more limited, and superannuation as a system has more friction than most other financial products, superannuation balances can be substantial relative to a victim's total wealth. This means that if superannuation products are abused they can have very significant impacts on victim-survivors' overall financial wellbeing.[150]

3.147 The Association of Superannuation Funds of Australia (ASFA) emphasised the unique role superannuation has in a women's financial security, noting that

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[146] CALI, *Submission 50*, p. 1

[147] Financial Rights Legal Centre, *Submission 112*, p. 62.

[148] Financial Rights Legal Centre, *Submission 112*, p. 62.

[149] Financial Rights Legal Centre, *Submission 112*, p. 62.

[150] Future Group, *Submission 110*, [p. 5].

often it can be the only financial asset a woman has that exists solely in their name.[151]

3.148 Ms Cathy Oddie provided a submission to the inquiry that detailed her lived experience of financial abuse, and in which she noted that her superannuation was all she had left after experiencing financial abuse at the hands of her perpetrator:

> By 2016, the perpetrator had completely depleted all my savings, and I had been forced into selling my share portfolio to pay basic living expenses. My only tangible asset left was my superannuation and there was no way I was going to let him get access to that.[152]

3.149 The Super Members Council highlighted that a perpetrator has limited opportunities to use a victim-survivors' superannuation to commit financial abuse, and often only can when the condition for release is met. The conditions for release include:

(c) during the accumulation phase: early release of superannuation including through a claim for financial hardship;
(d) during the retirement phase: a person is over a certain age and has met a condition of release; and
(e) payment of a death benefit: a member has died, and their super balance and any associated insurance benefit is paid to a beneficiary.[153]

3.150 The Future Group pointed out that, while an individual's superannuation can be at risk due to financial abuse, the other risk in cases of financial abuse is that a victim-survivor could have limited superannuation in the first place as a result of being coerced and controlled away from working.[154]

3.151 This section of the report will examine issues identified in the superannuation industry by inquiry participants, including early release of a victim-survivors' superannuation, contribution splitting, and the impact on financial elder abuse. Superannuation death benefit payments and self-managed superannuation funds were examined in Chapter 2 of this report.

**Early release of superannuation**

3.152 AFCA reported that the number of complaints relating to superannuation is relatively low. Complaints about applications for early release represent the

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151 The Association of Superannuation Funds of Australia (ASFA), *Submission 130*, p. 4.

152 Ms Cathy Oddie, *Submission 90*, p. [2].

153 Super Members Council, *Submission 129*, p. 4.

154 Future Group, *Submission 110*, p. [5].

largest group. AFCA noted that the issues raised in these complaints include trustee processes and issues about policy settings for early release.[155]

### *COVID-19 early release of super scheme*

3.153 During the COVID-19 pandemic, an early release of super (ERS) scheme that allowed eligible people to withdraw up to $20,000 for their superannuation allowed over three million people to withdraw a combined $38 billion from their superannuation accounts.[156]

3.154 The Super Members Council highlighted that this scheme disproportionately impacted women, who withdrew 21 per cent of their starting balances, compared to men who withdrew 17 per cent. Additionally, 14 per cent of women accessed their entire super balance.[157]

3.155 The scheme was aimed at providing financial relief to people facing financial hardship due to the pandemic, such as job loss or significant income reduction.[158] As there was no requirement that evidence be provided to prove the individual was eligible for the scheme, the ERS scheme provided an opportunity for perpetrators to access victim-survivors' superannuation.[159]

3.156 ASFA highlighted a survey conducted in 2021 by Australia's National Research Organisation for Women's Safety (ANROWS) on intimate partner violence during the COVID-19 pandemic.[160] ANROWS' survey reported that one in five women reported their partner had been financially abusive towards them in the last 12 months. ASFA further highlighted that, of these women, one in three reported that their partner had pressured them to give them access to their money in the last 12 months, of which 43 per cent said this included their superannuation.[161]

3.157 This was further supported by the Australian Institute of Family Studies, whose chief executive officer reported that an estimated 70,000 of 1.5 million women who withdrew their superannuation through the ERS scheme did so as a result of coercion.[162]

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155 AFCA, *Submission 132*, p. 12.

156 Super Members Council, *Submission 129*, p. 6.

157 Super Members Council, *Submission 129*, p. 6.

158 ASFA, *Submission 130*, p. 4.

159 Super Members Council, *Submission 129*, p. 6.

160 The full report can be found here: www.anrows.org.au/publication/intimate-partner-violence-during-the-covid-19-pandemic-a-survey-of-women-in-australia/

161 ASFA, *Submission 130*, p. 4.

162 Future Group, *Submission 110*, p. [6].

3.158 The Super Members Council recommended that the government undertake an assessment of the number of women who were coerced into accessing their superannuation during the COVID-19 ERS scheme and the detrimental financial impact this will have on their retirement. The Super Members Council emphasised that this data will be critical to informing future policy decisions and avoiding unintentionally facilitating abusive behaviour.[163]

*Early release for financial hardship*

3.159 When leaving an abusive relationship and trying to maintain custody of children, victim-survivors can be forced to pay their share of the mortgage (or in some cases the entire mortgage), rent for themselves, a substantial bond to move into a rental property, legal fees, childcare fees and general living expenses. The Future group pointed out that the economic shock of separation is extreme and is an impossible financial situation for many victim-survivors.[164]

3.160 At the committee's public hearing in Canberra, Ms Christina Hobbs, General Manager at the Future Group, highlighted that access to superannuation can provide much needed financial support during the settlement process:

> Because they don't have any access to financial resources, women are often not able to go through a proper settlement process. They can't afford the legal fees; they can't even afford support for an out-of-law legal process. Of course, these women are not qualifying for any form of legal aid because, if you look at them on paper, their salaries are often high, and their assets are high. So, the idea that someone's going to be better off in retirement by not taking money out that would fund, let's say, those legal fees is ridiculous.[165]

3.161 For many victim-survivors, once they leave the perpetrator, but prior to formal property settlement, their superannuation may be the only form of financial asset that isn't controlled by the perpetrator as the superannuation account is in their own name, whereas they may only have a shared bank account with the perpetrator.[166]

3.162 The Future Group argued that victim-survivors having access to their superannuation could prevent homelessness, aid psychological recovery, prevent unemployment and fund legal support for a fair settlement.[167]

3.163 The Super Members Council noted that allowing for early release of superannuation on the grounds of severe financial hardship is appropriate in

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163 Super Members Council, *Submission 129*, p. 7.

164 Future Group, *Submission 110*, p. [13].

165 Ms Christina Hobbs, General Manager, Advocacy and Impact, Future Group, *Committee Hansard*, 13 September 2024, p. 53.

166 Future Group, *Submission 110*, p. [13].

167 Future Group, *Submission 110*, p. [13].

limited circumstances but noted that it could provide an avenue for facilitating financial abuse similar to the COVID-19 ERS scheme.

3.164 An early withdrawal of superannuation on the grounds of financial hardship is only permitted once a year. The Super Members Council pointed out that, currently, superannuation funds do not have visibility of whether a member has been granted an early withdrawal on severe financial hardship grounds at another fund in the preceding 12 months. This could be exploited by perpetrators of financial abuse.[168]

3.165 The Super Members Council recommended the government develop a tool providing super funds look-through visibility to the individual's past engagement with the superannuation system, focusing on applications made and processed for the early release of benefits.[169]

**Financial elder abuse and superannuation**

3.166 Once a person has entered the retirement stage and meets the conditions for superannuation release, there is a greater opportunity for perpetrators to access a victim-survivors superannuation savings.

3.167 Super Consumers Australia emphasised that older people may lack awareness and understanding of their rights and options regarding superannuation, making them vulnerable to exploitation and financial abuse. Furthermore, cognitive decline can also contribute to this vulnerability.[170]

3.168 The Super Members Council highlighted that, where there are no obvious red flags of financial abuse, the abusive activity cannot be identified or confirmed by a fund without the victim-survivor being willing to report the abuse or advise they haven't consented to a specific transaction.

3.169 Additionally, the Super Members Council reported that older people might not report this abuse for a number of reasons, including:

- shame and embarrassment about being abused, particularly if the abuser is a family member or someone they trusted;
- lack of awareness or financial literacy as to whether they are a victim of financial abuse:
- cognitive impairment due to conditions like dementia or memory loss making it difficult for some people to recognise or report abuse;
- isolation of victim-survivors from family, friends, and community making it harder for them to seek help;
- dependency on the abuser for care and lack alternative resources, making some people reluctant to report;

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168 Super Members Council, *Submission 129*, p. 7.

169 Super Members Council, *Submission 129*, p. 7.

170 Super Consumers Australia, *Submission 97*, p. 11.

- protective feelings towards the abuser, especially if the perpetrator is a family member, meaning the victim may not want to get the perpetrator in trouble;
- lack of trust in authorities, which may discourage a person from reporting abuse; and
- inability to communicate due to physical or cognitive limitations.[171]

3.170 Super Consumers Australia recommended that the government consider the need for minimum service standards to specifically outline best-practice responses to elder abuse, noting that minimum service standards have been used in other financial service sectors to help protect older Australians from financial abuse. Super Consumers Australia noted that implementing them in the context of superannuation could disrupt the use of superannuation products for financial abuse of older people.[172]

3.171 This recommendation was echoed by the Super Members Council, who further recommended improvements to education and support services to older Australians about their rights and what constitutes financial abuse.[173]

## Committee view

3.172 It was reported that the direct cost to victim-survivors of financial abuse has been estimated at $5.7 billion, which is almost $3 billion more than Australians lost to scams in 2023. The committee is astounded at the scale of financial abuse currently being committed in Australia and is concerned that financial products continue to be manipulated by perpetrators to commit financial abuse.

3.173 The evidence received by the committee has shown that financial institutions generally recognise that financial abuse is a serious and widespread problem, and that there has been some progress by the industry towards implementing measures to identify and respond to financial abuse. However, the committee believes that more must be done in this space to support vulnerable Australians.

### Banking

3.174 The shift from financial products to online platforms has been happening over a number of years, and in the 2023 financial year over 99 per cent of all banking transactions occurred digitally. The committee acknowledges that online platforms have made banking more convenient for customers; however, the reality is that the convenience of online banking comes with significant risks that perpetrators can and will use online banking features to inflict and facilitate financial abuse.

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171 Super Members Council, *Submission 129*, p. 8.

172 Super Consumers Australia, *Submission 97*, p. 11.

173 Super Members Council, *Submission 129*, p. 9.

3.175 The committee recognises that, on the positive side, online platforms do present banks the opportunity to use technology to assist with more quicky and comprehensively identifying potential cases of financial abuse, as well as supporting victim-survivor customers with options to avoid and escape their perpetrators.

3.176 While the committee considers that banks need to continue to pursue measures such as industry codes to achieve more standardised online features aimed at addressing financial abuse, it considers that simple and easily implementable features such as 'quick exit' buttons on webpages should be adopted wherever possible. The 'quick exit' feature allows a person to immediately close the webpages they were accessing and clear their browser history to protect victim-survivors' privacy and safety.

**Recommendation 15**

**3.177 That the Australian Government implement a mandatory requirement for providers of financial services and products, as well as government agencies to include a 'quick exit' button on webpages (in accordance with current best practice) to assist victim-survivors of family and domestic violence and financial abuse.**

3.178 The committee heard strong concerns that financial institutions' online application processes are too streamlined and are ripe for abuse by perpetrators'.[174] The committee believes that adding checks and balances to application processes and electronic transfers would reduce the prevalence of product manipulation by perpetrators.

**Recommendation 16**

**3.179 That financial institutions introduce minimum operating standards, with a view to achieving best practice standards through continuous improvement over time, for including increased friction points in relation to online application processes and electronic transactions to better protect against financial abuse on online platforms.**

3.180 The committee was concerned by the seeming lack of engagement between law enforcement agencies, criminal and family courts, and financial institutions. It appears that, despite issues of family and domestic violence potentially being well-known to law enforcement and other agencies, there is often no referral of these issues to financial institutions, resulting in the ongoing capacity of perpetrators to financially abuse victim-survivors.

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174 Ms Jasmine Opdam, Senior Policy and Advocacy Officer, Financial Abuse Service NSW, Redfern Legal Centre, *Committee Hansard*, 8 July 2024, p. 26.

3.181 Given the scope of financial abuse and family and domestic violence, and the significant underreporting of abuse to law enforcement, it is further evident that financial institutions require additional pathways for referral of information regarding suspected financial abuse, including through anonymous disclosures.

3.182 As a result of the deeply concerning and well-established capacity for physically violent or coercive perpetrators to manipulate online or telephone-based banking services, and the increased difficulty in frontline service providers identifying abusive behaviours remotely, the committee considers it appropriate for reports and referrals of suspected abuse to trigger increased scrutiny of the appropriateness of financial services products for at-risk customers. Where appropriate, in person attendance at a branch by suspected victim-survivors and perpetrators for direct contact with a frontline service provider with appropriate training would provide an additional opportunity to identify and interrupt financial abuse, and protect those impacted.

**Recommendation 17**

**3.183 That the Australian Banking Association, the Australian Federal Police, victim-survivor advocate organisations and relevant government departments and other stakeholders co-design standard operating guidelines for the referral of reasonably suspected or reported financial abuse to the financial institutions used by suspected perpetrators and victim-survivors. Triggers for referral should include credible reports made to anonymous law enforcement hotlines, informal and formal reports made to law enforcement, and court proceedings such as the attainment of AVO's. The Australian Government should consider any legislative amendments required to give effect to such standard operating guidelines.**

**Recommendation 18**

**3.184 That financial institutions be required to maintain anonymous reporting mechanisms through which victim-survivors of domestic and family violence, or other individuals, can report actual or suspected financial abuse of the institutions' customers.**

**Recommendation 19**

**3.185 That financial institutions ensure that a referral or report of suspected family and domestic violence involving one of their customers triggers immediate engagement with that customer, preferably through in-person attendance at a physical branch or office, to determine the suitability of their current and future financial products.**

3.186 Evidence received by the committee has shown that the shift to online and digital banking platforms has created significant challenges for older people, who often have lower digital literacy skills. This leads them to rely on others to access their bank services, inadvertently making them susceptible to financial abuse. The committee notes the recommendations from inquiry participants that all electronic banking services should be 'opt-in'; however, the committee notes that, due to bank closures and the volume of services already online, it will not always be possible to ensure in-person access to banking for vulnerable consumers. Accordingly, efforts to ensure ongoing access to in-person banking should be coupled with increased digital literacy education. Additionally, the committee considers that there is a critical need for financial institutions to offer in-person banking support services, such as financial counselling, to support victim-survivors, especially older Australians, to access these services safely.

**Recommendation 20**

**3.187 That financial institutions immediately review the accessibility of their in-person banking services and, where necessary, take steps to ensure that customers have reasonable access to in-person banking services or banking support services.**

**Recommendation 21**

**3.188 That the Australian Government, in conjunction with the Australian Financial Complaints Authority, consider potential remedies for customers suffering financial abuse who have suffered loss after a financial institution has failed to provide reasonably appropriate access to in-person banking services or other support services in circumstances where the financial institution was aware (or should have been aware) that the customer was at high risk of financial abuse.**

**Recommendation 22**

**3.189 That financial institutions, government and relevant stakeholders all increase financial literacy education and in-person support to assist older Australians to use electronic banking services and reduce the risk of financial elder abuse.**

3.190 The committee heard strong concerns regarding the use of payment descriptions to abuse victim-survivors. Some perpetrators have developed a tactic where they make one or more small amount electronic funds transfers to the victim survivor and use the description field to send an abusive message. The committee commends the work that some institutions have done to develop practices and responses to address this issue. The committee believes that the Australian Banking Association should consult with the banking sector and deposit-taking institutions to develop and implement minimum operating standards, with a view to moving to best practice standards through continuous improvement over time, in relation to abusive descriptions in electronic money transfers. The committee acknowledges the seriousness of this form of financial abuse and, accordingly, believes that consideration should be given to introducing appropriate penalties for the use of abusive descriptions in electronic money transfers to harass, intimidate or harm victim-survivors.

**Recommendation 23**

**3.191 That the Australian Banking Association develop and implement minimum operating standards, with a view to moving to best practice standards through continuous improvement over time, applying to all authorised deposit-taking institutions in relation to identifying and responding to abusive descriptions in electronic money transfers.**

**Recommendation 24**

**3.192 That the Australian Government consider introducing appropriate penalties for the use abusive descriptions in electronic money transfers to harass, intimidate or harm the holder of the account.**

3.193 Having a joint account with a spouse is often seen as a symbol of togetherness and partnership. However, in financially abusive relationships joint accounts can often lead to significant harm, financially, physically and mentally. The committee heard strong concerns regarding the ways joint accounts are manipulated by perpetrators and believes that there are important interventions at the time of establishment of a joint account that would reduce the misuse of joint accounts in situations of financial abuse.

**Recommendation 25**

**3.194 That, prior to approving joint banking or credit products, financial institutions implement reasonable and practical continuous disclosure requirements relating to family and domestic violence to assist with the identification of financial abuse.**

**Recommendation 26**

**3.195 That the Australian Government legislate to require financial institutions to ensure the following requirements for establishing a joint account:**

- **that each joint account holder has their own access to the account;**
- **that each joint account holder is aware of and has consented to what information will be visible and/or shared with the other account holder; and**
- **that each joint account holder understands the mechanisms available to ensure the safety of the account, such as 'two to sign', before withdrawals can be made.**

3.196 The reasons why a customer may experience financial hardship are many and varied, financial abuse being one of the reasons. Evidence received by the committee has shown that financial hardship can be the first indicator of financial abuse. In 2024, ASIC published a report on banks hardship processes which found that most lenders had an organisation-wide policy and staff training to identify and respond to customers experiencing vulnerability.

3.197 However, ASIC also identified a range of issues with how lenders handle hardship notices from vulnerable customers. The committee is concerned by this and, noting that the administrative processes for hardship applications can be retraumatising, considers that hardship processes need to be addressed with trauma-informed responses by financial institutions. The committee endorses ASIC's recommendations to address the shortcomings of financial institutions' hardship processes (see Appendix 3); and notes that it would be prudent for ASIC to review the implementation and operation of its recommendations after a suitable period to assess their effectiveness.

3.198 Under the current credit reporting regime, financial institutions are required to provide credit information, such as hardship provisions about consumers, to credit reporting bodies. The committee sees significant benefits in implementing a similar requirement for financial institutions to report periodically on the number of customers identified as experiencing financial abuse. The committee believes that this information would assist the Australian Government to provide informed responses and support to victim-survivors of financial abuse.

**Recommendation 27**

**3.199 That financial institutions implement the recommendations of ASIC's report titled *Hardship, hard to get help: Findings and actions to support customers in financial hardship* relating to identifying and providing additional support to vulnerable consumers experiencing financial hardship.**

**Recommendation 28**

**3.200 That ASIC conduct a review within 24 months on the implementation and operation of the recommendations of its report titled *Hardship, hard to get help: Findings and actions to support customers in financial hardship* relating to identifying and providing additional support to vulnerable consumers experiencing financial hardship.**

**Recommendation 29**

**3.201 That the Australian Government implement a legislative requirement for financial institutions to report periodically on the number of customers identified as experiencing financial abuse, similar to the current requirements for financial hardship.**

3.202 The committee is encouraged by the Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024, which was passed by both Houses on 29 November 2024. The new law will amend the *National Consumer*

*Credit Protection Act 2009* to extend the application of that Act to BNPL services. The committee notes the complexity of the legislation and considers that the amendments, once enacted, should be reviewed after 12 months to consider their effectiveness in supporting victim-survivors of financial abuse.

3.203 Evidence received by the committee has shown that the inclusion of BNPL products under responsible lending obligations would afford greater protection to victim-survivors from financial abuse. The committee therefore considers that the review of the bill's amendments should also examine the inclusion of BNPL products under responsible lending obligations.

**Recommendation 30**

**3.204 That the Australian Government undertake a review of the amendments to the *National Consumer Credit Protection Act 2009* in the Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024, to commence within 24 months of the amendments coming into effect, to consider their effectiveness in supporting victim-survivors of financial abuse, and specifically the inclusion of Buy Now Pay Later products under Responsible Lending Obligations.**

3.205 The committee acknowledges that the finance sector's self-regulatory codes have made some progress towards supporting vulnerable Australians. However, the committee is concerned about the lack of specific reference to financial abuse under 'vulnerable customers' and believes adding a specific reference to financial abuse would assist financial institutions to provide specialised responses and better support for victim-survivors of financial abuse.

3.206 The committee notes the evidence showing that the requirement for customers to self-identify themselves as victim-survivors of financial abuse or family and domestic violence is a major barrier to accessing the protections and responses that institutions are able to offer victim-survivors. To ensure that such requirements do not prevent victim-survivors from receiving appropriate support, the committee considers that the relevant self-regulation codes be amended to require financial institutions to develop systems to proactively identify and offer support to customers who may be experiencing financial abuse.

**Recommendation 31**

**3.207 That the Banking Code of Practice, Customer Owned Banking Code of Practice and the Buy Now Pay Later Code of Practice be amended to:**

- **include specific reference to financial abuse under 'vulnerable customers'; and**

- **require banks to develop systems to proactively identify (to the extent reasonably practical) and offer support to customers who may be experiencing financial abuse.**

**Insurance**

3.208 Insurance is supposed to be a safety net but can be weaponised in family and domestic violence situations to exacerbate victim-survivors' vulnerabilities and provide an avenue for continued financial abuse by perpetrators. While the committee acknowledges the particular character of the general insurance industry and claims process provides fewer opportunities for insurers to identify signs of customer vulnerability and financial abuse, the committee considers that there would be significant benefit in the insurance industry investing in developing its processes to better enable early identification and response to financial hardship and vulnerability.

**Recommendation 32**

**3.209 That the general insurance industry implement minimum operating and customer-service standards, with a view to moving to best practice standards through continuous improvement over time, relating to identifying and responding to financial hardship being experienced by victim-survivors of financial abuse.**

3.210 Many general insurance policies have intentional or malicious damages clauses which, depending on the policy, could leave victim-survivors unable to claim for damage to, or loss of, the home or contents caused intentionally by perpetrators. The committee commends Suncorp for its introduction of a 'conduct of others' clause that protects customers by making it easier for Suncorp's claims teams to respond when a policyholder may have been prejudiced by the acts of another policy holder, such as the perpetrator of financial abuse. The committee considers that such clauses should be mandatory for all insurers.

**Recommendation 33**

**3.211 That the Australian Government amend the *Insurance Contracts Act 1984* to require a 'conduct of others' clause in all retail insurance policies.**

3.212 The committee acknowledges that the general insurance industry's self-regulation code has made some progress towards supporting those experiencing vulnerabilities. However, the committee notes the lack of specific reference to financial abuse and believes that adding a specific reference to financial abuse would assist insurers to provide appropriate responses and better support to victim-survivors of financial abuse.

**Recommendation 34**

**3.213 That Part 9 of the General Insurance Code of Practice and the Life Insurance Code of Practice be amended to define family violence and financial abuse and to better promote the financial safety of victim-survivors of family and domestic violence.**

**Superannuation**

3.214 While the uses of superannuation are more limited, and superannuation as a system has more friction than most other financial products, superannuation balances can be substantial relative to a victim's total wealth and, if abused, can have very substantial impacts on victim-survivors' overall financial position and wellbeing. Evidence received by the committee has shown that the COVID-19 ERS scheme was manipulated by perpetrators to gain early access to victim-survivors superannuation. The committee was particularly concerned to hear that an estimated 70,000 of 1.5 million women who withdrew their superannuation through the ERS scheme did so as a result of coercion.

**Recommendation 35**

**3.215 That the Australian Government undertake a review of the COVID-19 early release of super scheme, with a focus on the number of members who may have withdrawn superannuation savings under coercion and the retirement and other impacts on victim-survivors who accessed their superannuation as a result of financial abuse; and consider an appropriate scheme for the repayment of superannuation by individuals whose withdrawals were the direct result of financial abuse, to enable them to restore their superannuation balances.**

3.216 Once a person has entered the retirement stage and meets the conditions for superannuation release, there is a greater opportunity for perpetrators to access a victim-survivor's superannuation savings. The committee heard that older people may lack awareness and understanding of their rights and options regarding superannuation, making them vulnerable to exploitation and financial abuse. Furthermore, cognitive decline can also contribute to this vulnerability. The committee sees significant benefits in implementing minimum service standards to specifically outline best practice responses to superannuation elder abuse. The committee believes that applying minimum service standards in the context of superannuation could disrupt the financial abuse of superannuation products for older people.

**Recommendation 36**

**3.217 That the Australian Government consider the implementation of minimum operating standards, with a view to moving to best practice standards through**

**continuous improvement over time, to mitigate the risk of elder abuse in relation to superannuation.**

3.218 The committee also identified that there are inadequate levels of ethical responsibility and professional training among financial planners, financial advisers, and accountants with respect to financial abuse. These professions play a crucial role as frontline service providers and often have a holistic and detailed knowledge of individuals' financial situations beyond the knowledge of individual institutions, such as banks and insurance and superannuation providers.

3.219 The committee believes that improved financial abuse training for these professions, and explicit professional responsibilities not to facilitate such abuse within intimate partner or family contexts, is necessary to ensure greater protections for victim-survivors and particularly individuals with comparatively low levels of financial literacy.

**Recommendation 37**

**3.220 That accounting bodies, financial advice and planning peak bodies, and victim-survivor advocate organisations co-design education resources for service providers to enable increased identification of financial abuse and timely reporting of suspected abuse to financial institutions and law enforcement bodies.**

**Recommendation 38**

**3.221 That accounting, financial planning and financial advice industry bodies develop and review ethical obligations of their profession in relation to receipt of instructions which may have a financial abuse motive and institute accompanying penalties for members who actively enable or facilitate financial abuse on behalf of their clients where there is no other reasonable basis underlying the instructions given by the client.**

# Chapter 4
# Safety by design and industry wide options for reform

4.1 Ms Rebecca Glenn, Chief Executive Officer of the Centre for Women's Economic Safety (CWES) emphasised that there are multiple points of intervention that financial institutions can take to address financial abuse:

> I think that the most malicious perpetrators will always find a way, but there are many interventions, points of friction, that we can put in place which will also provide points of evidence, and I think that's a worthwhile endeavour.[1]

4.2 This chapter of the report will expand on additional options for reform that could be applied to the financial services sector more broadly, including:

- safety by design;
- Design and Distribution Obligations;
- terms and conditions modernisation;
- positive friction; and
- employee training.

4.3 This chapter will also address specialised support for additionally vulnerable customers, including but not limited to culturally and linguistically diverse customers; Aboriginal and Torres Strait Islander Australians; and individuals living in rural and regional Australia.

## Safety by design

4.4 Traditional financial products and services are developed for customers with healthy relationships and equal access to money. However, perpetrators of financial abuse use a range of tactics, including some which are unintentionally enabled or exacerbated by the design of financial products and services.[2]

4.5 In 2019, the eSafety Commissioner's Safety by Design practices and principles was published, which highlighted that, instead of retrofitting safeguards after an issue has occurred, safety by design focuses on the ways risk mitigation can be invested in at the front end of product design.[3]

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1 Ms Rebecca Glenn, Chief Executive Officer, Centre for Women's Economic Safety (CWES), *Committee Hansard*, 28 June 2024, p. 8.

2 Flequity Ventures, *Submission 88*, p. 6.

3 eSafety Commissioner, *Safety by Design*, www.esafety.gov.au/industry/safety-by-design (accessed 24 October 2024).

4.6 The eSafety Commissioner reported that there are three safety by design principles that provide online platforms and services with guidance to assist with incorporating, assessing and enhancing user safety. These principles are:

- service provider responsibility;
- user empowerment and autonomy; and
- transparency and accountability.[4]

4.7 Flequity Ventures asserted that these principles provide a framework that can be tailored to the finance sector to assess the risks of product weaponisation and to identify the necessary policy, systems, processes and procedures.[5]

4.8 Ms Catherine Fitzpatrick's discussion papers published by CWES, titled *Designed to Disrupt: Reimagining banking products to improve financial safety* and *Designed to Disrupt: Reimagining general insurance products to improve financial safety*, called on the finance sector to develop a tailored Financial Safety by Design framework and diagnostic tool to assess whether their products include features that prevent their misuse and mitigate potential harm. Additionally, it was noted that this work should be developed in conjunction with victim-survivors, community service providers and experts in family and domestic violence and financial abuse.[6]

4.9 Ms Laura Bianchi, Managing Solicitor at Redfern Legal Centre, submitted that banks offering multiple offset accounts is an example of Safety by Design:

> … [For example,] AMP offers an option to have two offset accounts … I think that is a good example of where we can look at product design and apply [it] … to the rethinking of how relationships work … [embedding] safety by design …[7]

4.10 CWES recommended that the finance sector be required to develop a financial Safety by Design framework and assessment tools, building on the Safety by Design framework developed by the eSafety Commission for the technology sector, to ensure the burden for ensuring safety never falls solely on the user.[8]

4.11 Flequity Ventures echoed the above recommendation and further recommended that, in consultation with the financial services industry, family

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4 eSafety Commissioner, *Safety by Design*, www.esafety.gov.au/industry/safety-by-design, last updated: 25 September 2024 (accessed 4 November 2024).

5 Flequity Ventures, *Submission 88*, p. 6.

6 CWES *Submission 82*, p. 26; Ms Catherine Fitzpatrick, *Designed to Disrupt: Reimagining banking products to improve financial safety (CWES Discussion Paper 1)*, 2024; Ms Catherine Fitzpatrick, *Designed to Disrupt: Reimagining general insurance products to improve financial safety (CWES Discussion Paper 2)*, 2024.

7 Ms Laura Bianchi, Managing Solicitor, Financial Abuse Service NSW, Redfern Legal Centre, *Committee Hansard*, 8 July 2024, p. 21.

8 CWES, *Submission 82*, p. 18.

and domestic violence experts, including those with lived experience, academics, community service providers and safe regulatory-design experts, develop a tailored financial safety by design tool to assess whether financial products and services could enable or exacerbate abuse.[9]

**Design and Distribution Obligations**

4.12 The Design and Distribution Obligations (DDO) were introduced to help consumers obtain appropriate financial products by requiring:

- issuers of financial products to design products that are likely to be consistent with the likely objectives, financial situation and needs of the consumers for whom they are intended;
- issuers and distributors of financial products to take reasonable steps that are likely to result in financial products reaching consumers in the target market for the product defined by the issuer; and
- issuers to monitor consumer outcomes and review products to ensure consumers are receiving products that are likely to be consistent with their likely objectives, financial situation and needs.[10]

4.13 There is a growing prevalence of weaponisation of financial products and services. The Ecstra Foundation stated that a reference to the risk of misuse of financial products should be included in the DDO guidance.[11]

4.14 Family and domestic violence can severely impact a victim-survivor's ability to manage mortgage repayments or secure credit following an abusive relationship. While responsible lending obligations provide important consumer protections and, in some circumstances, help detect financial abuse, they can also create barriers for victim-survivors seeking to refinance.[12]

4.15 The Ecstra Foundation emphasised that consideration needs to be given to appropriate regulatory relief and improved processes for credit repair to support victim survivors to maintain mortgages and recover from credit damage due to financial abuse.[13]

4.16 The Financial Rights Legal Centre pointed out that there is scope for DDOs to influence product design and distribution practices to minimise financial abuse. Additionally, the Financial Rights Legal Centre highlighted the following guidance from the Australian Securities and Investment Commission (ASIC) that states that, in complying with DDOs, financial institutions should:

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9 Flequity Ventures, *Submission 88*, p. 6.

10 Financial Rights Legal Centre, *Submission 112*, p. 26.

11 Ecstra Foundation, *Submission 67*, p. 5.

12 Ecstra Foundation, *Submission 67*, p. 5.

13 Ecstra Foundation, *Submission 67*, p. 5.

> … consider consumer vulnerabilities, and how those vulnerabilities may increase the risk that consumers are sold products that do not meet their objectives, financial situation and needs, and will lead to poor consumer outcomes.[14]

4.17 However, it was noted that the extent of the obligation and lack of specificity in the ASIC guidance about how to design and distribute financial products to protect vulnerable customers such as victims of financial abuse, mitigate against DDOs having an influence on product design.[15]

4.18 The Economic Abuse Reference Group recommended that ASIC's guidance on DDOs be improved by providing more specific guidance about designing and distributing financial products to protect vulnerable consumers, such as victim survivors of financial abuse.[16]

4.19 Flequity Ventures recommended that DDOs be expanded to consider customers impacted by family and domestic violence and financial abuse, and the potential for perpetrators to cause harm by misusing products and services. Further, Flequity Ventures noted that DDOs should require the finance sector to take proactive steps to address the risks of potential misuse of their products, in the same way as employers have a positive duty to prevent sexual harassment.[17]

**Terms and conditions**

4.20 At the committee's public hearing in Canberra, Ms Catherine Fitzpatrick, Founder and Director of Flequity Ventures, made clear the rationale behind the request for financial providers to update their terms and conditions to address abusive behaviour:

> The recommendation around putting financial abuse in your terms and conditions is to say, 'We want a contractual obligation that says we need you to behave with respect to another customer, and we won't tolerate it if you don't, so there will be consequences.'[18]

4.21 The Australian Banking Association (ABA) noted that many banks have changed their product terms and conditions to prohibit the use of their products and services to perpetrate financial abuse and provide consequences for

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14 Financial Rights Legal Centre, *Submission 112*, p. 26; ASIC, *Regulation 274 Product design and distribution obligations*, [https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-274-product-design-and-distribution-obligations/](https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-274-product-design-and-distribution-obligations/) (accessed 24 October 2024).

15 Financial Rights Legal Centre, *Submission 112*, p. 27.

16 Economic Abuse Reference Group, *Submission 108*, p. 12.

17 Flequity Ventures, *Submission 88*, p. 6.

18 Ms Catherine Fitzpatrick, Founder and Director, Flequity Ventures, *Committee Hansard*, 28 June 2024, p. 28.

customers who misuse their products and services.[19] The ABA further noted that, under the new terms and conditions, customers who do misuse products can be contacted and the misuse of the product discussed with them.[20]

4.22 Similar to the banking sector, Suncorp reported that it is taking steps to update its financial abuse and inappropriate behaviour terms and conditions to reflect that an insurance policy cannot be used for financial or other types of abuse and that using them in this way can have serious consequences.[21]

4.23 Ms Fitzpatrick highlighted that a number of organisations have updated their terms and conditions in relation to financial abuse:

> … more than 25 businesses across banking, insurance, telecommunications, education and technology have mobilised against perpetrators. They've adopted my recommendation to include 'financial abuse' in their terms and conditions and policies, and in effect that bans the misuse of their products and services for financial abuse. It's a setting a global standard for protective measures.[22]

4.24 The ABA reported that, based on a sample of six banks including four major banks, approximately 37 banking services have been terminated because of breaching the new terms and conditions relating to financial abuse or unacceptable behaviour relating to abuse in transaction descriptions.[23]

4.25 CWES submitted that all financial service providers should introduce terms and conditions that make it clear that:

- products and services are not to be misused to abuse;
- financial abuse has serious impacts on victim-survivors;
- customers who misuse products and services will be warned or exited from the institution; and
- in some circumstances, financial abuse will be reported to law enforcement.[24]

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19 To see which financial institutions have updated terms and conditions please see: https://respectandprotect.au/read-the-fine-print/

20 ABA, *Submission 99*, p. 4.

21 Suncorp, *Response to questions seeking further information on processes to identify, respond to and report financial abuse*, received 22 August 2024, p. 1.

22 Ms Catherine Fitzpatrick, Founder and Director, Flequity Ventures, *Committee Hansard*, 28 June 2024, p. 26.

23 ABA, *Answers to questions on notice*, 8 July 2024 (received 12 August 2024), p. 1.

24 CWES, *Submission 82*, p. 24.

4.26 Many inquiry participants agreed with the recommendation that financial service providers should explicitly mention financial abuse in their terms and conditions.[25]

**Positive friction**

4.27 As highlighted in Chapter 3, the number of online financial products and services continues to grow, and reduced information requirements and human involvement in applying for and accessing online products and services removes 'friction points' that are an opportunity to reduce harm by preventing, detecting and responding to financial abuse.[26]

4.28 Ms Jasmine Opdam, Senior Policy and Advocacy officer from Redfern Legal Centre, emphasised the benefits of adding positive friction:

> … what is the harm to the rest of the population if they have to wait an extra, in some cases, 60 seconds, five minutes, for a loan to be approved? We have retailers using the point-of-sale exemption in the National Consumer Credit Protection Regulations to provide finance on the spot at a car dealership at an electronic store, where you speak to a shop assistant, who might be 18 years old and have no training in identifying coercion or financial abuse. You pop a loan application in the victim-survivor's name, and it is approved by someone clicking a button at a financial institution online within 60 seconds. Do we need to be providing credit within the space of 60 seconds if it means that we're putting a large segment of the population at considerable financial harm and costing victim-survivors and our entire national economy over $10 billion a year?[27]

4.29 BankWAW noted that customers expect fast and efficient banking services and there is an inherent conflict with this expectation when banks adopt processes that slow down payment services.[28]

4.30 EACH recommended that financial service providers introduce safeguards and frameworks to prevent financial abuse through online financial services by:

- reviewing and considering reinstatement of process friction points;
- deploying AI as a process friction point to detect unusual and suspicious account activity; and

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25 Financial Counselling Australia, *Submission 109*, p. [2]; Economic Abuse Reference Group, *Submission 108*, p. 12; COBA, *Submission 115*, p. 10; Ecstra Foundation, *Submission 67*, p. 2.

26 EACH, Submission 29, p. [4].

27 Ms Jasmine Opdam, Senior Policy and Advocacy Officer, Financial Abuse Service NSW, Redfern Legal Centre, *Committee Hansard*, 8 July 2024, p. 26.

28 BankWAW, *Response to questions seeking further information on processes to identify, respond to and report financial abuse*, received 10 September 2024, p. 3.

- introducing requirements for bank account name holder matching with government services.[29]

4.31 The Financial Rights Legal Centre recommended that the introduction of appropriate friction to lending processes should be required to expose financial abuse throughout the lifetime of the loan, including at the on-boarding stage.[30]

4.32 AFCA also supported the introduction of initiatives to respond to risks at all stages of a product's lifetime. It considered that product application and assessment systems should be designed to effectively screen for undue influence and coercion by introducing positive friction, where appropriate, to mitigate risks and ensure that all customers provide free and informed consent during the product application process.[31]

***Necessary friction in bankruptcy proceedings***

4.33 The Economic Abuse Reference Group Western Australia highlighted unique risks associated with bankruptcy. The process of declaring bankruptcy is often straightforward, with individuals being presented with documents to sign without fully understanding the long-term implications. This can be problematic for vulnerable and disadvantaged people, such as women in abusive situations, who may not realise how bankruptcy can affect any future Family Court matters.[32]

4.34 Noting that the consequences of bankruptcy could worsen victim-survivors' financial empowerment and independence, Economic Abuse Reference Group Western Australia recommended the addition of the following necessary friction points:

- mandatory legal advice before signing bankruptcy documents;
- enhanced notification on bankruptcy documents about the potential impacts on Family Court proceedings and financial arrangements;
- cooling-off periods to reflect on the documents; and
- access to support services that offer financial counselling and legal support.[33]

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29 EACH, Submission 29, p. [5].

30 Financial Rights Legal Centre, *Submission 112*, p. 37.

31 AFCA, Submission 132, p. 3.

32 Economic Abuse Reference Group Western Australia, A*nswers to questions on notice*, 10 July 2024 (received 7 August 2024), p. [25].

33 Economic Abuse Reference Group Western Australia, A*nswers to questions on notice*, 10 July 2024 (received 7 August 2024), p. [26].

## Employee training

4.35 The importance of employee training was emphasised by many inquiry participants, and particularly that employees of banks must be well versed in identifying financial abuse and how to respond appropriately. Uniting Communities noted that the standard of employee knowledge on financial abuse and how to respond effectively varies significantly between banks and within banks.[34]

4.36 CWES submitted that training in domestic and family violence often only includes a passing reference to financial abuse. Further, it submitted that this is not sufficient for organisations like banks and other essential services that are dealing with victim-survivors of financial abuse.[35]

4.37 To improve financial providers' response to victim-survivors, CWES asserted that relevant staff must receive specific training on financial abuse to identify how their products and services are being misused by perpetrators, and what challenges victim-survivors face in navigating financial services safely. The training should be relevant to staff roles, and employees in specialist vulnerability teams should undertake more detailed training in the dynamics of coercive control and the intersection of financial abuse with other forms of family and domestic violence.[36]

4.38 The Finance Sector Union (FSU) submitted that its members reported positively on workplace training that was effective and took place over multiple sessions. The training included face-to-face facilitated sessions, was trauma informed and included wraparound services to support staff are dealing with customers experiencing financial abuse. However, the FSU reported that this training was only available to specialist teams and was not provided to the majority of frontline staff.[37]

4.39 Additionally, the FSU reported that its members overwhelmingly want additional training to help them support customers who are victims of financial abuse. The frontline workers who are not in specialist teams do not believe that the training they are receiving is sufficient to help them to identify, manage and refer customers who are suffering from financial abuse.[38]

4.40 CWES proposed the following recommendations to ensure employees are sufficiently prepared to assist victim-survivors of financial abuse:

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34 Uniting Communities, *Submission 36*, p. 12.

35 CWES, *Submission 82*, p. 29.

36 CWES, *Submission 82*, p. 29.

37 Finance Sector Union (FSU), *Submission 25*, p. 5.

38 FSU, *Submission 25*, p. 6.

- financial institutions ensure their staff have training in financial abuse at the appropriate level their role in addition to more general training about domestic and family violence; and
- the establishment of a national expert advisory panel to review and approve training in financial abuse.[39]

4.41 COBA indicated that it also supported additional information and training resources in relation to financial abuse for financial providers.[40]

## Specialised support for vulnerable customers

4.42 This section of the chapter will examine specific accommodations required to provide appropriate care to certain subsets of the Australian population. These population subsets include:

- culturally and linguistically diverse people;
- Aboriginal and Torres Strait Islander Australians;
- people living in regional and remote areas of Australia; and
- defence communities.

### Culturally and linguistically diverse and culturally appropriate responses

4.43 Culturally appropriate responses are vital when working with victim-survivors from diverse backgrounds including Aboriginal and Torres Strait Islander Australians, culturally and linguistically diverse (CALD) individuals and migrant individuals, particularly as their help-seeking behaviours may differ from the general population.[41]

4.44 The Women's Legal Services Australia submitted that people from these backgrounds experience types of financial abuse specific to their familial and cultural context or visa status. This can arise from a range of factors, including:

- cultural norms and expectations around shared wealth and resource and other forms of accepted cultural obligations;
- traditionally gendered management of household finances and clear lines of division of labour in some cultures reinforcing men's dominance and control over money;
- expectations about paying a dowry or repaying immigration expenses;
- multi-generational households in which women can face abuse from multiple perpetrators, such as extended family or in-laws; and

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39 Centre for Women's Economic Safety, *Submission 82*, p. 29.

40 COBA, *Submission 115*, p. 6.

41 Women's Legal Services Australia, *Submission 62*, p. 16.

- temporary visa holders not being able to access emergency or long-term housing support, welfare support, childcare subsidies and other critical assistance because of their visa status.[42]

4.45 inTouch asserted that, to provide the most efficient response to CALD communities experiencing financial abuse, financial institutions must ensure that products, resources and service offerings are provided in language and in culturally sensitive ways.[43]

4.46 Dr Manjula O'Connor, Executive Director of the AustralAsian Centre for Human Rights and Health, acknowledged the difficulties faced by CALD women when identifying financial abuse:

> Language barriers and a lack of knowledge of the system pose barriers to seeking help until it's too late. I've seen women in my practice who have been ripped apart, having their savings all gone, completely lost, by these men who have come into the country—sometimes, even sponsored by the women—and have taken their savings.[44]

4.47 At the committee's public hearing in Melbourne, Mr Peter Gartlan, Co-Chief Executive Officer of Financial Counselling Australia, emphasised the lack of financial literacy and control some migrant women have when arriving in Australia:

> I was quite struck recently when I was speaking to representatives of South East Community Links, which is a community agency in the south-eastern suburbs of Melbourne that employs 12 financial counsellors. They were running a financial literacy day with newly arrived women from one particular country. The question was asked of the 24 women, 'How many of you have a bank account?' and 16 out of 24 did not know whether or not they had a bank account.[45]

4.48 Women's Legal Services Australia recommended that financial institutions invest in culturally appropriate financial literacy programs and plain language product descriptions, or ways of talking about financial abuse, to promote financial awareness and help-seeking.[46]

4.49 inTouch recommended that the provision of interpreters be required by financial institutions if a language barrier is identified, and that employees be

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42 Women's Legal Services Australia, *Submission 62*, p. 16.

43 inTouch, *Submission 98*, p. 15.

44 Dr Manjula O'Connor, Executive Director, AustralAsian Centre for Human Rights and Health, *Committee Hansard*, 8 July 2024, p. 35.

45 Mr Peter Gartlan, Co-Chief Executive Officer, Financial Counselling Australia, *Committee Hansard*, 8 July 2024, p. 16.

46 Women's Legal Services Australia, *Submission 62*, p. 17.

trained in appropriate engagement of interpreters and the complexity of interpreting in the family violence context.[47]

4.50 Lifeline Australia recommended that training of financial counsellors or for financial counselling services should increased to provide additional support for victim-survivors with a CALD background.[48]

### *Dowry abuse*

4.51 The practice of giving and taking dowry is continuing in some Australian multicultural communities. In some circumstances, when brides come to Australia on a temporary or provisional visa they are deceived by their husband and in-laws. For example, a groom may falsify or exaggerate their education, social-status or employment situation in Australia to claim a higher dowry amount. Alternatively, Australian permanent residency status is often used as a bargaining tool to negotiate a higher dowry price where the marriage is arranged between Australian and non-Australian residents.[49]

4.52 inTouch highlighted that, in some cultures, dowry is a key financial aspect of a marriage and increases pressure on a woman to stay in a marriage because of the expense that her family has incurred in providing dowry. Further, inTouch highlighted that misuse of dowry is akin to having a debt that requires a woman to remain in the marriage, even if the relationship is violent.[50]

4.53 The AustralAsian Centre for Human Rights and Health recommended that the Family Law Act be amended to include dowry abuse as an example of financial abuse under the definition of family violence.

4.54 As discussed in Chapter 2, the Family Law Amendment Bill 2024 is currently being considered by the Australian Senate and would amend the definition of family violence in the *Family Law Act 1988*. The Attorney-General's Department submitted that dowry abuse would be included as an example of financial abuse.[51]

### *Aboriginal and Torres Strait Islander Australians*

4.55 Financial services often lack culturally appropriate resources and support for Aboriginal and Torres Strait Islander Australians. These language and cultural

47 inTouch, *Submission 98*, p. 7.

48 Lifeline Australia, Submission 43, p. [8].

49 Women's Health in the North, *Submission 68*, p. 8.

50 inTouch, *Submission 98*, p. 15.

51 Attorney-General's Department, A*nswers to questions on notice*, 15 August 2024 (received 13 September 2024), pp 2–3

barriers, as well as mistrust in mainstream services, can hinder access to financial assistance and support services.[52]

4.56 ASIC pointed out that some of the nuances of how financial abuse is experienced within Aboriginal and Torres Strait Islander communities is due to cultural norms and protocols around the management of money and resources. While there is much diversity within and across Aboriginal and Torres Strait Islander communities, some examples of their financial management practices include:

- cultural obligations requiring, or community having a tendency of encouraging, the sharing of financial and other resources based on the cultural principle of reciprocity;
- a collective approach to ownership, management and use of money and resources, based on kinship obligations and cultural principles; and
- kinship structures providing additional levels of responsibility to immediate and extended family members, in addition to the points above.[53]

4.57 Women's Legal Services Australia highlighted that a 'one-size-fits-all' approach is not appropriate for victim-survivors from CALD backgrounds, including Aboriginal and Torres Strait Islander Australians. Aboriginal and Torres Strait Islander Australians face significant barriers in accessing financial services and products for a number of reasons, including but not limited to geography, the cost of services and long wait times.[54]

4.58 The Aboriginal Family Legal Service WA recommended greater investment in the development of training and education for financial providers on financial and economic abuse of Aboriginal and Torres Strait Islander Australians by Aboriginal Community Controlled Organisations.[55]

4.59 This recommendation was echoed by the Salvation Army who called for the Federal Government to collaborate with Aboriginal and Torres Strait Islander Community Controlled Organisations and financial counsellors to develop and deliver culturally appropriate financial abuse support services.[56]

**Individuals living in rural and regional Australia**

4.60 Regional and remote areas of Australia face difficulties of access to support services for victim-survivors of financial abuse. Limited resources, geographic

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52 Economic Abuse Reference Group Western Australia, *Submission 114*, p. 16.

53 ASIC, Submission 28, pp 23–24.

54 Women's Legal Services Australia, *Submission 62*, p. 17.

55 Aboriginal Family Legal Service WA, *Submission 37*, pp 10–11.

56 The Salvation Army, *Submission 34*, p. 17.

isolation, and a lack of specialised service providers exacerbate the vulnerability of individuals in these communities.[57]

4.61 Economic Abuse Reference Group Western Australia highlighted that regional and remote areas of Australia face challenges of access to support services and legal assistance for victim-survivors of financial abuse. Further, it noted that the scarcity of specialised service providers means that people often lack access to culturally appropriate and trauma-informed support.[58]

4.62 Economic Abuse Reference Group Western Australia recommended the enhancement of banking infrastructure and digital inclusion in regional Australia. Due to the nature of online-only platforms being susceptible to abuse and lack of internet connectivity, it recommended increasing the number of bank branches, ATMs and mobile banking units, and improving access to internet connectivity in remote and regional areas to ensure easier access to financial services and online banking.[59]

4.63 Uniting Communities submitted that regional areas often have a higher population of older people and that the closure of physical bank branches in regional Australia can result in increased financial elder abuse in those areas.[60]

4.64 Mr Jason Goode observed that the isolation of older people living in rural and regional areas of Australia can be used to further facilitate financial abuse:

> People can then use that isolation against the elderly to make them feel worse. They can isolate them from their family and push them away from their family.[61]

4.65 Uniting Communities recommended that both banks and the government provide digital literacy and financial literacy training options for people, particularly in regional areas, so that customers are not forced to rely on others to access their banking through digital channels. Uniting Communities specified that the digital literacy and financial literacy training options need to include face-to-face delivery.[62]

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57 Women's Legal Services Australia, *Submission 62*, p. 18.

58 Economic Abuse Reference Group Western Australia, *Submission 114*, p. 17.

59 Economic Abuse Reference Group Western Australia, *Submission 114*, p. 5.

60 Uniting Communities, *Submission 36*, p. 10.

61 Mr Jason Goode, Private capacity, *Committee Hansard*, 9 August 2024, p. 2.

62 Uniting Communities, *Submission 36*, p. 4.

### Defence communities

4.66 Dr Rachel Hogg submitted that victim-survivors of financial abuse in defence communities experience additional vulnerabilities relating to the risk of financial abuse and face a range of additional barriers to receiving support.[63]

4.67 Dr Hogg further submitted that the following factors add to the vulnerabilities experienced by victim-survivors of financial abuse within defence communities:

- the disproportionate likelihood of the primary income within the family unit hinging upon the continued employment of the perpetrator with Defence;
- strict standards within Defence for the conduct of personnel; and
- the often-disrupted career trajectory of the female victim.[64]

4.68 At the committee's public hearing in Wagga Wagga, Ms Jenny Rolfe-Wallace echoed Dr Hoggs observations and commented on the unique issues associated with victim-survivors in defence communities:

> Somebody who is married to a Defence Force member is moved quite frequently. That's incredibly destabilising to their support networks and to their communities. It makes it very hard to obtain work, because an employer is going to know that you're going to, potentially, be here for maybe a year, maybe three, possibly longer. It does make it very difficult, as the spouse of a Defence Force member, to obtain secure employment and to obtain and build financial security as a result of that.
>
> Exacerbating that is the way that, for example, housing is set up. Often, the spouse of a Defence Force member has no authority to interact on bank accounts, to interact with HR, to interact with the housing providers, which can put them in an incredible position of disadvantage. You then add, to that, concerns about reporting situations because that can impact on their partner's career, and their partner's career provides the income for the family. So, it is this situation of isolation.[65]

4.69 Ms Rolfe-Wallace recommended that best-practice guidelines be developed to assist financial services to address the specific needs of defence force families who may be experiencing financial abuse.[66]

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63 Dr Rachel Hogg, *Answers to questions on notice*, 9 August 2024 (received 4 September 2024), p. [2].

64 Dr Rachel Hogg, *Answers to questions on notice*, 9 August 2024 (received 4 September 2024), p. [2].

65 Ms Jenny Rolfe-Wallace, Director, Sprout Education Group, *Committee Hansard*, 9 August 2024, pp 37–38.

66 Ms Jenny Rolfe-Wallace, Director, Sprout Education Group, *Committee Hansard*, 9 August 2024, p. 38.

4.70 Defence Bank indicated in response to committee questions on notice that they had no recorded instances of financial abuse within their membership in 2024, and two reported cases of suspected financial abuse within the past 12 months.[67]

4.71 The Australian Military Bank, similarly, indicated that:

> '[t]he measures and safeguards implemented by our business, combined with the unique support structures and secure environments provided by institutions like the Australian Defence Force (ADF), have resulted in a very low incidence of suspected financial abuse. The existing policies, training programs, and reporting protocols effectively support the identification and response to any potential issues, ensuring that vulnerable customers are protected. Overall, while financial abuse is a critical concern, the data suggests that our proactive measures and vigilant reporting processes are successful in maintaining a secure and supportive environment for our customers.[68]

4.72 The Defence Bank response advised:

> The Department of Defence include financial abuse as a form of abuse in Defence Strategy for Preventing and Responding to Family and Domestic Violence 2023– 2028 which outlines key initiatives to address family and domestic violence within the Australian Defence Force (ADF) and are supportive of measures adopted to identify this within the Defence community and address it.[69]

4.73 The Defence Bank further indicated that:

> … the prevalence of financial abuse by current members of the ADF may be less due to the relative comparable independence of many of our members and their partners/spouses due to the nature of their work. A central theme of financial abuse is control and access – and given the nature of defence employment – with regular military exercises, training and deployments, many members and spouses have a great need to operate with financial independence and autonomy. Due to the locations of most Defence Bank branches, we will primarily deal with the individual serving in the ADF. This can potentially result in a one-sided view of financial activity, making financial abuse less apparent and more difficult to identify.[70]

## Committee view

4.74 Evidence received by the committee has shown that there are relatively simple ways that providers of financial services and products could update their

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[67] Defence Bank, *Response to questions seeking further information on processes to identify, respond to and report financial abuse*, received 18 September 2024, p. [1].

[68] Australian Military Bank, *Response to questions seeking further information on processes to identify, respond to and report financial abuse*, received 3 July 2024, p. [4].

[69] Defence Bank, R*esponse to questions seeking further information on processes to identify, respond to and report financial abuse*, received 18 September 2024, p. [1].

[70] Defence Bank, *Response to questions seeking further information on processes to identify, respond to and report financial abuse*, received 18 September 2024, p. [2].

processes to provide better support for victim-survivors of financial abuse. While it is encouraging to see that financial institutions are generally aware of the issue of financial abuse and that many are already implementing financial abuse policies and measures, the committee considers that there is some way to go to achieve the comprehensive industry-wide changes that are needed to provide for the protection of victim-survivors of financial abuse.

**Safety by design**

4.75 The committee acknowledges the work of Ms Catherine Fitzpatrick, who authored the Design to Disrupt discussion papers that examine the banking and general insurance industries and how these sectors could reimagine their products and services for financial safety. The committee commends Ms Fitzpatrick for her work championing the implementation of safety by design in the finance sector, and the committee strongly supports safety by design as a key strategy to address financial abuse in the finance and banking sectors.

4.76 The eSafety Commissioner's Safety by Design practices and principles for online platforms highlighted that, instead of retrofitting safeguards after problems have occurred, safety by design focuses on investing in risk mitigation at the front end of product design. The committee considers that there would be significant benefits in the implementation of safety by design principles by financial institutions and the development of a framework in consultation with the financial services industry, victim-survivors, family and domestic violence academics, community service providers and regulatory design experts.

4.77 The committee notes that an example of safety by design that would be immediately beneficial for consumers and readily implementable by lending institutions is the offering of multiple offset accounts for joint mortgages. The committee considers that this option for new borrowers entering into joint mortgage would provide greater financial independence for both parties and reduce the risks financial abuse that can occur post-separation in relation to joint mortgage accounts.

**Recommendation 39**

**4.78 That the finance sector develops a financial Safety by Design framework and assessment tools. The committee further recommends that the framework is developed in consultation with the financial services industry, victim-survivors, family and domestic violence academics, community service providers and regulatory design experts.**

**Recommendation 40**

**4.79 That financial institutions that provide mortgages implement the standard practice of offering multiple offset accounts for joint mortgages.**

4.80 The DDOs were introduced to provide protections and help consumers obtain appropriate financial products, and the committee has heard strong concerns that the risk of misuse of financial products in relation to financial abuse is not included in the DDO guidance. The committee supports the expansion of DDOs to consider customers impacted by family and domestic violence and financial abuse and the potential for perpetrators to cause harm by misusing products and services.

**Recommendation 41**

**4.81 That the Australian Government expand the Design and Distribution Obligations to include consideration of customers impacted by family and domestic violence, including financial abuse, and the potential for perpetrators to cause harm by misusing products and services.**

4.82 The committee is encouraged to see that many banks and insurers have changed their product terms and conditions to prohibit use of their products and services to perpetrate financial abuse and introduce consequences for customers who misuse products and services to perpetrate abuse. This is a step in the right direction and the committee believes that all financial institutions should update their terms and conditions to address financially abusive behaviour.

**Recommendation 42**

**4.83 That financial service and product providers ensure that financial abuse is explicitly referenced in the terms and conditions for all financial products.**

4.84 The committee heard that, as the use of online financial products grows, there is a concomitant reduction in information requirements and human involvement as 'friction points' that provide an opportunity to prevent, detect and respond to financial abuse. The committee is concerned about the ease with which loans are approved and concurs with those inquiry participants who questioned the need for almost frictionless and rapid credit and loan approvals processes.[71]

4.85 The committee acknowledges that customers expect online banking services to be quick; however, the committee believes that adding appropriate and considered friction points would not unduly slow down application and approval processes and would provide critical opportunities for financial institutions to detect and flag financially abusive behaviour.

**Recommendation 43**

**4.86 That financial institutions implement minimum operating standards, with a view to moving to best practice standards through continuous improvement**

[71] See, for example: Ms Jasmine Opdam, Senior Policy and Advocacy Officer, Financial Abuse Service NSW, Redfern Legal Centre, *Committee Hansard*, 8 July 2024, p. 26.

**over time, for the introduction of positive friction points to minimise the risk that a customer is applying for a product under coercion or duress or without providing free and informed consent.**

**Employee training**

4.87 The importance of employee training was emphasised to the committee by many inquiry participants, and specifically that employees of banks must be well versed in identifying and responding appropriately to financial abuse. While the committee recognises that financial institutions have increased employee training in relation to family and domestic violence, the evidence received by the inquiry suggests that employees overwhelmingly want additional training to help them support customers who are victims of financial abuse. The committee considers that increased training for employees in relation to financial abuse is a key strategy for ensuring that financial institutions are equipped to address and respond effectively to the issue of financial abuse.

**Recommendation 44**

**4.88 That financial institutions ensure that, in addition to general training about family and domestic violence, all employees have training in financial abuse that is appropriate to their level and role.**

**Culturally appropriate responses**

4.89 Culturally appropriate responses are vital when working with victim-survivors from diverse backgrounds including Aboriginal and Torres Strait Islander Australians, CALD individuals and migrant women. Evidence received by the committee has shown that victim-survivors from diverse backgrounds experience financial abuse tactics specific to their familial and cultural context and visa status.

4.90 The committee believes that the most efficient response to victim-survivors from diverse backgrounds experiencing financial abuse is for financial institutions to ensure that products, resources and service offerings are provided in language and in culturally appropriate forms. The committee also considers that the provision of interpreters by financial institutions should be required if a language barrier is identified to ensure that the victim-survivor is supported appropriately.

4.91 The committee acknowledges the proposal for dowry abuse to be recognised explicitly in the *Family Law Act 1988* via the Family Law Amendment Bill 2024, which passed both Houses on 29 November 2024. The new law will amend the definition of family violence to include dowry abuse as a form of abuse.

4.92 Evidence received by the committee has shown that a ‘one-size-fits-all’ approach is not appropriate for victim-survivors from all CALD backgrounds, including Aboriginal and Torres Strait Islander Australians. Aboriginal and

Torres Strait Islander Australians face significant barriers in accessing financial services and products for a number of reasons, including but not limited to geography, the cost of services and long wait times. To address these differences, the committee proposes that training and education programs on financial abuse of Aboriginal and Torres Strait Islander Australians, developed by Aboriginal Community Controlled Organisations, would be of great benefit to the Aboriginal and Torres Strait Islander community.

**Recommendation 45**

**4.93 That financial institutions, government and relevant stakeholders all provide appropriate support to culturally and linguistically diverse consumers through:**

- **culturally appropriate financial literacy programs and plain language product descriptions or ways of talking about financial abuse to promote financial awareness and help-seeking; and**
- **where a language barrier is identified, the provision of interpreters and employees trained in providing interpreting services in the family violence context.**

**Recommendation 46**

**4.94 That the Australian Government support Aboriginal Community Controlled Organisations to develop training and education programs for financial providers to increase understanding of financial and economic abuse of Aboriginal and Torres Strait Islander Australians.**

### Defence communities

4.95 The committee is concerned that, due to the disproportionate likelihood of the primary income within the family unit hinging upon the continued employment of the perpetrator with Defence, victim-survivors of financial abuse in defence communities experience additional vulnerabilities and face a range of additional barriers in receiving support. The committee considers that the development of best-practice guidelines to assist financial services in addressing the specific needs of defence force families would assist in addressing these specific vulnerabilities.

4.96 While relevant military and defence financial services providers have reported extremely low levels of financial abuse among their membership, the committee was concerned by the response from Defence Bank which highlighted that this could be a result of the fact that these institutions primarily engage directly with military personnel clients as opposed to their spouses, leading to under-reporting of financial abuse. Defence Bank’s response highlighted that this underreporting 'can potentially result in a one-sided view of financial activity, making financial abuse less apparent and more difficult to identify'.[72]

4.97 The committee commends the attention of the ADF and Department of Defence to the issue of financial abuse and notes its reference in the Defence Strategy for Preventing and Responding to Family and Domestic Violence 2023-28.

4.98 The committee considers that the development of best-practice guidelines to assist financial services in addressing the specific needs of defence force families would assist in addressing the specific vulnerabilities of military personnel and their families.

**Recommendation 47**

**4.99 That the Department of Defence and financial institutions co-design best practice guidelines to assist financial services to address the specific needs of defence force families who may be experiencing financial abuse.**

72 Defence Bank, *Response to questions seeking further information on processes to identify, respond to and report financial abuse*, received 18 September 2024, p. [2].

# Chapter 5
# Role of government

5.1 The Centre for Women's Economic Safety (CWES) emphasised the unique position government agencies are in to support victim-survivors of financial abuse:

> Government agencies are especially well placed to make a positive difference in the lives of victim-survivors of financial abuse given their role in administering support payments, taxation, housing, health, licensing and registration, [and] transport.[1]

5.2 This chapter of the report will focus on the role of government agencies in preventing and responding to financial abuse, including:

- child support payments;
- the tax system, including company directorships and trusts; and
- Centrelink payments and debts.

5.3 This chapter also explores whole-of-government reform options, including the establishment of an inter-governmental taskforce and mandatory training in family and domestic abuse awareness for frontline employees.

## Child support

5.4 Child support refers to money to be paid by a non-resident parent to a resident parent for the purpose of financially supporting children following parental separation.[2] Initially, the aim of child support was to ensure, wherever possible, that children enjoy the benefit of a similar proportion of parental income to that which they would have enjoyed if their parents lived together. It was based on the view that children should not be disadvantaged as a result of the separation of parents.[3]

5.5 At the committee's public hearing in Canberra, Dr Jennie Gray, Deputy Chair of Women's Legal Services Australia, highlighted the extent and complexity of perpetrators using child support to further financial abuse:

> As you're very well aware, there is $2 billion in outstanding child support payments in Australia right now. It is incredibly complicated. Even when we talk to experts about how we untangle and devise strategies to ensure

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1 Centre for Women's Economic Safety (CWES), *Submission 82*, p. 31.

2 Kay Cook, Adrienne Byrt, Rachael Burgin, Terese Edwards, Ashlea Coen and Georgina Dimopoulos, 'Financial Abuse: The Weaponisation of Child Support in Australia', *Swinbourne University of Technology and National Council of Single Mothers and their Children*, 2023, p. 17, https://doi.org/10.26185/72dy-m137.

3 Single Mother Families Australia (SMFA), *Submission 46*, p. 3.

> the correct payment of child support, there are so many loopholes in the taxation system.[4]

5.6 Child support can be used as a tool to perpetrate financial abuse and in some instances the non-payment of child support is a form of family violence. The Economic Abuse Reference Group (EARG) highlighted the following ways perpetrators of financial abuse exploit child support:

- refusing to pay child support or underpaying child support post-separation;
- minimising their taxable income to lower their child support liability or make the victim-survivor liable to pay child support; and
- making false declarations to Services Australia.[5]

**Box 5.1 Case study – Steve's story**

Steve is now nineteen years old. His mother left a situation of quite extreme violence when he was twelve and his younger sibling nine. He reflected on the years of difficulty since that point, and the way in which his father's abuse centred on control of child support. Steve said he and his sibling '… hated going to dad's. He was so nasty. But if we said we didn't want to, he threatened to stop paying child support. Any time he couldn't get what he wanted; he made the same threat… Now, seven years after we left, my mum and my brother have had to go and live with my grandparents. Mum has never been able to get ahead financially or emotionally. People think when women leave, that the abuse stops. It doesn't. Not for them and not for us kids'.[6]

5.7 Parkerville Children and Youth Care emphasised that child support payments are overwhelmingly made to mothers (88 per cent). Parkerville Children and Youth Care further emphasised that this reflects the deeply gendered division of work and care in Australia that contributes to single parent poverty. As a result of perpetrators manipulating and weaponising the child support system, women and their children can find themselves trapped in hardship.[7]

5.8 Single Mother Families Australia (SMFA) emphasised the importance of single mother receiving adequate income provision to support their families:

> Children living in single parent families have a poverty rate of 39 per cent, more than three times that of couple families (12 per cent). Lack of money is also a powerful factor in perpetuating violence – around 1 in 5 women

4 Dr Jennie Gray, Deputy Chair, Women's Legal Services Australia, *Committee Hansard*, 28 June 2024, p. 22.

5 Economic Abuse Reference Group (EARG), *Submission 108*, p. 50.

6 Case study provided by Council of Single Mothers and their Children, *Submission 59*, p. [2].

7 Parkerville Children and Youth Care, *Submission 64*, p. 4.

return to violent partners because they had no financial support, or nowhere else to go.[8]

5.9 The Council for Single Mothers and their Children (the council) echoed this point and highlighted that a failure to collect child support payments can result in children entering poverty. Furthermore, the council stated that around '… one million children in Australia should be receiving child support through the scheme, but for more than half it's impossible to determine if they are receiving it.'[9]

5.10 The manipulation of the child support system causes direct harm to women and their children, particularly given that financial abuse via child support is highly likely to be one indicator in a larger picture of family and domestic violence perpetration. Additionally, non-payment is a direct privation for the child, and a denial of their right to share in the financial resources of their parents.[10]

5.11 Parkerville Children and Youth Care recommended that non-payment, underpayment and delayed payment of child support be nationally recognised as a form of financial and economic abuse with long-lasting impacts on women and children.[11]

5.12 SMFA acknowledged the Australian Government's 2023-24 Budget announcement that would commit $5.1 million over five years to implement key recommendations made by the Joint Select Committee on Australia's Family Law System.[12] These recommendations include:

- re-establishing the Child Support Stakeholder Consultation Group;
- appointing a Child Support Expert Panel to review various aspects of the system;
- review compliance in the child support scheme, with a focus on collection and enforcement;
- review the interaction between the child support scheme and Family Tax Benefit scheme to ensure vulnerable single parent families are financially supported after separation; and

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8 SMFA, *Submission 46*, p. 1.

9 Council of Single Mothers and their Children, *Child support failure costs children and Budget*, Media Release, 18 August 2022, p. 1.

10 Parkerville Children and Youth Care, *Submission 64*, pp 4–5.

11 Parkerville Children and Youth Care, *Submission 64*, p. 5.

12 For more information and the committee's full report: www.aph.gov.au/Parliamentary_Business/Committees/Joint/Family_Law_System

- undertake an evaluation of separated families to understand what support can be provided to parents with caring responsibilities where private collection arrangements have broken down.[13]

**Box 5.2 Case study**

For a moment, imagine you're a new mother of a beautiful three-month-old baby. This should be a time of joy and bonding, but instead it's overshadowed by fear and uncertainty. You are on unpaid maternity leave, desperately trying to make ends meet. You've split up with the father of your baby because you wanted to break the cycle of violence for your daughter. He's now refusing to pay your child support because you have stopped taking his constant calls. He knows that, without it, you cannot afford to cover rent or the basic necessities for your baby. You are reluctant to make a formal child support arrangement, because he's already threatening court action, and you fear what retaliation could mean for you and your baby.

You have no family support. You are entirely alone. You've lost all your friends throughout the relationship. You are dealing not only with the immediate financial crisis but also with the lingering trauma of years of abuse. You have PTSD, but you don't know it. You experience ongoing nightmares that haunt you—a constant reminder of the manipulation and coercion you endured. You are tired from sleepless nights with your baby, and it's really hard to regulate yourself. You consider, 'Would a drink help?'

Each day, you pick up the phone and you call Centrelink, hoping today's the day you get through. You wait on hold for hours, with anxiety mounting every minute, juggling trying to be present for your baby at the same time, only to have your call hung up on and disconnected because they're at capacity. This daily routine leaves you feeling hopeless and alone.

You've reached out to several community organisations, and, each time you tell your story, you relive your trauma. Still, all you receive is surface-level advice. You're advised you don't meet eligibility requirements, or it's out of scope or they're at capacity

No-one suggests financial counselling—you're not aware that that service exists—and no-one refers you to someone that can help. Debts that you have not accumulated hang over you like a dark cloud. And you wonder how your ex still exerts control over your life now, more than when you were in the relationship. He took out several credit cards in your name to support his gambling addiction. You are terrified that every unknown caller is a debt collector chasing payments that you've not been able to pay. You wonder,

13 SMFA, *Submission 46*, p. 8.

> 'Will they repossess my car?' You think about returning to work, but childcare costs are far beyond your reach.
>
> The system which should offer you a lifeline traps you in a web of bureaucracy and indifference. Each day is a struggle as you navigate a system that seems it's designed to fail you. Now imagine the emotional toll this takes—the constant fear, the sleepless nights and the overwhelming sense of helplessness.
>
> This is just a snippet of the reality for far too many women across Australia. As we open today's hearing, put yourself in their shoes. Feel their fear, desperation and exhaustion. Let their stories guide our efforts to create a future where no woman—mother, sister, aunt or friend—has to endure this torment. Only by building comprehensive support systems that provide more than temporary relief and that create a pathway to long-term safety and stability can we address this form of coercive control.[14]

### Child support collection

5.13 Child support payments can be collected in three different ways: Agency/Child Support Collect, Private Collect, or self-management. Services Australia administers the Child Support Scheme and provides services to parents and carers. Services Australia also assists parents to apply for a child support assessment and facilitates the collection and transfer of child support payments.[15]

5.14 The *Child Support (Assessment) Act 1989* empowers Services Australia with various methods to recover child support without proceeding to court, including:

- contacting the liable parent to discuss payment strategies;
- garnishing the liable parent's wages;
- garnishing tax refunds;
- deducting payments directly from the liable parent's bank account;
- deducting payments from Government income support; and
- issuing a section 72A Notice to collect the outstanding debt.[16]

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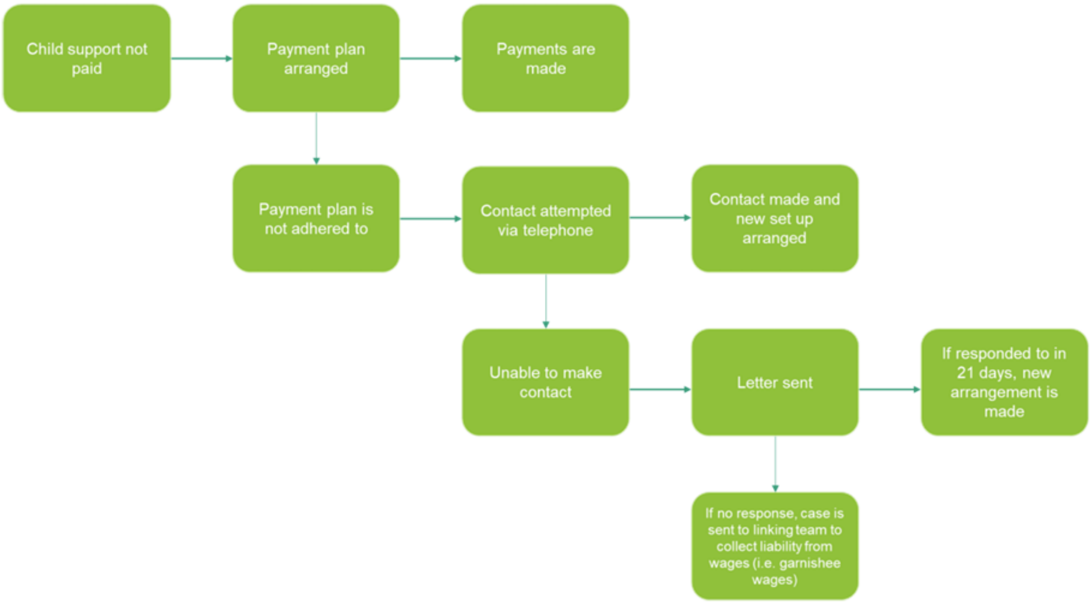
14 Ms Sarah Holman, Community Legal Education and Communications Coordinator, Consumer Credit Legal Service Western Australia, *Committee Hansard*, 10 July 2024, pp 3–4

15 Department of Social Services (DSS), *Description of Child Support Scheme*, 17 August 2024, www.dss.gov.au/families-and-children/programs-services/child-support/the-child-support-scheme#:~:text=Services%20Australia%20assists%20parents%20to,transfer%20of%20child%20support%20payments (accessed 27 November 2024).

16 Women's Legal Services Australia, *Non-Payment of Child Support as Economic Abuse of Women and Children: A Literature Review*, May 2024, p. 31.

**Figure 5.1 Process for collecting child support arrears**




*Source: Women's Legal Services Australia, Non-Payment of Child Support as Economic Abuse of Women and Children: A Literature Review, May 2024, p. 33.*

### *Private Collect*

5.15 Private Collect is where a child support assessment, agreement or court order sets out the amount of child support and the two parents work out how and when to pay this amount individually.[17]

5.16 Financial Counselling Victoria submitted that, for safety reasons, victim-survivors might choose Private Collect in the child support system to avoid angering the perpetrator.[18]

5.17 SMFA highlighted the following statistics on Private Collect:

- nearly half (47 per cent) of women who 'chose' Private Collect said they were pressured by their ex-partner so that he didn't have to pay child support;
- 70 per cent of financially abused women using Private Collect did not receive payments in full or at all; and
- there were 'consequences for women using Private Collect who tried to pursue underpayments from their former partners: more than 80 per cent reported their ex-partners became angry; 60 per cent said their ex-partner refused to pay; and half said their ex-partner became violent.[19]

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17 Services Australia, *Compare your child support collection options*, www.servicesaustralia.gov.au/compare-your-child-support-collection-options?context=21911 (accessed 25 November 2024).

18 Financial Counselling Victoria, *Submission 60*, p. 10.

19 SMFA, *Answers to questions on notice*, 8 November 2024 (received 22 November 2024), p. 2.

5.18 SMFA submitted that all payments collected through Private Collect assume the payment is made on time and in full. However, there are currently no mechanisms in place to ensure this is the case, other than the payee requesting a switch from Private Collect to Agency Collect. In circumstances where financial or other forms of abuse are being perpetrated, victim-survivors may be too fearful to request this change. Additionally, SMFA noted that, even if the payment method is changed to Agency Collect, Services Australia can generally only collect debts/arrears owed for the past three months, or nine months in exceptional circumstances, for Private Collect.[20]

*Agency Collect*

5.19 When women moved from Private Collect to Agency Collect, more than half started receiving more or at least some child support payments. However, for approximately one quarter of women the move to Agency Collect resulted in the ex-partner no longer paying any child support at all.[21]

5.20 SMFA highlighted that at least 200,000 people, primarily men who owe child support, have failed to submit a tax return for more than two years. Furthermore, over 16,000 have not filed a tax return for more than 10 years.[22]

5.21 SMFA pointed out that the child support system accepted provisional income amounts allowing income to be adjusted downward to sit at minimal payment levels despite contradictions between payment levels and lifestyles. This directly impacts the amount of child support paid to victim-survivors.[23]

5.22 Financial Counselling Victoria recommended the implementation of an annual review and reconciliation system for the child support system, to ensure that any amounts unpaid or underpaid are deducted from the perpetrator's tax return or other financial assets and income streams (for example, from superannuation or a paycheque) and paid to the intended recipient. Where payments have been delayed, systems should be set up to calculate and charge interest on the payment.[24]

5.23 SMFA echoed the above recommendation and stated that the Australian Tax Office (ATO) should mandate annual tax returns from both parties to assist with closing loopholes that allow minimisation of child support assessments.[25]

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20 SMFA, *Answers to questions on notice*, 8 November 2024 (received 22 November 2024), p. 2.

21 Kay Cook, Adrienne Byrt, Terese Edwards, and Ashlea Coen, *Opening the black box of child support: Shining a light on how financial abuse is perpetrated*, 2024, p. 101.

22 SMFA, *Submission 46*, p. 7.

23 SMFA, *Submission 46*, p. 7.

24 Financial Counselling Victoria, S*ubmission 60*, p. 10.

25 SMFA, *Submission 46*, p. 6.

### Child support payment collection by the Australian Tax Office

5.24 The Brotherhood of St. Lawrence highlighted that child support was initially the responsibility of the ATO until transferred to Services Australia.[26] SMFA echoed this point and asserted:

> There is irrefutable evidence that Services Australia's collection and enforcement is not working. The high level of debt, the extended time of non-lodgement of tax returns, and the elevated amount of payees with minimal payments are clear indicators.[27]

5.25 SMFA and the Brotherhood of St. Lawrence recommended that all child support collections be moved back to the ATO. SMFA asserted that the ATO would be best positioned to collect child support payments, address the astounding balance of outstanding payments, close assessment loopholes and uphold the expectations of timely and complete payments.[28]

### Family Tax benefit payment

5.26 The Family Tax Benefit is a financial support provided to low and middle-income families in Australia and is made up of two parts: Part A and Part B. Payment of Family Tax Benefit A (FTB-A) is based on the combined income of a family and is paid in respect of each eligible child. Family Tax Benefit Part B provides extra help for single parent families and couple families with one main income earner.

5.27 At the committee's public hearing in Canberra, Mr Benjamin Peoples, Group Manager at the Department of Social Services (DSS), explained the connection between child support and the family tax benefit:

> The child support scheme's interaction with family tax benefit works in that a parent must seek child support to meet their obligations under maintenance action and maintenance income tests. There can be reductions in the amount of payment that a person receives from their family tax benefit based on the amount that a former partner may declare in their income or the person's efforts and activities to seek a child support payment.[29]

5.28 Women's Legal Services Australia pointed out that under FTB-A every dollar of child support received over the threshold of $1,883.40 (known as the

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26 Brotherhood of St. Laurence, *Submission 141*, p. [1].

27 SMFA, A*nswers to questions on notice*, 8 November 2024 (received 22 November 2024), p. 3.

28 SMFA, *Answers to questions on notice*, 8 November 2024 (received 22 November 2024), p. 1. Brotherhood of St. Laurence, *Submission 141*, p. [1].

29 Mr Benjamin Peoples, Group Manager, Participation and Family Payments, DSS, *Committee Hansard*, 20 September 2024, p. 12.

Maintenance Income Free Area) reduces FTB-A payments by 50 cents until the single parent reaches the base rate of FTB-A.[30]

5.29 CWES emphasised that the interaction between Child Support payments and FTB-A creates considerable stress. As the parent and child's child support entitlement goes up, the amount of FTB-A goes down but, to determine how much of FTB-A should be paid, recipients must first claim child support from the other parent.[31]

5.30 Furthermore, CWES emphasised that a family violence exemption to this calculation of FTB-A does exist for circumstances where a victim-survivor may be too fearful of the consequences of asking the perpetrator for child support. In 2023, 14 per cent of the total child support caseload had a child support exemption as a result of family and domestic violence.[32] With the family violence exemption, mothers remain entitled to income support payments and the family tax benefit above the base rate, but they miss out on supplemental income from child support. However, CWES pointed out that this effectively rewards the perpetrator for their violence and abuse.[33]

5.31 Ms Sarah Holman, Community Legal Education and Communications Coordinator at Consumer Credit Legal Service Western Australia, pointed out a major flaw in the Family Tax Benefit scheme:

> Let's say, in an ideal world, they've assessed your child support arrangements and you're getting your child support. It's fair then, because what will happen is that if your assessed child support payment increases, then the benefits decrease. If your child support decreases, the benefits ideally should increase. That's the general gist of it. What happens, though, if you're not receiving those child support payments?[34]

5.32 SMFA highlighted that victim-survivors who are collecting child support privately are assumed by Services Australia to be receiving 100 per cent of their assessed amount of child support, and Family Tax Benefit is calculated on the assumed receipt of child support even when it has not been received.[35]

5.33 CWES submitted that perpetrators are able to manipulate the system and cause further harm by failing to disclose their income, leading to an estimate having

30 Women's Legal Services Australia, *Non-Payment of Child Support as Economic Abuse of Women and Children: A Literature Review*, May 2024, p. 30.

31 CWES, *Submission 82*, p 32.

32 Women's Legal Services Australia, *Non-Payment of Child Support as Economic Abuse of Women and Children: A Literature Review*, May 2024, p. 9.

33 CWES, *Submission 82*, p 32.

34 Ms Sarah Holman, Community Legal Education and Communications Coordinator, Consumer Credit Legal Service Western Australia, *Committee Hansard*, 10 July 2024, p. 5.

35 SMFA, A*nswers to questions on notice*, 8 November 2024 (received 22 November 2024), p. 3.

to be made to calculate and pay the Family Tax Benefit payment to victim-survivors. Then, when the perpetrator later declares an income that reduces the FTB-A entitlement, a debt is generated for the victim-survivor to repay FTB-A.[36]

5.34 This point was echoed by Ms Terese Edwards, Chief Executive Officer of SMFA, who emphasised:

> … [the perpetrator] will lodge his tax return strategically, often when the children are at 18 years of age, or he will have structured his affairs knowing that there won't be any collection of child support. But him lodging that return triggers a recalculation, and then what happens is Services Australia will go back to that woman and say: 'You were right. For the last four or five years you should have been getting more in child support. But we have paid you too much in family benefits, so now we can't collect that child support', but you owe the government $10,000, $20,000, $30,000 or $40,000 because of the system, his behaviour and how it's been allowed to be weaponised.[37]

5.35 SMFA recommended that child support payments should be separated from Family Tax Benefit to ensure the scheme can no longer be exploited to create debts for victim-survivors and to ensure a safer financial environment for women entitled to receive child support.[38]

5.36 CWES also recommended the delinking of child support from Family Tax Benefit payments. Additionally, CWES recommended the mandatory lodgement of annual tax returns for all parties involved in child support.[39]

## Tax system

5.37 When a perpetrator misuses business structures, such as trading under the victim-survivor's Australian Business Number, appointing the victim-survivor as a director of a company without their consent, or reporting income distributions to the victim-survivors' tax file number as a trust beneficiary or as an employee without them actually receiving funds, the victim survivor becomes responsible for unmet tax compliance obligations and unpaid tax debts.[40]

5.38 EARG identified the following ways that perpetrators weaponise tax law and administration to generate debts in the name of a victim-survivor:

- misreporting their own income resulting in a Centrelink debt in the victim-survivor's name due to overpayment of Family Tax Benefit;

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36 CWES, *Submission 82,* p 33.

37 Ms Terese Edwards, Chief Executive Officer, SMFA, *Committee Hansard*, 9 July 2024, pp 28–29.

38 SMFA, *Submission 46*, p. 2.

39 CWES, *Submission 82,* p 33.

40 EARG, *Submission 108*, p. 45.

- failing to lodge tax returns for two or more years to prevent payment of Family Tax Benefit to the victim-survivor;
- minimising their taxable income to lower their child support liability or make the victim-survivor liable to pay child support; and/or
- making false declarations to the ATO and other government agencies such as Centrelink and the Child Support Agency.[41]

5.39 The National Tax Clinic Program emphasised that existing tax laws compel the ATO to pursue victim-survivors for tax debts through payment plans, offsetting of future tax refunds, issuing Director Penalty Notices, engaging external debt collectors or initiating bankruptcy proceedings, inadvertently enabling and exacerbating the cycle of abuse. The National Tax Clinic Program further emphasised that each of these pathways are financially debilitating for victim-survivors.[42]

5.40 The Consumer Action Law Centre pointed out that, once a debt has been registered with the ATO, it is very hard for a person to challenge. Further, the Consumer Action Law Centre noted that legislation confers very limited discretion to waive or supress debts even in circumstances of financial abuse.[43]

5.41 The UNSW Business and Advisory Clinic recommended that awareness of financial abuse within the tax profession be increased. The UNSW Business and Advisory Clinic asserted that it is problematic for tax professionals to be unwittingly or willingly establishing and maintaining structures that enable financial abuse, and an appropriate response would include mandatory domestic violence and coercive control awareness training.[44]

5.42 The Centre for Women's Economic Safety submitted that the 'innocent spouse relief' provisions of the Internal Revenue Service (IRS) in the United States provide a model for consideration by the ATO. The provisions allow the IRS discretion to offer relief from tax debt for victim-survivors of intimate partner financial abuse.[45]

5.43 The National Tax Clinic Program recommended that consultations be undertaken to consider the adoption of United States-style innocent spouse relief in the Australian context.[46]

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41 EARG, *Submission 108*, p. 46.

42 National Tax Clinic Program, *Submission 100*, p. 2.

43 Consumer Action Law Centre, *Submission 134*, p. 15.

44 UNSW Tax and Business Advisory Clinic, *Submission 9*, p. [4].

45 CWES, *Submission 82*, p. 34.

46 National Tax Clinic Program, *Submission 100*, p. 3.

5.44 This recommendation was echoed by the UNSW Tax and Business Advisory Clinic, who recommended a modernisation of hardship relief provisions by legislating to provide for ATO discretion in relation to tax relief for victim-survivors of financial abuse experiencing serious financial hardship.[47]

5.45 The ATO submitted that it has had initial discussions with subject matter experts from the IRS on how the United States' innocent spouse relief legislation is applied domestically and how IRS staff best support taxpayers eligible for this relief.[48]

**Company directorships**

5.46 The UNSW Tax and Business Advisory Clinic highlighted how perpetrators commit financial abuse by making the victim-survivor the co-director or sole director of a company, while denying them any decision-making power and access to financial information. Perpetrators can manipulate this system as a way of protecting themselves from bankruptcy.[49]

5.47 The Australian Securities and Investment Commission (ASIC) observed that in 2021 the Director Identification Regime commenced, which requires new and existing directors to apply for a director identification number (director ID) before being appointed to a company.[50]

5.48 The UNSW Tax and Business Advisory Clinic asserted that creating more friction in the system by requiring a director ID is critical. However, the UNSW Tax and Business Advisory Clinic recognised that perpetrators may still pressure or coerce victim-survivors to log on to myGov or create a director ID, or may use the spouse's ID documents to set up a myGov account or director ID or.[51]

5.49 ASIC pointed out the benefits of linking director ID to the company register:

> Linking director ID to the company register will help to prevent the use of false and fraudulent identities and improve communications with directors on appointment, as well as the traceability of directors' relationships with companies over time.[52]

5.50 ASIC highlighted that, in situations where it becomes apparent that a director has been appointed without consent, ASIC is able to remove the person as a

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47 UNSW Tax and Business Advisory Clinic, *Submission 9*, p. [5].

48 ATO, *Answers to questions on notice*, 15 August 2024 (received 20 September 2024), p. 1.

49 UNSW Tax and Business Advisory Clinic, *Answers to questions on notice*, 9 August 2024, (received 5 September 2024), p. [2].

50 Australian Securities and Investment Commission (ASIC), *Submission 48*, p. 12.

51 UNSW Tax and Business Advisory Clinic, *Answers to questions on notice*, 9 August 2024, (received 5 September 2024), p. [2].

52 ASIC, *Submission 48*, p. 12.

director from the company register. However, ASIC acknowledged that, in circumstances of disagreement, ASIC does not generally take the role of arbiter in company disputes about officeholders.[53]

5.51 EARG pointed out that a victim-survivor may be ineligible for Centrelink payments due to their directorship or suspected business assets, even where they have no knowledge of the business or their position as director. A victim-survivor may only learn that they are a director when their Centrelink application is refused.[54]

5.52 The UNSW Tax and Business Advisory Clinic recommended that the ATO consider a policy response that allows the ATO to only pursue the perpetrator (in their capacity as a shadow or de facto director), provided there is sufficient evidence of the perpetrator's control over the company.[55]

5.53 EARG recommended that section 588H(4) of the *Corporations Act 2001* (Cth) be amended to expand that defence to specifically recognise family and domestic violence as a reason why a director may not have taken part in managing a company.[56]

### *Director penalty notices*

5.54 Director penalty notices (DPN) present a particularly troubling issue because they require a director to provide full payment of company tax debts (or to liquidate the company) within 21 days to avoid personal liability fir the debt. This leaves many victim-survivors at risk of bankruptcy for tax liabilities of a company they did not control.[57]

5.55 At the committee's public hearing in Canberra, Ms Anita Challen, Assistant Commissioner at the ATO, expressed concern regarding victim-survivors issued DPNs for companies they are unaware they are directors of:

> They can't respond in 21 days. They've got debt collectors coming to their door and saying, 'The only way you get out of this is to declare yourself bankrupt.' They become bankrupt. They've got that on their record forever. That is what that trigger is doing. It's absolutely not working for women in this situation. Is it entirely appropriate where somebody's trying to bludge off the rest of Australia and not pay their tax? I want to keep saying we don't want to find a way out for people who just don't want to pay, but we definitely do not want women becoming bankrupt to comply with a DPN

53 ASIC, *Submission 48*, pp 11–12.

54 EARG, *Submission 108*, p. 30.

55 UNSW Tax and Business Advisory Clinic, *Submission 9*, p. [4].

56 EARG, *Submission 108*, p. 34.

57 EARG, *Submission 108*, p. 46.

> because they have no literacy and no access to services in a timely way. That's a system abuse, really, of that person.[58]

5.56 The National Tax Clinic Program recommended that victim-survivors be given a longer period to obtain advice and take steps to address issues if they have been appointed as a director of a company by the perpetrator.[59]

5.57 Additionally, the National tax Clinic Program recommended amending legislation to provide a mechanism to defend DPNs in cases of financial abuse and coercive control.[60]

**Box 5.3 Case study – Mary's story**

Mary experienced consistent psychological and financial abuse throughout her relationship with her ex-husband Matt. She was entirely financially dependent on Matt, and he controlled the couple's finances and all financial decision-making, withholding financial information from Mary. He was physically and emotionally abusive when questioned.

When he was facing the liquidation of his company and imminent bankruptcy, he established a new company and coerced Mary to become a director and sign loan documents and personal guarantees for business contracts. He forced Mary to sign documents without giving her an opportunity to read or seek independent advice about them. Mary had no access to any information about the company's financial position and no role in the management of the company's affairs. She had limited financial literacy, no previous business experience and was unaware of the legal implications of directorship.

Mary continued controlling the company in name only while Matt was bankrupt, until this company was also liquidated. Mary was left with the fallout after the relationship ended, the company was liquidated, and the ATO began pursuing Mary for unpaid tax debts via Director Penalty Notices. Mary owed approximately $40,000 in PAYG withholding penalties and approximately $10,000 in superannuation guarantee charge penalties.

Mary only became aware of the ATO debts and significant other liabilities in her name following separation. By that point she was in severe financial hardship and relied on Centrelink payments to support her children.[61]

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58 Ms Anita Challen, Assistant Commissioner, Frontline Risk and Strategy, Australian Taxation Office (ATO), *Committee Hansard*, 15 August 2024, p. 5.

59 National Tax Clinic Program, *Submission 100*, p. 2.

60 National Tax Clinic Program, *Submission 100*, p. 2.

61 Case study provided by EARG, *Submission 108*, pp 46–47.

### Trusts

5.58 A trust is an obligation imposed on a person or other entity to hold property for the benefit of beneficiaries. The ATO noted that, while in legal terms a trust is a relationship not a legal entity, trusts are treated as taxpayer entities for the purposes of tax administration.[62]

5.59 The ATO acknowledged that there are currently no specific provisions under tax legislation that address financial abuse by trustees of beneficiaries of trusts; however, it noted that relevant state and territories may have trust regulations. Additionally, if a beneficiary of a trust disagrees with a tax assessment made by the ATO, they can lodge an objection to the assessment provided they are within the required time period. [63]

5.60 The ATO also acknowledged that there is no requirement for trustees under tax or superannuation law to report to the ATO changes in beneficiary circumstances or suspicious activity that may indicate financial abuse.[64]

## Centrelink

5.61 Centrelink can be a safety net for victim-survivors escaping family and domestic violence by providing victim-survivors with some financial independence and security to enable them to leave an unsafe relationship.[65]

5.62 WEstjustice noted the following ways the Centrelink system can interact negatively on victim-survivors of family and domestic violence:

- assumptions that a couple shares information and access to their income;
- a perpetrator may misleadingly provide inaccurate information or coerce a victim-survivor to provide inaccurate information to Centrelink, leading to a debt being incurred under the victim-survivor's name;
- a victim-survivor may feel trapped in an unsafe relationship for fear of not having enough or any income, or by threats from a perpetrator to report them for providing false information to Centrelink; and
- victim-survivors may face barriers in accessing Centrelink due to onerous administrative requirements and lack of access to required documents.[66]

5.63 This section of the report will explore how Centrelink services are not supporting victim-survivors of financial abuse. These services include:

- crisis payments;

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62 ATO, *Trusts, trustees and beneficiaries*, 31 January 2024, https://www.ato.gov.au/businesses-and-organisations/trusts/trusts-trustees-and-beneficiaries (accessed 26 November 2024).

63 ATO, A*nswers to questions on notice*, 30 September 2024 (received 4 November 2024), p. 2.

64 ATO, *Answers to questions on notice*, 30 September 2024 (received 4 November 2024), p. 2.

65 WEstjustice, *Submission 113*, p. 25.

66 WEstjustice, *Submission 113*, p. 29.

- Centrelink debt accruement; and
- Centrepay.

**Crisis payment**

5.64 The Centrelink crisis payment for extreme circumstances of family and domestic violence is an important payment to support victim-survivors leaving violent relationships.[67]

5.65 Women's Legal Service Victoria highlighted the following barriers to accessing these payments:

- a seven-day timeframe to apply for the payment, which does not appropriately account for the complex dynamics of crisis and trauma experienced by victim-survivors leaving violent relationships;
- the requirement to already be on an income support payment; and
- the requirement that the victim-survivor has left their house due to extreme circumstance and intents to establish a new place of residence;
- the requirement that, in the case of intimate partner violence, the person the victim-survivor is leaving (or that is being removed) needs to be registered as a partner on Centrelink records.[68]

5.66 WEstjustice asserted that the crisis payment does not consider the safe-at-home approach to ensure victim-survivors are not always the ones who should leave their home, or that taking action to leave a violent partner does not inevitably lead to heightened risk of homelessness.

5.67 WEstjustice recommended that section 1061JH of the *Social Security Act 1991* be amended to remove the requirement that a person has to have left their home to qualify for the crisis payment. Additionally, the Act should be further amended to significantly lengthen the period in which a person is able to apply for a crisis payment.

**Debts**

5.68 Women's Legal Service Victoria submitted that Centrelink debts present significant challenges for victim-survivors, and that the process for seeking a debt waiver for Centrelink debts that have been incurred through financial abuse is very difficult. Additionally, Women's Legal Service Victoria submitted that Family violence alone is not considered by Centrelink as a sufficient reason for a debt waiver and is not even considered a 'special circumstance' that would allow discretion to be exercised to waive the debt.[69]

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67 Women's Legal Service Victoria, *Submission 131*, p. 33.

68 Women's Legal Service Victoria, *Submission 131*, p. 33.

69 Women's Legal Service Victoria, *Submission 131*, p. 30.

5.69 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 coercion or family and domestic violence. That is because discretionary debt waivers are not available if a debtor has 'knowingly made a false or misleading statement or failed to comply with an obligation under social security law'.[70]

5.70 Women's Legal Service Victoria also noted that any Centrelink debts accrued as a result of financial abuse that have subsequently been repaid by the victim-survivor cannot be returned to the victim-survivor. Centrelink cannot retrospectively reconsider debts repaid by victim-survivors as a result of financial abuse.[71]

5.71 WEstjustice recommended that 1237AAD of the *Social Security Act 1991* be amended to ensure that a victim-survivor is not precluded from accessing a 'special circumstances' waiver if a perpetrator lies to Centrelink without the debtor's knowledge or consent, or the debtor makes a false statement or misrepresentation as a result of coercion or duress by a perpetrator.[72]

**Centrepay**

5.72 Centrepay is a voluntary bill paying service through Centrelink. Through this service, Centrelink can make regular deductions from social security payments to pay regular bills, and other expenses such as rent, electricity and phone bills.[73]

5.73 Women's Legal Service Victoria asserted that Centrepay provides an opportunity to identify victim-survivors of financial abuse. Centrepay agreements can also negatively impact a victim-survivor in circumstances where debt collectors placing victim-survivors on Centrepay 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.[74]

5.74 Women's Legal Service Victoria also noted that multiple Centrepay arrangements can be in place at once and this can significantly impact the amount of Centrelink income available to victim-survivors.

5.75 inTouch pointed out that perpetrators can manipulate Centrepay arrangements, resulting in overpayments and the creation of additional unnecessary debt for

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70 Women's Legal Service Victoria, *Submission 131*, p. 30.

71 Women's Legal Service Victoria, *Submission 131*, p. 31.

72 WEstjustice, *Submission 113*, p. 29.

73 Services Australia, *What Centrepay is*, 31 January 2024, https://www.servicesaustralia.gov.au/what-centrepay?context=22366 (accessed 27 November 2024).

74 Women's Legal Service Victoria, *Submission 131*, p. 32.

victim-survivors. inTouch asserted that there is a need to ensure that sufficient safeguards are in place and information is provided in language and in culture.[75]

5.76 Women's Legal Service Victoria proposed a reduction to the number of commercial companies that can access Centrepay or the introduction of 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.[76]

## Whole-of-Government reform

5.77 This section of the report will explore reform options across the whole of government. These options include the establishment of an interdepartmental taskforce, family and domestic violence mandatory training, and specialised teams.

### Inter-departmental taskforce

5.78 As established in earlier chapters, financial abuse is relevant to a wide range of complex and intersecting laws, policies and practices. Change cannot be achieved by one department or agency alone, or amending each act, policy or guideline in isolation.[77]

5.79 The Economic Abuse Reference Group Western Australia identified the following benefits for a national taskforce on financial abuse:

- unified and intersectional approach;
- focused expertise and specialisation;
- data collection and research opportunities; and
- additional support and protections for victim-survivors of financial abuse.[78]

5.80 The EARG recommended the establishment of a Financial Abuse Taskforce to implement the legislative reform, policy and program recommendations from this inquiry. The Financial Abuse Taskforce should work closely with all relevant government departments and agencies through both informal day-to-day interactions and a formal Financial Abuse Working Group.[79]

5.81 The EARG also recommended the establishment of a taskforce of all relevant government agencies to act holistically on the findings of this inquiry.[80]

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75 inTouch, *Submission 98*, 34.

76 Women's Legal Service Victoria, *Submission 131*, p. 33.

77 EARG, *Submission 108*, p. 52.

78 The Economic Abuse Reference Group Western Australia, *Answers to questions on notice*, 10 July 2024 (received 7 August 2024), pp [1–2].

79 EARG, *Submission 108*, p. 52.

80 Economic Abuse Reference Group Western Australia, *Submission 114*, p. 4.

5.82 The Australian Banking Association noted its support in principle for the establishment of a financial abuse taskforce.[81]

5.83 SMFA recommended the establishment of a taskforce led by the ATO to identify loopholes, recover funds and recommend policy and legislation adjustments to cease the pattern of abuse, prevent debt and encourage payments. Taskforce members should collaborate with the current child support consultation forum.[82]

5.84 Ms Anita Challen, Assistant Commissioner at the ATO, acknowledged that the ATO would be well placed to contribute to a financial abuse taskforce:

> I think the ATO would be certainly well placed in terms of the contribution to such a taskforce in terms of the information that we have already and the opportunity to contribute to that. I think we would agree that's a considerable step forward and an important component in terms of working across other agencies and ensuring that there was consideration of how the whole system provided against this issue.[83]

**Employee training and specialised teams**

5.85 Services Australia is in a unique position to provide timely and meaningful support to people affected by family and domestic violence, including identifying signs of violence and connecting customers to the support they need.[84]

5.86 Services Australia has a Family and Domestic Violence Strategy (the strategy), with training mandatory for all staff. Under the strategy, Services Australia supports customers and staff affected by domestic, family and sexual violence. Support includes awareness raising, training, and process and procedural controls, a dedicated staff contact line and building connections inside and outside of the agency for ongoing support.[85]

5.87 Services Australia highlighted the following measures in relation to customers leaving a relationship to protect customer privacy:

- de-linking a customer's Centrelink record from their partner's when they inform the agency they have separated, without the need for paperwork;
- reviewing nominee arrangements;
- transferring customers onto their own Medicare card;

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81 Australian Banking Association, A*nswers to questions on notice*, 8 July 2024 (received 12 August 2024), p. 16.

82 SMFA, *Submission 46*, p. 7.

83 Ms Anita Challen, Assistant Commissioner, Frontline Risk and Strategy, ATO, *Committee Hansard*, 15 August 2024, p. 9.

84 DSS and Services Australia, *Submission 89*, p. 9.

85 DSS and Services Australia, *Submission 89*, p. 9.

- setting up Child Support arrangements, if applicable;
- connecting customers with agency social workers for short-term support and intervention; and
- providing information, factsheets and a checklist on the agency's website for customers on how to keep their information safe when leaving a relationship or living with violence or abuse, which has been translated into 30 languages to increase accessibility for culturally and linguistically diverse customers.[86]

5.88 Ms Jodie Robinson, General Manager, Child Support and Tailored Services at Services Australia, identified the points of intervention and escalation to specialised teams in relation to child support payments:

> When a customer makes contact with child support, for example, we have various points in time where what we call our risk identification and referral model is activated. These are requirements. It's a question that our staff will ask, and it's simply along the lines of, 'Are you or is anyone else concerned for your safety?' If a customer at that point in time indicates yes to that, we have what's called a family support team. In the child support space, it means that we will automatically refer customers to that family support team, which is our specialist team within child support for responding to people experiencing family and domestic violence.[87]

5.89 More specifically, Ms Robinson emphasised that frontline staff are encouraged to tailor their questions to the circumstances being presented. For example, in a circumstance where a victim-survivor notifies staff that an ex-partner is not meeting their child support obligations:

> … staff are equipped to ask that question in a slightly different way: 'Do you believe he's deliberately hiding assets? Do you believe he's deliberately hiding income?' or anything like that. Then that also will trigger that referral to that same family support team.[88]

5.90 The Salvation Army emphasised that Services Australia frontline staff need to be trained and appropriately resourced to respond to individuals who are experiencing abuse, as well as being able to identify signs of financial abuse. Additionally, The Salvation Army emphasised that this includes suitable procedures for ensuring the immediate safety of the community members, and follow-up or referral mechanisms.[89]

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86 DSS and Services Australia, *Submission 89*, pp 9–10.

87 Ms Jodie Robinson, General Manager, Child Support and Tailored Services, Services Australia, *Committee Hansard*, 20 September 2024, p. 13.

88 Ms Jodie Robinson, General Manager, Child Support and Tailored Services, Services Australia, *Committee Hansard*, 20 September 2024, p. 13.

89 The Salvation Army, *Submission 34*, p. 31.

5.91 The Salvation Army recommended additional training for frontline Services Australia staff to better recognise, respond to and provide support for community members experiencing financial abuse.[90]

5.92 Economic Justice Australia highlighted that Centrelink social workers are uniquely equipped to support people with complex needs, including those who have recently experienced family and domestic violence or financial abuse. Social workers are also uniquely equipped to identify and support victim-survivors of financial abuse. However, Economic Justice Australia advised that victim-survivors struggle to access Centrelink social worker support.[91]

5.93 Economic Justice Australia recommended the re-establishment of Centrelink office social work units, staffed to respond to local need. This would include additional social workers contactable by phone and face-to-face services.[92]

5.94 The Salvation Army also recommended the inclusion of on-site social workers in Centrelink offices to provide further support to both employees and vulnerable customers.[93]

## Committee view

5.95 The committee is extremely concerned by the evidence received which shows that government services and systems such as child support, Centrelink and the tax system, which are intended to provide essential support and services to Australians, are being widely manipulated and weaponised by perpetrators to commit financial abuse against victim-survivors. In this regard, the committee notes that government services and systems are as vulnerable to misuse by perpetrators of financial abuse as the products and services offered by financial institutions.

5.96 The committee therefore considers that consideration should be given to the establishment of a reporting process across government and the financial sector relating to the performance or effectiveness of services and products in relation to financial abuse. Such a process could be an important accountability measure to ensure that the services and products offered by government agencies and financial services are appropriately designed to prevent and address financial abuse appropriately, and to continuously and systematically identify gaps and flaws in products and services that facilitate financial abuse.

90 The Salvation Army, *Submission 34*, p. 32.

91 Economic Justice Australia, *Submission 71*, p. 6.

92 Economic Justice Australia, *Submission 71*, p. 7.

93 The Salvation Army, *Submission 34*, p. 32.

**Recommendation 48**

**5.97 That the Australian Government consider the establishment of a reporting process relating to the relative effectiveness of financial products and government services in preventing and addressing financial abuse. This may include a benchmarking process or reporting framework administered by a government agency or through funding provided to an independent non-government organisation or body such as the Australian Banking Association.**

### Child support

5.98 Evidence received by the committee has shown that the child support system is not supporting victim-survivors adequately, and the committee heard strong concerns regarding the proportion of single mothers and children entering poverty as a result of perpetrators manipulating and weaponising the child support system.

5.99 The committee notes with great concern that, currently, there is approximately $2 billion in outstanding child support payments, and that so many victim-survivors and their children are not receiving their rightful payments. The committee believes that significant reform is urgently required to address the issue of underpayment and non-payment of child support.

5.100 The committee considers that the evidence of widespread under- and non-payment of child support has demonstrated that the child support system currently lacks suitable mechanisms to monitor and enforce child support entitlements. The therefore considers that there would be significant benefit in transferring the responsibility for child support payment collection from Service Australia to the ATO. Moving this responsibility to the ATO would centralise where child support payment information is held, allowing easier enforcement for underpayments and non-payments of child support.

5.101 Additionally, the ATO would be better able to coordinate information exchange relating to child support, other government payments and income between Centrelink and other government agencies, which would further assist and support victim-survivors, and more broadly single parents, in relation to social security entitlements and the management and control of their finances more generally.

**Recommendation 49**

**5.102 That the Australian Government make the necessary legislative and regulatory changes to enable the Australian Taxation Office to assume responsibility for government child support collections, replacing the Agency Collect program currently managed by Services Australia.**

5.103 The committee is particularly concerned about the extent of financial abuse occurring through the private collection of child support. It was brought to the committee's attention that nearly half of women who 'choose' private collection are pressured by their ex-partners to do so, which in many cases leads to no child support being paid at all. The committee believes that requiring both child support payers and payees to make annual declarations of payments made and received under Private Collect arrangements would create a necessary friction point to hold payers more accountable for their requirement to pay child support.

5.104 In cases where a declaration in relation to Private Collect child support shows that payments are significantly less than payee child support entitlements, or where an annual payer declaration is not made, Private Collect child support payment arrangements should be automatically converted to an Agency Collect arrangement to allow for greater scrutiny and monitoring of payee child support payments.

5.105 The committee believes that annual payer and payee declarations should also be required under Agency Collect arrangements, noting evidence that perpetrators of financial abuse manipulate and delay annual tax return lodgements and information to continue financial abuse and control of victim-survivors, often leading to significant financial difficulty and harm.

5.106 The committee believes that requiring such declarations would also address adverse interactions between the Child Support system and the Family Tax Benefit Scheme in which child support payees have previously had tax debts raised against them for child support not actually received.

**Recommendation 50**

**5.107 That the Australian Government mandate annual payer and payee declarations to the Australian Tax Office for individuals in private child support payment arrangements; and require appropriate acquittal documentation, including but not limited to bank statements, to substantiate all declarations.**

**Recommendation 51**

**5.108 That, where an annual payer declaration shows that child support payments are not reasonably aligned with payee child support entitlements, or where an annual payer declaration is not made, Private Collect child support payment arrangements automatically convert to Agency (Australian Tax Office) Collect child support arrangements.**

5.109 As highlighted above, the sheer volume of outstanding child support payments is astonishing and deeply concerns the committee. Evidence received by the committee has shown concerning information about women and children entering hardship due to not receiving child support payments. In addition to general enhancement of regular child support collection to assist payees in receiving payments in full and on time, the committee considers that it is necessary to institute a mechanism via the existing tax system for ensuring that payees are not left out of pocket for non- and under-payment of child support benefits.

5.110 The committee considers that this mechanism could be achieved by issuing child support payees with refundable tax credits equal to any shortfall in child support payments at the end of each financial year, with a corresponding tax debt assigned to the payee, collectable by the ATO as a debt owed to the Commonwealth.

**Recommendation 52**

**5.111 That, at the end of each financial year, the Australian Government provide child support payees with refundable tax credits equal to any shortfall in child support payments for the preceding year; and raise a corresponding tax debt against the relevant child support payer, collectable by the Australian Tax Office as a debt owed to the Commonwealth.**

5.112 In addition to non-payment of child support, the committee is concerned regarding the way perpetrators can weaponise the current method used to determine child support payments. The use of trusts, partnerships and other mechanisms are being manipulated by perpetrators to underreport income, which negatively impacts the amount of child support victim-survivors are receiving. The committee considers that the enhancement of current mechanism to assess the wealth of payers, as opposed to solely their income, when calculating appropriate child support entitlements would be of great benefit to victim-survivors.

**Recommendation 53**

**5.113 That the Australian Government undertake a review of the formulas used to determine child support payments; and ensure that the review is informed by the lived experience of victim-survivors.**

**Tax system**

5.114 The committee heard that, when a perpetrator misuses business structures, such as appointing the victim-survivor as a director of a company without their consent or reporting income distributions to the victim-survivors' tax file number as a trust beneficiary or as an employee without them actually receiving funds, the victim survivor becomes responsible for unmet tax compliance obligations and unpaid tax debts.

5.115 The committee received troubling evidence during the inquiry regarding individual and company tax debts being attributed to victim-survivors when the debt was accrued under coercion or without consent. The committee heard that, by adopting a scheme like the United States' IRS 'innocent spouse relief' scheme, Australia could enable tax redistributions to ensure that tax debts are properly assigned to and paid by the party responsible for debt. The committee sees significant benefits in the establishment of such a scheme in Australia to relieve the burden of debts accrued by victim-survivors as a result of coercion and financial abuse.

5.116 The committee is encouraged to see that the Inspector-General of Taxation and Taxation Ombudsman (IGTO) announced in November 2024 that financial abuse in relation to the tax system will be an area of priority review during 2024-25. The committee commends the IGTO for this undertaking as a positive step towards addressing the worrying issues identified during this inquiry. The committee looks forward to considering the outcomes of the review and intends to engage positively with any assistance it can provide the IGTO in undertaking its review.

**Recommendation 54**

**5.117 That the Australian Government develop a tax relief model for victim-survivors of financial abuse similar to the United States IRS 'innocent spouse relief' provisions.**

5.118 Evidence received by the committee has shown that perpetrators are committing financial abuse by making the victim-survivor the co-director or sole director of a company, while denying them any decision-making power and access to financial information. By doing so, perpetrators can protect themselves from bankruptcy by pushing the liability on the victim-survivor. While individuals can submit a defence in relation to disputed directorships, the committee heard that financial abuse, and family and domestic violence more broadly, are not recognised as a basis for accepting that a person was not in fact a director managing a company.

5.119 The committee is also concerned in relation to the short 21-day timeframe allowed for a person to rebut a DPN. This is particularly difficult in cases where the receipt of the DPN is the first time a victim-survivor is even made aware of their status as a company director. The committee therefore considers that this timeframe needs to be extended to allow victim-survivors appropriate time to seek advice and submit a defence to a DPN in cases where financial abuse or domestic violence or coercion may be involved.

**Recommendation 55**

**5.120 That the Australian Government amend the *Corporations Act 2001* to ensure that the company director provisions appropriately recognise family and domestic violence, including financial abuse, as a reason why a director may be regarded as not in fact managing a company.**

**Recommendation 56**

**5.121 That the Australian Government extend the time period allowed to respond to a Director Penalty Notice in cases of reasonable claims of financial abuse.**

5.122 The committee notes concerns regarding the potential for financial abuse to be perpetrated in connection with the use of trusts. Given the potential for perpetrators to use trusts to facilitate financial abuse and coercive control, the committee considers there is a need to review current legislation and regulatory settings with a view to ensuring that trusts are not able to be used as a mechanism for enabling financial abuse.

**Recommendation 57**

**5.123 That the Australian Government undertake a review of current legislative and regulatory settings relating to trusts, with a view to addressing the abuse and misuse of trusts as a mechanism for financial abuse and coercive control.**

**Centrelink**

5.124 The committee acknowledges the important role Centrelink payments provide in supporting Australians, and that Centrelink is intended to provide an important safety-net for victim-survivors escaping violence.

5.125 However, the committee notes that Centrelink services could be improved to better support victim-survivors. Amending the *Social Security Act 1991* to remove the requirement that victim-survivors have left their home to qualify for crisis support payments would better support victim-survivors by allowing them to stay in their family home. Additionally, the committee sees significant benefits in amending the Act to ensure that victim-survivors are not prevented from accessing a 'special circumstances' waiver if a perpetrator has lied to Centrelink without the victim-survivor's knowledge or consent.

**Recommendation 58**

**5.126 That the Australian Government amend the *Social Security Act 1991* to:**

- **remove the requirement that a person has to have left their home to qualify for crisis support payment;**
- **lengthen the time in which a person has to apply for a crisis payment; and**
- **ensure that a victim-survivor is not precluded from accessing a 'special circumstances' waiver if a perpetrator lies to Centrelink without the debtor's knowledge or consent, or the debtor makes a false statement or misrepresentation as a result of coercion or duress by a perpetrator.**

**Inter-departmental taskforce**

5.127 Financial abuse is relevant to a wide range of complex and intersecting laws, policies and practices. The committee believes that change cannot be achieved by one department or agency alone, or by amending each relevant act, policy or guideline in isolation.

5.128 Evidence received by inquiry participants identified the need for a national taskforce and pointed out that a taskforce would be integral to coordinate and holistically act on the findings of this inquiry. The committee feels that an inter-departmental taskforce would enhance information sharing pathways between government agencies and responding to emergent issues relating to financial abuse and the provision of government services.

5.129 The committee was encouraged and impressed by the utility of the safety-by-design principles identified in Chapter 4 and sees significant benefits in applying these principles not only to financial products and services but also government payments and services. The inter-departmental taskforce would be appropriately placed to consider the application of these principles in the government context.

**Recommendation 59**

**5.130 That the Australian Government establish a standing inter-departmental taskforce to oversee the implementation of safety-by-design principles into all government services.**

**Employee training**

5.131 The importance of employee training was emphasised to the committee by many inquiry participants, and specifically that government agency frontline employees should be well versed in identifying and responding appropriately to financial abuse. The committee sees significant benefit in mandating financial abuse training and requiring frontline employees to report any suspected financial abuse. The committee believes these initiatives will assist government agencies to identify and appropriately respond to and support victim-survivors of financial abuse.

**Recommendation 60**

**5.132 That all relevant government agencies provide training to frontline staff on the identification of domestic and family violence, including financial abuse, and require mandatory reporting of suspected financial abuse**

5.133 The committee was encouraged to see the uptake in specialised vulnerability teams within the finance sector and feels that similar teams should be established in government agencies to provide appropriate support to victim-survivors. Individuals engaging with government agencies should be able to request engagement with these specialised teams, and staff members should be able to immediately refer individual cases to such teams without it causing any delay in services provided.

**Recommendation 61**

**5.134 That all relevant government entities providing frontline services establish dedicated teams with specialised training in domestic and family violence, including financial abuse.**

**Senator Deborah O'Neill**
**Chair**
**Labor Senator for New South Wales**

# Australian Greens additional comments

1.1 On behalf of Greens members, I want to thank the Chair for their detailed report and add my support to the points raised.

1.2 I would also like to add a personal thanks to all those who supplied evidence to the inquiry. The Committee received many submissions from victim-survivors of financial abuse. Thank you to every person who shared their story with the committee, whether publicly or confidentially. These first-hand accounts are crucial to understanding the severity of the issue and in driving meaningful policy reform.

1.3 This is a comprehensive report that makes evidence-based recommendations in a range of important areas. In providing these additional comments, the Australian Greens seek to supplement the recommendations included in the Chair's report.

1.4 One woman dies a week due to domestic and family violence in Australia.[1] This is a national crisis.

1.5 Often where domestic and family violence occurs, so does financial abuse. In Australia, an estimated 80-90 per cent of women who seek support for domestic and family violence have experienced financial abuse.[2]

1.6 Financial abuse affects people across every socio-economic group, age group, and culture.[3] However, it particularly affects women, with 1.6 million Australian women and 745,000 men having experienced economic abuse.[4]

1.7 Financial abuse can cost Australians their money, assets, financial independence, and can cause extreme financial stress and hardship.

1.8 The work of frontline services is crucial to helping victim-survivors of financial abuse.

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[1] Australia's National Research Organisation for Women's Safety (ANROWS), *Violence against women: Accurate use of key statistics*, https://anrows-2019.s3.ap-southeast-2.amazonaws.com/wp-content/uploads/2019/02/19025810/ANROWS_VAW-Accurate-Use-of-Key-Statistics.1.pdf (accessed 2 December 2024), p. 2.

[2] ANROWS, *Submission 12*, p. 1.

[3] Ms Rebecca Glenn, Founder and Chief Executive Officer, Centre for Women's Economic Safety, *Committee Hansard*, 28 June 2024, p. 4.

[4] Australian Bureau of Statistics, Partner Violence, https://www.abs.gov.au/statistics/people/crime-and-justice/partner-violence/latest-release (accessed 2 December 2024).

1.9 The Chair's report highlighted the important advocacy work done by frontline services yet did not mention that, due to funding shortfalls, one in four women who seek help from them are at risk of being turned away.[5]

1.10 For example, Women's Legal Services Australia estimated that they will be forced to turn away an estimated 52,000 women this year due to lack of adequate resources.[6]

1.11 Successive federal governments have failed to fully fund frontline services, and too many victim-survivors are left to fend for themselves. In fact, the 2024-25 Federal Budget was a step backwards for legal services that support Australian women fleeing violence.[7]

1.12 Funding frontline responses services to meet demand is necessary if we are to have any chance of keeping women and children safe.

1.13 Numerous frontline services groups called for more funding in their submissions to this inquiry, including Women's Legal Services Australia, Economic Abuse Reference Group, National Legal Aid, and the Financial Rights Legal Centre.[8]

1.14 While the recommendations made in the Chair's report will help to minimise the many ways in which financial abuse can be perpetrated, our frontline services must be fully funded to help vulnerable Australians when it does occur.

1.15 The Australian Greens continue to call on the Albanese Government to fully and consistently fund frontline services at $1 billion per year in line with demands from the sector.

**Recommendation 1**

**1.16 That the Australian Government fully and consistently fund frontline services at $1 billion per year.**

**Senator Barbara Pocock**
**Member**
**Greens Senator for South Australia**

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5 Senator Larissa Waters, 'Frontline services funding is welcome, but one in four women still getting the help they need', *Media Release*, 6 September 2024.

6 Women's Legal Services Australia, *Submission 62*, p. 20.

7 Women's Legal Services Australia, *Submission 62*, p. 20.

8 See for Example: Women's Legal Services Australia, *Submission 62;* Economic Abuse Reference Group, *Submission 108*; National Legal Aid, *Submission 78,* p, 23; Financial Rights Legal Centre, *Submission 112.*

# Appendix 1
# Summary of responses from financial providers on processes to identify, respond to and report financial abuse

1.1 On 18 June 2024, the Parliamentary Joint Committee on Corporations and Financial Services (the committee) wrote to 100 providers of financial products and services to request further information on their processes to identify, respond to and report financial abuse.

1.2 The committee received 45 substantive responses from 54 financial providers, and a summary of the responses is found below. The full responses are available on the committee's website.[1]

1.3 The committee received a further eight responses from financial providers who declined to respond the committee's questions for the following reasons:

- contributed to industry peak bodies (Australian Banking Association, Customer Owned Banking Association, Australian Finance Industry Association or Super Members Council) submission to the inquiry and had nothing further to add;
- not relevant to their business (e.g. they only offer financial services to large institutions or businesses); or
- no reason provided.

1.4 The below summary table will also identify any financial intuitions who answered on behalf of its subsidiaries as well as the main financial provider.

**Table 1.1 Summary table**

| **Financial provider** | **Systems in place to identify, respond to and report financial abuse?** Yes/No/Partial | **Financial abuse cases identified** Yes/No | **The impact of online platforms on prevalence of financial abuse** |
|---|---|---|---|
| **Commonwealth Bank of Australia** | **Yes** – specialist teams with trauma-informed training. Customer care guide includes section on financial abuse including | **Yes** – 1500 per year | Use of Artificial Intelligence (AI) to detect cases of financial abuse. Technological tools to secure accounts. Will have to |

1 Parliamentary Joint Committee on Corporations and Financial Services, Additional information, www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/FinancialAbuse/Additional_Documents

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| *(also answered on behalf of Bankwest)* | elder abuse. Mandatory training modules, including financial abuse, for customer-facing roles. | | monitor developments in impact of digitisation. |
| **Afterpay** | **Partial** – account frozen if payments missed, financial hardship program, and financial counsellors available. | **No** – number of financial hardship cases is < 0.5 per cent of customers | Digital-only platform includes communication channels which could manipulated to facilitate financial abuse. |
| **Allianz** | **Yes** – commissioned Gendered Violence Research Network through UNSW. Training to identify family violence and escalation to high care team. Flexibility to pay claims from wrongful conduct of other in family violence situation. Consideration of financial abuse in product development. | **Yes** – 35–50 customers per month experience vulnerability. 90 per cent of those impacted by family violence. | Considering risks and opportunities of online platforms. Masking contact details on online portal if identified as vulnerable. |
| **AMP** | **Partial** – policies cover areas which may indicate financial abuse. Reference guides to family violence implemented through mandatory training for customer-facing staff. | **No** | Use of AI to identify financial abuse. Planning to consider impacts in 2024 thematic review. |
| **ANZ** | **Yes** – training to identify signs of family violence and financial abuse. Home loan interview guide includes check on presence of financial abuse amongst co-borrowers. Analysis of payment transaction data to identify abusive transactions. Specialist team to support customers subject to domestic violence and financial abuse. General hardship arrangements. Piloting data analysis to identify abuse of power of attorney. | **Yes** | Statistically unclear based on data reviewed. Commenced incorporating AI and automation to identify instances of financial abuse. |

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| **Australian Military Bank (COBA)** | **Partial** – general vulnerability training includes elder financial abuse and family and domestic violence. Staff trained to detect financial abuse and to escalate to specialist team. | **No** – described as rarely reported. | Implementing rules and tools to mitigate digitisations risks. |
| **AustralianSuper** | **No** – general measures to prevent unauthorised withdrawals and transfers. Emotional intelligence training in insurance claims assessors. | **No** – family related fraud cases 3 per cent of all fraud cases. | Enhancing security protections to mitigate digitisations risks. |
| **Auswide Bank** | **Partial** – general vulnerability policy. Staff learning modules include domestic violence. Staff reference guide includes warning signs of financial abuse and how to escalate. | **No** - 48 customers flagged as vulnerable as of 21 June 2024. | **No response** |
| **Bank Australia** | **Yes** – financial abuse guidelines for detection handling and resolution of potential instances. Annual training for protecting customers from financial abuse. Specialised customer care to handle complex cases. | **Yes** – 44 active cases of financial abuse as of 20 June 2024. | Provide information to customers on how to secure accounts. |
| **Bank of Queensland** | **Yes** – training to recognise and respond to financial abuse. Weekly monitoring of abusive language in payment transfer descriptions. Terms and conditions updated to permit closing accounts in such cases. Language interpretation services covering 190 languages. | **Yes** – 228 cases detected in 2022 and 2023. | Amid a transformation program to respond to digitisation. |
| **Bank of Us** | **Partial** – information for staff on warning signs and reporting of elder abuse and financial abuse. Name change process considers vulnerable people. | **Yes** - have been instances of concern for potential financial abuse. | Difficult to balance individual's rights to bank online without questioning with consequences of unidentified abuse. |

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| **Bank Orange** | **No** | **Yes** – described as minimal instances. | Harder to monitor transactions. |
| **BankVic** | **Yes** – terms and conditions disallow financial abuse. Tracking transaction descriptions with abusive language. General mandatory staff training on vulnerable member and specialist support team available. | **No response** | **No response** |
| **BankWAW** | **Partial** – guidelines for accounts operated by powers of attorney and authority to operate. Annual online staff training on financial abuse. COBA financial abuse practices. | **Yes** – identify and escalate cases suspected upon interactions with customers via phone or in person. | Card misuse difficult to identify with careful perpetrators. Can enforce verification before purchases, however, may be unpopular with customers. |
| **Bendigo and Adelaide Bank** *(also responded on behalf of Up Bank)* | **Yes** – vulnerable customer and financial abuse policies. Flags made in systems to note vulnerable customers. Specialist teams aware of flagged customers' situations. Deferred loan repayments available. Vulnerable customers can set up new account despite not having access to identification. Specialist team established is trauma informed. Tracking of abusive transaction descriptions. Terms and conditions enable cancellation of perpetrator's account. | **Yes** – 8127 cases of financial abuse or domestic violence since 2018. | Understanding of domestic and family violence has improved. However, technology may act as mechanism for abuse, such as through transaction descriptions. Require more development in understanding of how to respond to digitisation. |
| **Beyond Bank** | **Yes** – prevention of financial abuse policy and procedure. Customers can 'ask for Angela' to discretely notify staff of vulnerable situation. Specialised advice on misuse of power of attorney as well as | **Yes** – 15 individuals used 'ask for Angela' flag. 39 individuals have indicated they are experiencing domestic violence. | Recognise importance of face-to-face and considerate communication to identify cases. Implemented facial identification to combat perpetrators' access to accounts. |

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| | supporting evidence requirement for applications. Bi-annual vulnerable customer training, including financial abuse. Prescribed questions in cases of account action with potential coercion. Hardship measures so victims are not reported to credit agencies. | | |
| **BNK Bank** | **Partial** – financial hardship policy includes responding to financial abuse circumstances. | **No** | Recognised difficulty of recording customer data on suspicion of financial abuse as opposed to disclosure. |
| **Defence Bank** | **Partial** – staff training on vulnerable customers. Transaction monitoring to identify potential financial abuse. | **No** - two potential cases identified which were determined as not financial abuse. | No online security gaps identified. |
| **G&C Mutual Bank** | **Partial** – general hardship policy for vulnerable customers. Education of members through newsletter and website articles. Customer facing roles trained on identifying financial abuse red flags. Centralised team aware of financial abuse cases. | **No** | Easier to identify financial abuse when customer is physically present. Online platforms cause difficulty in identifying abuse. |
| **People First Bank** *(merged with Heritage Bank)* | **Yes** – customer care procedures include identifying and responding to financial abuse. Customer facing roles trained on identify instances of financial abuse. Limitations in place for Power of Attorney cases. Customer care specialists have expertise in managing financial abuse cases. Record keeping to note customer needs. | **Yes** – 299 suspected cases. | Alerts for threatening or controlling messages sent to customers. Automated processes such as account freezing should be enacted cautiously to prevent vulnerable customers losing access to funds. |

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| **HESTA** | **Partial**– General vulnerable customer policy which includes domestic and family violence. | **No** | **No response** |
| **HSBC** | **Yes** – guidelines for preventing and responding to financial abuse. Specific training on financial abuse. Extra care team to help customers explore options to alleviate circumstances. Terms of condition prohibit perpetrators of financial abuse. | **Yes** | Online access to escalation to extra care team. Monitoring payment messages. |
| **Hume Bank** | **Partial** – General vulnerability policy. Staff training includes financial abuse. Product disclosure statement prohibits financial abuse. | **Yes** – isolated instances of suspected cases. | Increased visibility of financial abuse as well as potential for exploitation. |
| **IMB Bank** | **Yes** - Financial abuse training module. Procedures for detecting and escalating cases of financial abuse. Compliance review by legal team before acting on power of attorney. Register of suspected financial abuse. Terms provide IMB to end power of attorney or close accounts in cases of financial abuse. | **Yes** | Online products enable access to victims' accounts by perpetrators. |
| **ING Bank** | **Partial** - identification of abusive messaging. Specialised care team available to investigate cases. Joint account fund transfer approval requirements. Consideration of how to safely contact customer when financial abuse is suspected. | **Yes** – increase in number of cases identified. | Increase in channels for perpetrators to abuse as well as opportunities for banks to better identify and respond to cases. |
| **Latitude Financial** | **Yes** - mandatory vulnerable customer training includes financial abuse. Hardship team | **No** | Can identify and respond to financial abuse despite digitisation of services. Considers that there are |

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| | undergoes financial abuse training through National Debt Hotline. Customers experiencing financial abuse are not required to provide documentation for hardship applications. Can provide security assessments for no charge. | | difficulties in detecting abuse in person as it may not be obvious. |
| **Liberty** | **Yes** – teams follow model to recognise, respond to and refer cases of financial abuse. Assessment of beneficiaries in joint loan applications. Protections on contact information and credit files of victims. Loans with identified financial abuse are flagged and details recorded. | **Yes** – some cases identified through financial counsellor referrals. | **No response** |
| **Macquarie Bank** | **Yes** – vulnerability policy includes financial abuse. Training on financial abuse for customer facing staff. Escalation process to specialist care team. | **Yes** – instances have been small proportion of customer base. | Online banking requires multi factor authentication for some transactions. Identification of abusive language in transaction descriptions. Staff training on identifying vulnerable customers through online chat function. |
| **MyState Bank** | **Yes** – staff trained in managing financial abuse. Vulnerable customer and financial abuse procedures. Identified vulnerable customers flagged. | **Yes** – 15 instances of financial abuse over last two years as of 3 July 2024. | Monitoring of abuse in transaction descriptions. Investing in digital risk management to improve identification of potential financial abuse. |
| **NAB** *(also answered on behalf of ubank)* | **Yes** – specialised customer care team. Bankers trained in identifying domestic violence and elder and financial abuse. Escalation process to enforcement bodies. Terms and conditions describe financial abuse as unacceptable account conduct, allowing cancellation of perpetrators' accounts. Increased supervision of | **Yes** – 370 000 transactions with abusive text blocked since 2022. | Have made policy changes to prevent abusive transactions and prevent unacceptable conduct. |

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| | cases with concerns of misuse of power of attorney | | |
| **Newcastle Greater Mutual Group** *(answered on behalf of Newcastle Permanent and Greater Bank)* | **Partial** – vulnerable customer framework. Terms and conditions permit cancelling payment facilities, accounts or new accounts in cases of abuse. Monitoring transaction descriptions. | **No** | Require continual investment in supporting vulnerable customers. Voice biometrics using artificial intelligence to identify customers in distress. |
| **Police & Nurses Bank** | **Yes** – Mandatory training on financial abuse indicators. Separate accounts made in cases of domestic or family violence. Checks in place for accepting, registering and acting on powers of attorney. Assessment of beneficiaries of joint loans. Internal working group for customer support informed by Centre for Women's Economic Safety. | **No** – as of 3 July 2024, have plans to finalise data collection methods in the next three months. | Digital payment channels can create digital footprint of abusive behaviour. Collaborating with vendors to implement technology to detect financial abuse in online platforms. Using artificial intelligence to detect financial abuse. |
| **Prospa** | **Partial** – staff trained to identify signs of financial abuse and escalate to fraud team. Systems to review bank statement data. Ending liability of victim in identified cases of financial abuse. | **Yes** | Use of identification tools such as Director ID and ATO Tax Portal to prevent spouse access. |
| **Queensland Country Bank** | **Yes**– Vulnerable customer policy includes financial abuse. Policy provides guidance for identifying financial abuse. Confidential register of vulnerable members. | **No** – obtain data on vulnerable members but do not distinguish type of vulnerability. | Transaction monitoring software implemented. |
| **Regional Australia Bank** | **Partial** – staff training includes financial abuse. Conditions of use allow action in response to financial abuse. | **Yes** – 50 active cases of financial abuse. | Transaction description monitoring. Greater investment in technology required to identify abuse. |
| **Southern Cross Credit Union** | **Yes** – independent review of applications for power of attorney. Assessment of | **Yes** | No impact identified. |

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| | beneficiaries of joint loan. Policies and regular training on identifying and responding to customers experiencing financial abuse. | | |
| **Summerland Bank** | **Yes** – Program to assist vulnerable customers covers elder financial abuse, misuse of power of attorney, domestic violence, psychological and physical disability, poor financial literacy and young people. Vulnerable customers committee for developing program and training employees. Additional transaction monitoring of high-risk customers. | **No** – five cases of power of attorney abuse and three cases of elder abuse. | Transaction monitoring aids in identifying abuse. Reporting to police/government departments in NSW difficult due to privacy legislation. |
| **Suncorp** *(answered on behalf of AAMI, GIO, Suncorp Insurance)* | **Yes** –Training for customer-facing employees on dealing with vulnerable customers. Mutual consent required for joint policy changes. Customer profile flags and consensual recording of vulnerabilities. Changes to policy in domestic violence or elder abuse cases must be actioned by specialist team. Partnered with Uniting's CareRing referral service. Conduct of others clause to protect customers affected by perpetrators. | **No** – do record financial hardship, family violence or elder abuse. | Highlighted that as an insurance provider, fewer digital channels for communication available between perpetrator and victim. |
| **Teachers Mutual Bank** | **Yes** – Vulnerable persons policy and training. Guidelines for powers of attorney including power to refuse application. Connecting customers with third-party agencies. Flagging vulnerable members in system. | **No** - small percentage of customers flagged as vulnerable relative to customer base. | Human interactions most effective in identifying financial abuse. Implemented monitoring transactions for verbal abuse and AI call monitoring for vulnerability. Self-service tools for customers to action online accounts are available. Provisions allow withholding account information from joint |

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| | | | account holder if abuse is suspected. |
| **The Capricornian** | **Yes** – financial abuse of a vulnerable member policy. Online transactions reviewed for potential abuse. Training on how to recognise and respond to financial abuse. | **Yes** – 5 suspected cases resulting in 3 investigations concluded as financial abuse. | Issues with lack of assistance from third parties. |
| **Transport Mutual Credit Union** | **Yes** – financial abuse policy and procedures. Policy includes identifying, reporting, escalating, investigating and resolving financial abuse cases. Staff trained on various forms of financial abuse. Management encouraged to consult with external agencies. | **Yes** – identified two cases with financial or elder abuse characteristics. | Safeguards in place to respond to financial abuse are more pertinent than digitisation. Regulations should consider size of financial entity to maintain competitiveness of smaller businesses. |
| **Unity Bank** *(also answered on behalf of Reliance Bank)* | **Yes** – policies include identifying potential financial abuse and ensuring caring and culturally appropriate support. Record keeping and reporting of financial abuse. Training for combating financial abuse is available. External support services are made available. | **No** – 34 current vulnerable customers with 5 relating to elder abuse and most being victim survivors of domestic and family violence. | Impact of digitisation is minor. Have maintained highly personalised services. Risks of online de-personalisation of services is outweighed by advances in detection technology. |
| **Westpac** | **Yes** – Customer vulnerability framework includes financial abuse. Standards outline Recognising, responding to, recording and referring vulnerable cases. Extra care flags to inform future interactions. Monitoring of abusive language in transaction descriptions. Terms and conditions prohibit abusive descriptions. Monitoring of and restrictions on power of attorney arrangements. Provision of emergency | **Yes** – 4597, 6957, 8892 and 11 894 cases of potential financial abuse from 2020 to 2023. Noted increase in cases over years. Over 140 000 transactions with abusive language blocked since 2020. Power of attorney arrangements currently in place for 150 000 customers. | Digitisation has created new channels for financial abuse. Steps taken to ensure harm-reduction are critical. Digitisation allows for more detection and monitoring of some abuse. However, Data-led approach may omit individual cases' complexities. Assessment by human interaction remains critical. |

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| | funds in cases where safety is jeopardised. | Have received 25 031 alerts since 2023 through monitoring. | |
| **Wisr** | **Partial** – several points in loan process allow identification of financial abuse – application, missed repayments and requests for financial assistance. Assessment of mutual benefit in joint loan applications. Reviews of account to identify financial abuse flags. No interest repayment breaks in some cases. Suppression of RHI credit reporting on victims in joint loans. | **Yes** – from January to June 2024, 23 cases related to domestic violence identified, mostly having financial abuse characteristics. | Has been a digital lender since establishment. Continiously improve controls and processes to identify financial abuse. |
| **Zip Co** | **Partial** – no joint accounts available. Transaction monitoring can identify financial abuse. Training on how to respond to claims of financial abuse. Hardship team trained on identifying family violence and financial abuse. Domestic violence and hardship support policies developed with Good Shepperd. | **No** – during the 2024 financial year 978 customers requesting hardship assistance were identified as vulnerable. | Has been an online business since establishment, therefore cannot comment on impact of digitisation. |

*Source:*
*www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/FinancialAbuse/Additional_Documents*

# Appendix 2
# Data on retention of home ownership amongst customers in hardship programs

**Table 2.1 Answers to questions on notice regarding retention of home ownership amongst customers in hardship programs**

| Bank | Customers retaining ownership | Reasons for leaving home |
|---|---|---|
| ANZ | ANZ do not monitor residence in home after customer receives hardship assistance. Data from September 2024 shows 68 per cent of home loan customers have repaid debts or are on repayments 12 months after leaving the hardship program. | ANZ suggests reasons such as personal choice and inability to service a loan for customers leaving a property. |
| Commonwealth Bank of Australia | Since July 2022 CBA recorded 2760 cases of assistance provided to customers in a domestic or family violence situation. CBA do not have data on the number of customers retaining home ownership. | CBA suggests reasons such as personal safety, court enforced rulings or financial interests for customers leaving a property. |
| NAB | Over past 3 years from 22 November 2024, NAB has had roughly 60 000 customers partaking in their hardship program. NAB does not record data on the number of hardship customers who maintain residence. | No response. |
| Westpac | From 2022-24, Westpac had roughly 114 000 hardship cases where the bank supported mortgage repayments. Included 159 | No response. |

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| | cases where customers were evicted (0.14 per cent), 68 cases where customer surrendered property (0.06 per cent), 727 cases where customer vacated property without informing the bank (0.64 per cent). | |
| Bendigo and Adelaide Bank | During the three years prior to 19 September 2024, the bank recorded 11 677 customers who have received hardship assistance and remained in their house. The bank recorded 953 self-sales by customers and 128 mortgagees in possession sales. | Do not record reasons, however, the bank suggests reasons such as lifestyle change, partner separation or deceased estates. |
| Macquarie Bank | The bank recorded 10 973 applications for financial assistance from home loans. The bank does not collect data on number of customers who have continued residence in their home. However, they have identified 1426 cases where customers have requested a 'Time to Sell' period which is indicative of intention to leave a property. | No response. |

*Source: ANZ, answers to questions on notice (157), 8 November 2024 (received 22 November 2024), Commonwealth Bank, answers to questions on notice (158), 8 November 2024 (received 22 November 2024), NAB, answers to questions on notice (160), 8 November 2024 (received 22 November 2024), Westpac, answers to questions on notice (160), 8 November 2024 (received 27 November 2024), Bendigo and Adelaide Bank, , answers to questions on notice (161), 8 July 2024 (received 19 September 2024), Macquarie Bank, answers to questions on notice (162), 8 November 2024 (received 22 November 2024)*

# Appendix 3
# Recommendations from ASIC's Hardship, hard to get help report

### Figure 3.1 How lenders can improve support for customers experiencing financial hardship

| Area for focus | Practical actions that lenders can take to support customers |
|---|---|
| **Manage the hardship function in a customer-centric way**<br><br>The hardship function is established and managed in a way that ensures there is a focus on customer experience and outcomes. | Lenders should:<br>• ensure that there is a sufficient focus on customer experience and outcomes in the purpose and key performance indicators for the hardship team(s), as well as for the staff and managers;<br>• have someone with responsibility for the end-to-end hardship process, including ensuring that hand-offs between teams are working effectively;<br>• ensure that there is oversight of the hardship function by senior management, and that senior management is provided with sufficient information relating to customer experience and outcomes;<br>• have arrangements in place to assess whether the hardship function is operating effectively, including by monitoring key performance measures and customer experience and outcomes; and<br>• implement quality assurance arrangements that look at the end-to-end hardship (and, if applicable, collections) process from a customer's perspective. The purpose should be assessing whether the hardship function is operating effectively and identifying continuous improvement opportunities. |
| **Ensure customers know hardship assistance may be available**<br><br>Customers are aware that hardship assistance may be available, and when and how to request that assistance. | Lenders should:<br>• make information available through a range of channels about the availability of hardship assistance and how customers can request that assistance. This may include providing information:<br>– in home loan statements;<br>– in periodical communications with customers;<br>– through customer service channels; and<br>– prominently on the lender's website;<br>• ensure that the information provided is clear that customers can give a hardship notice whenever they are unable to meet their obligations under their loan, and that the financial hardship does not need to be related to a particular life event or change in circumstances. The information should also encourage customers to reach out early, ideally before they miss a payment;<br>• where practicable, use data to identify customers who may be at risk of experiencing financial hardship and undertake targeted communications; and<br>• communicate with customers in a timely manner after a missed payment to provide them with information about the availability of hardship assistance and how to give a hardship notice. |

*Source: Australian Securities and Investment Commission (ASIC), Hardship, hard to get help: Findings and actions to support customers in financial hardship, 2024, pp 16-20*

### Figure 3.2 How lenders can improve support for customers experiencing financial hardship

| Area for focus | Practical actions that lenders can take to support customers |
|---|---|
| **Identify and respond to hardship notices**<br><br>Customers find it easy to give a hardship notice, and are able to use multiple channels. All customer-facing staff are trained and have procedures in place to identify and respond to a hardship notice. | Lenders should:<br>• identify all the potential channels through which a hardship notice may be given and ensure there are adequate systems, processes and training in place to manage those notices;<br>• train all customer-facing staff to identify hardship notices. This includes educating staff:<br>– that customers do not need to use particular terminology in order to give a hardship notice;<br>– to check with the customer where it is unclear whether the customer has given a hardship notice; and<br>– broadly about the hardship process and the types of assistance that the hardship team can provide;<br>• ensure that staff understand that a customer can give a hardship notice even when their change in circumstances is long term or permanent, and even when they have not experienced a life event (e.g. where the customer cannot meet repayments due to a rise in living expenses);<br>• have in place arrangements to record a hardship notice at the first point it is given, and effective processes in place for transfers between customer-facing staff and the hardship team (to manage compliance with obligations and to minimise the need for the customer to repeat their circumstances and find the right team);<br>• ensure that collections staff make reasonable inquiries about why the customer has failed to make a payment when carrying out collections activities. If the customer advises that they are unable to meet their obligations, then this must be treated as a hardship notice; and<br>• have in place arrangements to monitor whether all customer-facing staff are correctly identifying, recording and referring hardship notices. |
| **Make the assessment process efficient and easy**<br><br>The process for assessing a customer's hardship notice is as efficient and easy as possible, while also balancing this against the need to make reasonable inquiries to ensure any assistance provided is suitable for a customer. | Lenders should:<br>• manage hardship notices so that customers are dealt with empathetically, do not need to repeat their circumstances and are kept updated on the progress of their hardship notice;<br>• collect information about a customer's financial situation, the reason for the customer's financial hardship and how the customer intends to recover from the situation (if applicable) to enable the identification of assistance options (where applicable) that will help the customer with their financial difficulty;<br>• ensure that there is sufficient flexibility in policies and processes to deal with customers with diverse needs. This includes allowing customers to provide information over the phone, and having arrangements to limit or waive requests for information and supporting documentation where appropriate;<br>• scale requests for information and supporting documentation, taking into account the customer's individual circumstances. In general, it is likely to be appropriate to collect less information for first time, short-term assistance, particularly where there is a clear resolution to the reason for the hardship; |

*Source: ASIC, Hardship, hard to get help: Findings and actions to support customers in financial hardship, 2024, pp 16-20*

### Figure 3.3 How lenders can improve support for customers experiencing financial hardship

| Area for focus | Practical actions that lenders can take to support customers |
|---|---|
| **Make the assessment process efficient and easy *(cont.)*** | • only request information and/or supporting documentation that is relevant to assessing a customer's ability to meet their financial obligations and/or to determining what (if any) assistance to provide;<br>• tailor written requests for information and supporting documentation to a customer's individual circumstances and ensure that requests are clear about what is required from the customer;<br>• ensure that all information and supporting documentation provided by customers is assessed and used to determine what assistance (if any) to provide the customer to address their financial difficulty (including to ensure any assistance provided is sustainable). This includes probing information where necessary; and<br>• have arrangements in place to follow up requests for information and/or supporting documentation. This should generally include making multiple contact attempts using more than one communication channel well in advance of issuing a decline notice. |
| **Work with customers to develop solutions that match their circumstances**<br><br>Lenders genuinely consider a customer's request and individual circumstances. Where possible, lenders work with customers to develop a sustainable solution to their financial hardship. Lenders should tailor solutions for customers where a standardised 'one-size-fits-all' approach may not meet a particular customer need. | Lenders should:<br>• ensure that the standard solution set is sufficiently broad and flexible to suit a wide range of customer circumstances. There should also be processes for staff to escalate where the standard solutions are not appropriate;<br>• even when a customer requests a specific type of hardship assistance, determine whether that assistance is appropriate for the customer's circumstances and educate customers about other options that may be available;<br>• ensure that arrangements are affordable for the customer and not likely to cause them significant financial stress. In doing so, the lender should take into account:<br>– other essential expenses and liabilities that the customer may have, and provide some allowance for unexpected and/or discretionary expenses; and<br>– that it is generally better for the customer to pay what they can, as this is likely to be better for the customer's longer term financial situation and may provide more flexibility if the customer's hardship situation takes more time than expected to resolve;<br>• consider whether there is longer term assistance that can be provided to allow the customer to repay the loan where the customer's change in situation will last an extended amount of time or be permanent;<br>• take into account a customer's individual circumstances in determining how to deal with arrears that accrue as a result of a financial hardship arrangement; and<br>• provide customers the details of, or referrals to, financial counselling or other support where appropriate. |

*Source: ASIC, Hardship, hard to get help: Findings and actions to support customers in financial hardship, 2024, pp 16-20*

## Figure 3.4 How lenders can improve support for customers experiencing financial hardship

| Area for focus | Practical actions that lenders can take to support customers |
|---|---|
| **Clearly communicate the outcome of a request for assistance**<br>Lenders communicate the outcome of a hardship notice to customers in a way that enables customers to make an informed decision about how to proceed (e.g. how to comply with a financial hardship arrangement if approved, or whether to make a complaint where declined). | Lenders should:<br>• where possible, speak with customers before approving or declining a hardship notice to ensure they understand the decision and effects on them;<br>• ensure approval letters to customers include details of how the hardship assistance will affect the customer's loan and repayments over the short and long term, and signpost to the customer what they need to do and what they can expect going forward; and<br>• ensure decline letters to customers include reasons that allow the customer to understand why they have been declined, provide clear and accurate information about the customer's rights to make a complaint to AFCA, and make the customer aware of their options (including providing details of relevant support services). Letters should also encourage continued dialogue between the customer and lender towards a solution. |
| **Communicate during and at the end of the assistance period**<br>Lenders contact customers as needed during a hardship period. As the period of assistance comes to an end, lenders contact customers to understand their financial circumstances at that time, consider whether any further assistance is required, and ensure they understand what will happen next. | Lenders should:<br>• have in place arrangements to determine whether and when to communicate with customers during the assistance period;<br>• have a structured approach to communicating with customers who break the terms of the hardship assistance and provide sufficient time for the customer to remedy the term; and<br>• have a structured approach to communicating with customers as their assistance period comes to an end to understand their financial circumstances at the time, consider whether further hardship assistance is required, and ensure they understand what will happen next (including what they need to do in relation to any arrears that may exist at the end of the assistance period). |
| **Identify and support customers experiencing vulnerability**<br>Lenders identify where customers may be experiencing vulnerability and take extra care and provide additional support to these customers. | Lenders should:<br>• have in place arrangements (including training) to ensure that staff identify whether a customer giving a hardship notice may also be experiencing vulnerability. This should not be limited to identifying particular 'types' of vulnerability; and<br>• take extra care and/or provide additional support to customers giving hardship notices who may be experiencing vulnerability. This may include adopting a case-management approach, handling by specialist or more experienced staff, providing flexibility in the process for giving a hardship notice, or providing referrals to external services. |

*Source: ASIC, Hardship, hard to get help: Findings and actions to support customers in financial hardship, 2024, pp 16-20*

## Figure 3.5 How lenders can improve support for customers experiencing financial hardship

| Area for focus | Practical actions that lenders can take to support customers |
|---|---|
| **Have sufficient supporting arrangements**<br><br>Lenders have in place adequate systems, resourcing, training, compliance and other arrangements to enable the hardship function to operate effectively. | Lenders should:<br>• ensure there are adequate systems and technology to manage the end-to-end hardship process, including adequate data capture of key fields to support compliance with legislative timeframes and to monitor customer experience and outcomes;<br>• monitor customer experience and outcome measures to ensure there is adequate resourcing for the hardship function, and have in place a plan for responding to increased volumes of hardship notices;<br>• ensure the hardship team receive regular training on the hardship obligations and how to assess and manage hardship notices, including the types of hardship assistance available and taking the customer's individual circumstances into consideration;<br>• have in place processes to meet hardship-specific complaints requirements and handle hardship-related complaints fairly and objectively;<br>• use hardship-related complaints to inform continuous improvement of the hardship function, including by conducting root cause analysis; and<br>• have in place arrangements to ensure compliance with the hardship obligations, including regular reviews of compliance with those obligations. |

*Source: ASIC, Hardship, hard to get help: Findings and actions to support customers in financial hardship, 2024, pp 16-20*

# Appendix 4
# Submissions and additional information

1 Name Withheld
2 Name Withheld
- 2.1 Supplementary to submission 2

3 Name Withheld
4 Name Withheld
5 The Public Advocate (Qld)
6 Confidential
- 6.1 Confidential

7 Name Withheld
8 Mrs Veronica Beeson
9 UNSW Tax and Business Advisory Clinic
10 Vincentcare Victoria, Australia
11 Queensland Synod
12 ANROWS
13 Name Withheld
14 Name Withheld
15 Aged Rights Advocacy Service
16 Name Withheld
17 Name Withheld
18 AustralAsian Centre for Human Rights and Health
19 Diva Advocacy Solutions
20 Chartered Accountants Australia and New Zealand
21 Relationships Australia
22 Name Withheld
23 Pilbara Community Legal Service
24 Name Withheld
25 Finance Sector Union of Australia
26 Mental Health Legal Centre
27 Elder Abuse Action Australia
28 Name Withheld
29 EACH
30 Older Persons Advocacy Network
31 Dementia Australia
32 Public Trustees of Australia
33 Name Withheld
34 The Salvation Army
35 Insurance Council Australia
36 Uniting Communities

**37** Aboriginal Family Legal Service WA
**38** Miss Jade Tan
**39** Financial Wellbeing Collective
**40** Multicultural Women's Alliance Against Family Violence
**41** WIRE
**42** Legal Aid Queensland
**43** Lifeline Australia
**44** Evan Jones
**45** St Vincent de Paul Society National Council
**46** Single Mother Families Australia
**47** GLBTI Rights in Ageing Inc
**48** Australian Securities and Investments Commission (ASIC)
**49** HopgoodGanim Lawyers
**50** Council of Australian Life Insurers (CALI)
**51** Northern Community Legal Centre
**52** Mr Graeme Medhurst
**53** Arca
- Attachment 1

**54** Name Withheld
**55** Caxton Legal Centre Inc
**56** Aged and Disability Australia
**57** Name Withheld
**58** Dr Amanda Gearing
**59** Council of Single Mothers and their Children
**60** Financial Counselling Victoria (FCVic)
**61** Westpac
**62** Women's Legal Services Australia
**63** Name Withheld
**64** Parkerville Children and Youth Care
**65** Financial Advice Association of Australia
**66** First Nations Foundation
**67** Ecstra Foundation
**68** Women's Health In The North
**69** Commonwealth Bank
**70** NAB
**71** Economic Justice Australia
**72** DVConnect
**73** Ms Veronica Johnson
**74** Name Withheld
**75** Tasmanian Small Business Council
**76** Ms Rita Mazalevskis
**77** Legal Services Commission of South Australia
**78** National Legal Aid

**79** Jim Davidson
**80** Wotton + Kearney
**81** NSW Ageing and Disability Commission
**82** Centre for Women's Economic Safety
**83** Warren & Elaine Riedel
**84** Name Withheld
**85** Office of the Public Guardian
**86** Banking Code Compliance Committee
**87** Private Healthcare Australia
**88** Flequity Ventures
- 88.1 Supplementary to submission 88

**89** Department of Social Services
**90** Cathy Oddie
**91** Julie Kun Consulting
**92** ACT Human Rights Commission
**93** Villamanta
**94** Carers NSW
**95** ANZ
**96** Australian Finance Industry Association
**97** Super Consumers Australia
**98** inTouch
**99** Australian Banking Association
**100** National Tax Clinic Program
**101** Confidential
**102** Attorney-General's Department
**103** Ms Giulia Mandarino-Smith
**104** Ms Julie Adams
**105** Australian Human Rights Commission
**106** Justice Connect
**107** Anglicare WA
**108** Economic Abuse Reference Group
**109** Financial Counselling Australia
**110** Future Group
**111** Indigenous Consumer Assistance Network Ltd
**112** Financial Rights Legal Centre
- 112.1 Supplementary to submission 112

**113** West Justice
**114** Consumer Credit Legal Service of Western Australia and the Economic Abuse Reference Group of Western Australia
**115** Customer Owned Banking Association
**116** Redfern Legal Centre
**117** Confidential
**118** Confidential

**119** Confidential
**120** Confidential
**121** Confidential
**122** Confidential
**123** Confidential
**124** Confidential
**125** Confidential
**126** Eastern Community Legal Centre
**127** Law Council of Australia
**128** The Zahra Foundation
**129** Super Members Council
**130** The Association of Superannuation Funds of Australia
**131** Women's Legal Service Victoria
**132** Australian Financial Complaints Authority
**133** Confidential
**134** Consumer Action Law Centre
**135** Confidential
**136** Confidential
**137** PEXA
**138** Name Withheld
**139** Confidential
**140** Ms Linda Collins
**141** Brotherhood of St Laurence
**142** Name Withheld
**143** Confidential
**144** Confidential
**145** Confidential
**146** Confidential

**Additional Information**

**1** Bank Australia, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 26 June 2024)

**2** Latitude Financial, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 28 June 2024)

**3** Transport Mutual Credit Union, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 1 July 2024)

**4** Newcastle Greater Mutual Group, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 2 July 2024)

**5** Bank of us, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 2 July 2024)

**6** Heritage Bank & People First Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 2 July 2024)

**7** Beyond Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 2 July 2024)

**8** The Capricornian, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**9** Australian Military Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**10** Afterpay, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**11** Wisr, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**12** HSBC, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**13** Hume Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**14** Hesta, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**15** Bendigo and Adelaide Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**16** NAB & ubank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**17** Police & Nurses Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**18** Unity Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**19** G&C Mutual Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**20** AMP, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 4 July 2024)

**21** Summerland Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**22** BankVic, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 4 July 2024)

**23** BNK Banking, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 4 July 2024)

**24** Allianz, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 5 July 2024)

**25** Westpac, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 5 July 2024)

**26** Commonwealth Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 5 July 2024)

**27** AustralianSuper, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 10 July 2024)

**28** Latitude Financial, Opening statement, Ms Cassie Brice, General Manager, Customer Care, 8 August 2024 (received 8 August 2024)

**29** Suncorp, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 22 August 2024)

**30** ANZ, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**31** MyState Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 July 2024)

**32** Auswide Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 21 June 2024)

**33** ING Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 September 2024)

**34** Bank Orange, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 3 September 2024)

**35** IMB Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 4 September 2024)

**36** Southern Cross Credit Union, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 5 September 2024)

**37** Prospa, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 6 September 2024)

**38** Bank of Queensland, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 9 September 2024)

**39** Queensland Country Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 9 September 2024)

**40** Regional Australia Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 9 September 2024)

**41** Macquarie Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 10 September 2024)

**42** Teachers Mutual Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 10 September 2024)

**43** BankWAW, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 10 September 2024)

**44** Case study provided by Anglicare Financial Counselling Manager (received 5 September 2024)

**45** Case study provided by Sisters Housing Enterprises Inc. (received 10 September 2024)

**46** Liberty, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 12 September 2024)

**47** Zip Co, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 13 September 2024)

**48** Defence Bank, response to questions seeking further information on processes to identify, respond to and report financial abuse (received 18 September 2024)

**Answers to Questions on Notice**

**1** Customer Owned Banking Association, Impacts of financial abuse in defence communities, answers to written questions on notice from Senator Deborah O'Neill, 8 July 2024 (received 18 July 2024)

**2** Services Australia, Single touch payroll, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 28 June 2024 (received 25 July 2024)

**3** Services Australia, Women's Legal Services Australia review, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 28 June 2024 (received 25 July 2024)

**4** Relationships Australia, Enduring powers of attorney, answers to questions on notice asked at a public hearing by Ms Zaneta Mascarenhas MP, 28 June 2024 (received 26 July 2024)

**5** Treasury, response to proposed recommendations from submission 88, answers to questions on notice asked a public hearing from Senator Paul Scarr, 28 June 2024 (received 26 July 2024)

**6** Australian Federal Police, Funds in closed bank accounts, answers to questions on notice asked a public hearing from Ms Zaneta Mascarenhas MP, 28 June 2024 (received 26 July 2024)

**7** Australian Federal Police, Protocols on closed bank accounts, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 28 June 2024 (received 26 July 2024)

**8** Australian Federal Police, Jurisdiction on financial abuse, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 28 June 2024 (received 26 July 2024)

**9** Aged Rights Advocacy Service, Correlation between financial abuse and psychological and emotional abuse with attachments, answers to questions on notice asked a public hearing from Senator Louise Pratt, 9 July 2024 (received 6 August 2024)

**10** Australian Banking Association, Bank Terms and Conditions and response to Economic Abuse Reference Group submission, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 8 July 2024 (received 12 August 2024)

**11** Centre for Women's Economic Safety, Regulatory barriers to non-joint account system and NSW coercive control regulation, answers to questions on notice asked a public hearing from Senator Louise Pratt and Senator Deborah O'Neill, 8 July 2024 (received 12 August 2024)

**12** ANROWS, Safety planning, answers to questions on notice asked a public hearing from Ms Mascarenhas MP, 28 June 2024 (received 2 August 2024)

**13** ANROWS, Speaking with the ATO and Social Security, answers to questions on notice asked a public hearing from Senator Louise Pratt, 28 June 2024 (received 2 August 2024)

**14** ANROWS, Drawing on superannuation during COVID, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 28 June 2024 (received 2 August 2024)

**15** ANROWS, Promising practice internationally, answers to questions on notice asked a public hearing from Senator Paul Scarr, 28 June 2024 (received 2 August 2024)

**16** ANROWS, Voluntary versus mandatory codes, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 28 June 2024 (received 2 August 2024)

**17** ANROWS, Reducing the economic dependence of survivors on perpetrators, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 28 June 2024 (received 2 August 2024)

**18** ANROWS, Identifying financial abuse, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 28 June 2024 (received 2 August 2024)

**19** ANROWS, Elder abuse, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 28 June 2024 (received 2 August 2024)

**20** ANROWS, Designing banking products to prevent abusive use, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 28 June 2024 (received 2 August 2024)

**21** ANROWS, Relationship between workforce participation and escaping DFV, answers to questions on notice asked a public hearing from Ms Mascarenhas MP, 28 June 2024 (received 2 August 2024)

**22** Financial Counselling Australia, Amount of money recovered from financial abuse cases, answers to questions on notice asked a public hearing from Ms Mascarenhas MP, 8 July 2024 (received 5 August 2024)

**23** Financial Counselling Australia, Pursuing assets from perpetrators, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 8 July 2024 (received 5 August 2024)

**24** NAB, Various answers, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 8 July 2024 (received 5 August 2024)

**25** Customer Owned Banking Association, Financial crimes unit work on financial abuse, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 8 July 2024 (received 5 August 2024)

**26** Customer Owned Banking Association, Models for responding to domestic and family violence, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 8 July 2024 (received 5 August 2024)

**27** Financial Wellbeing Collective, Data on financial abuse, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 10 July 2024 (received 5 August 2024)

**28** Financial Wellbeing Collective, Safety-by-design approach to financial products, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 8 July 2024 (received 6 August 2024)

**29** Economic Abuse Reference Group of Western Australia, Various answers, answers to questions on notice asked at a public hearing from various committee members, 10 July 2024 (received 7 August 2024)

**30** Uniting Communities, Various answers, answers to questions on notice asked at a public hearing from Mr Alex Hawke MP, Ms Zaneta Mascarenhas MP and Senator Deborah O'Neill, 9 July 2024 (received 7 August 2024)

**31** Jacaranda Community Centre, Various answers, answers to questions on notice asked at a public hearing from Ms Zaneta Mascarenhas MP and Senator Louise Pratt, 10 July 2024 (received 7 August 2024)

**32** NAB, Various answers, answers to written questions on notice from Senator Deborah O’Neill, 19 July 2024 (received 12 august 2024)

**33** Department of Social Services, Indicators of financial abuse and domestic violence and tactics used by perpetrators, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 28 June 2024 (received 13 August 2024)

**34** Westpac, Various answers, answers to written questions on notice and questions on notice asked at a public hearing on 9 July 2024 from various committee members (received 16 August 2024)

**35** Commonwealth Bank, Various answers, answers to written questions on notice and questions on notice asked at a public hearing on 8 July 2024 from various committee members (received 22 August 2024)

**36** Australian Banking Association, Banking Code of Practice and General Insurance Code of Practice's capacity to support victim-survivors, answers to written questions on notice from Senator Deborah O'Neill, 12 August 2024 (received 2 September 2024)

**37** Insurance Council of Australia, General Insurance Code of Practice and weaponisation of insurance, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 8 August 2024 (received 2 September 2024)

**38** Riverina Law Society, Accountants' capacity to facilitate coercive control while remaining in profession, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 9 August 2024 (received 2 September 2024)

**39** Ms Jenny Rolfe-Wallace, Recommendations to support defence families, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 9 August 2024 (received 3 September 2024)

**40** Ms Jenny Rolfe-Wallace, Example of abusive partners using myGov portal to track victim-survivors, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 9 August 2024 (received 3 September 2024)

**41** Super Members Council, Various answers, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill and Mr Alex Hawke MP, 8 August 2024 (received 3 September 2024)

**42** Dr Rachel Hogg, Implementing protective factors with Centrelink and digital ID and questions to ask Defence regarding addressing financial abuse, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 9 August 2024 (received 4 September 2024)

**43** ANZ, Remediation of concerns surrounding elder abuse, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 8 August 2024 (received 5 September 2024)

**44** ANZ, High-wealth perpetrators within the trust and complex loan structures, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 8 August 2024 (received 5 September 2024)

**45** ANZ, Ownership of bank accounts by women, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 8 August 2024 (received 5 September 2024)

**46** Latitude Financial, Various answers, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill and Mr Alex Hawke MP, 8 August 2024 (received 6 September 2024)

**47** The Salvation Army, Various answers, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 9 August 2024 (received 6 September 2024)

**48** UNSW Tax and Business Advisory Clinic, Various answers, answers to questions on notice asked at a public hearing from Senator Louise Pratt and Senator Deborah O'Neill, 9 August 2024 (received 5 September 2024)

**49** ANZ, Various answers, answers to written questions on notice from Senator Deborah O’Neill, 19 August 2024 (received 9 September 2024)

**50** Attorney-General's Department, Engagement with systems reform to increase accessibility of the law for vulnerable people, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 15 August 2024 (received 13 September 2024)

**51** Australian Taxation Office, Number of staff on the advocate and hardship team, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 15 August 2024 (received 18 September 2024)

**52** Australian Taxation Office, Number of vulnerable clients, answers to questions on notice asked at a public hearing from Ms Zaneta Mascarenhas MP, 15 August 2024 (received 18 September 2024)

**53** Australian Taxation Office, Taskforce suggestion by Single Mothers Australia, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 15 August 2024 (received 18 September 2024)

**54** Australian Taxation Office, Data on non-custodial parents who might be in business, answers to questions on notice asked at a public hearing from Ms Zaneta Mascarenhas MP, 15 August 2024 (received 18 September 2024)

**55** Australian Taxation Office, Recommendation on ATO managing restricting perpetrators from accessing super, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 15 August 2024 (received 18 September 2024)

**56** Insurance Council of Australia, Insurance companies that operate outside the General Insurance Code of Practice, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 8 August 2024 (received 19 September 2024)

**57** Insurance Council of Australia, Changes to General Insurance Code of Practice made in 2020, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 8 August 2024 (received 19 September 2024)

**58** Insurance Council of Australia, Implementation of conduct of others clause by Suncorp, IAG and Allianz, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 8 August 2024 (received 19 September 2024)

**59** Insurance Council of Australia, Companies who have pledged to ban misuse of financial products and services for financial abuse, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 8 August 2024 (received 19 September 2024)

**60** Insurance Council of Australia, Research being conducted on how general insurance products can be weaponised, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 8 August 2024 (received 19 September 2024)

**61** Australian Taxation Office, ATO response to UNSW Tax and Business Advisory Clinic's proposed approach to financial abuse, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 15 August 2024 (received 20 September 2024)

**62** Afterpay, Amounts of loans and number of customers who have had their debt waived, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 8 August 2024 (received 27 September 2024)

**63** Law Council of Australia, Various answers, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 20 September 2024 (received 2 October 2024)

**64** Law Council of Australia, Various answers, answers to written questions on notice from Senator Deborah O’Neill, 24 September 2024 (received 2 October 2024)

**65** ASIC, Various answers, answers to written questions on notice from Senator Deborah O’Neill, 18 September 2024 (received 9 October 2024)

**66** Macquarie Bank, Instances of financial abuse in respect of home loan accounts, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 13 September 2024 (received 4 October 2024)

**67** Macquarie Bank, Gender difference in number of Macquarie Bank’s customers, answers to questions on notice asked at a public hearing from Ms Zaneta Mascarenhas MP, 13 September 2024 (received 4 October 2024)

**68** Macquarie Bank, Number of sensitive customer cases referred to debt collection agencies, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 13 September 2024 (received 4 October 2024)

**69** Macquarie Bank, Typical resolutions of matters relating to collecting debt or finance, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 13 September 2024 (received 4 October 2024)

**70** Macquarie Bank, Financial hardship cases relating to trusts, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 13 September 2024 (received 4 October 2024)

**71** Macquarie Bank, Data to identify cases of financial abuse, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 13 September 2024 (received 4 October 2024)

**72** Macquarie Bank, Response to evidence given by Dr Amanda Gearing, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 13 September 2024 (received 4 October 2024)

**73** Domestic, Family, and Sexual Violence Commission, Receiving reporting from ABA and data sources of Commission, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 13 September 2024 (received 11 October 2024)

**74** Australian Retail Credit Association, Various answers, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 13 September 2024 (received 11 October 2024)

**75** Australian Retail Credit Association, Outcomes for a perpetrator of financial fraud, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 13 September 2024 (received 11 October 2024)

**76** Services Australia, Notification of separation to the ATO, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 11 October 2024)

**77** Services Australia, Instructions for dealing with clients identifying instances of family violence and financial abuse, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 20 September 2024 (received 11 October 2024)

**78** Services Australia, Legislative limitations on collecting data on customers experiencing family violence and financial abuse, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 20 September 2024 (received 11 October 2024)

**79** Services Australia, Measures to recover child support debts, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 11 October 2024)

**80** Services Australia, Social worker referral data, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 11 October 2024)

**81** Services Australia, Recommendations to encourage information sharing, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 11 October 2024)

**82** Dr Amanda Gearing, Coercive control research from financial institutes, answers to questions on notice asked a public hearing from Mr Alex Hawke MP, 13 September 2024 (received 13 October 2024)

**83** Dr Amanda Gearing, Senate report on dowry abuse, answers to questions on notice asked a public hearing from Senator Louise Pratt, 13 September 2024 (received 13 October 2024)

**84** Australian Financial Complaints Authority, Consequences to perpetrators of financial abuse, answers to questions on notice asked a public hearing from Mr Alex Hawke MP, 13 September 2024 (received 13 October 2024)

**85** Australian Financial Complaints Authority, AFCA recommendations based on evidence received from inquiry, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 13 September 2024 (received 13 October 2024)

**86** Australian Financial Complaints Authority, Monetary value of financial abuse case, answers to questions on notice asked a public hearing from Ms Zaneta Mascarenhas MP, 13 September 2024 (received 13 October 2024)

**87** Australian Financial Complaints Authority, Financial abuse in relation to trusts, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 13 September 2024 (received 13 October 2024)

**88** Australian Financial Complaints Authority, AFCA data on financial abuse cases with dowry payments, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 13 September 2024 (received 13 October 2024)

**89** Australian Financial Complaints Authority, Facilitation of financial abuse through buy-now-pay-later entities, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 13 September 2024 (received 13 October 2024)

**90** Attorney-General's Department, Timetable for research programs related to elder abuse, answers to questions on notice asked a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 17 October 2024)

**91** Services Australia, Identifying financial abuse, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**92** Services Australia, Training to recognise signs of financial abuse, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**93** Services Australia, Data on reported cases of financial abuse, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**94** Services Australia, Current legal frameworks, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**95** Services Australia, Accessibility to victims of financial abuse, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**96** Services Australia, Services tailored to be culturally sensitive, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**97** Services Australia, Tools utilised to evaluate risks, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**98** Services Australia, Feedback from victims of financial abuse, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**99** Services Australia, Proactive measures to prevent abuse, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**100** Services Australia, Ensuring accountability among staff, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**101** Services Australia, Support services offered to victims, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**102** Services Australia, Promoting awareness of financial abuse, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**103** Services Australia, Evaluating effectiveness of interventions, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**104** Services Australia, Supporting long-term recovery, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**105** Services Australia, Stakeholder engagement, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**106** Services Australia, Systemic barriers, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**107** Services Australia, Use of technology to enhance response, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**108** Services Australia, Lessons learnt from past incidents, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**109** Services Australia, Inter-departmental task force, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**110** Services Australia, Data sharing on financial abuse cases, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**111** Services Australia, Joint training initiatives, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**112** Services Australia, Collaboration between departments, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**113** Services Australia, Development of policies that specifically address the financial abuse of vulnerable populations, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**114** Services Australia, Plans to review regulatory frameworks, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 18 October 2024)

**115** Services Australia, Implement feedback mechanisms from victims of financial abuse, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 18 October 2024)

**116** Services Australia, Collaborative prevention strategies, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 18 October 2024)

**117** Services Australia, Monitoring and evaluation of initiatives, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 18 October 2024)

**118** Services Australia, Collaboration with the Domestic Violence Commissioner, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 18 October 2024)

**119** Services Australia, Feedback from victim-survivors, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 18 October 2024)

**120** Services Australia, Progress toward the National Plan objectives, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 18 October 2024)

**121** Attorney-General's Department, Model power of attorney laws, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 20 September 2024 (received 21 October 2024)

**122** Attorney-General's Department, Consultation around enduring power of attorney and code of conduct for financial abuse, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 20 September 2024 (received 21 October 2024)

**123** Attorney-General's Department, Non-disclosure in family law proceedings, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 21 October 2024)

**124** Attorney-General's Department, Risk screening process, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 21 October 2024)

**125** Attorney-General's Department, Data regarding separation point, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 21 October 2024)

**126** Attorney-General's Department, Prevalence of lawyers misusing the family law system, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 21 October 2024)

**127** Attorney-General's Department, Recommendations in relation to information sharing, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 21 October 2024)

**128** Department of Social Services, Collaboration between agencies, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 22 October 2024)

**129** Department of Social Services, Intersection with ATO, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 22 October 2024)

**130** Department of Social Services, Authorised representative abuse, answers to questions on notice asked at a public hearing from Senator Louise Pratt, 20 September 2024 (received 22 October 2024)

**131** Department of Social Services, Victim survivor statistics and interpreters, answers to questions on notice asked at a public hearing from Ms Zaneta Mascarenhas MP, 20 September 2024 (received 22 October 2024)

**132** Department of Social Services, Government services or products perpetrating most financial harm to victims-survivors, answers to questions on notice asked at a public hearing from Ms Zaneta Mascarenhas MP, 20 September 2024 (received 22 October 2024)

**133** Department of Social Services, Service providers financial abuse training, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 22 October 2024)

**134** Department of Social Services, Agency support for long-term recovery of victims of financial abuse, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 22 October 2024)

**135** Department of Social Services, Mechanisms to regularly collaborate with Domestic Violence Commissioner to address emerging women’s safety issues, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 22 October 2024)

**136** Department of Social Services, Feedback from victim-survivors systematically integrated into the policy development processes, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 22 October 2024)

**137** Department of Social Services, Monitoring and evaluation frameworks developed by the Domestic Violence Commissioner, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 22 October 2024)

**138** Treasury, Superannuation law, answers to questions on notice asked at a public hearing from Ms Zaneta Mascarenhas, 20 September 2024 (received 25 October 2024)

**139** ATO, Nature of information sharing, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 25 October 2024)

**140** ATO, Recommendations to the Committee on data sharing, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 25 October 2024)

**141** ATO, Capacity of exchange of information with banks, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 25 October 2024)

**142** ATO, Child support referrals over the last 5 years and options available for the ATO to investigate non-custodial parents, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 20 September 2024 (received 25 October 2024)

**143** ATO, Risk of financial abuse relating to SMSFs, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 25 October 2024)

**144** ATO, Outcome of coercion cases identified by the ATO, answers to written questions on notice from Senator Deborah O'Neill, 20 September 2024 (received 30 October 2024)

**145** ATO, ATO collaboration with financial counsellors and domestic violence support services, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 30 October 2024)

**146** ATO, Cross APS collaboration relating to financial abuse, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 30 October 2024)

**147** ATO, Director penalty notices relating to financial abuse, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 30 October 2024)

**148** ATO, Risk of financial abuse relating to trusts, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 31 October 2024)

**149** Attorney-General's Department, Various answers, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 5 November 2024)

**150** Department of Social Services, Information sharing, answers to questions on notice asked at a public hearing from Senator Deborah O’Neill, 20 September 2024 (received 19 November 2024)

**151** Department of Social Services, Systems, data, frameworks and services, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 19 November 2024)

**152** Department of Social Services, Measures, Support and Awareness, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 19 November 2024)

**153** Department of Social Services, Evaluating effectiveness of interventions aimed at reducing financial abuse within government systems, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 19 November 2024)

**154** Department of Social Services, Agency, Access, Systems and lessons, answers to written questions on notice from Senator Deborah O’Neill, 30 September 2024 (received 19 November 2024)

**155** Department of Social Services, Department miscellaneous, answers to written questions on notice from Senator Deborah O'Neill, 30 September 2024 (received 19 November 2024)

**156** Single Mother Families Australia, Various answers, answers to written questions on notice from Senator Deborah O'Neill, 8 November 2024 (received 19 November 2024)

**157** ANZ, Number of customers who have gone through the hardship program, answers to written questions on notice from Senator Deborah O'Neill, 8 November 2024 (received 22 November 2024)

**158** Commonwealth Bank, Number of customers who have gone through the hardship program, answers to written questions on notice from Senator Deborah O'Neill, 8 November 2024 (received 22 November 2024)

**159** NAB, Number of customers who have gone through the hardship program, answers to written questions on notice from Senator Deborah O'Neill, 8 November 2024 (received 22 November 2024)

**160** Westpac, Number of customers who have gone through the hardship program, answers to written questions on notice from Senator Deborah O'Neill, 8 November 2024 (received 27 November 2024)

**161** Bendigo and Adelaide Bank, Number of customers who have gone through the hardship program, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 8 July 2024 (received 19 September 2024)

**162** Macquarie Bank, Number of customers who have gone through the hardship program, answers to questions on notice asked at a public hearing from Senator Deborah O'Neill, 8 November 2024 (received 22 November 2024)

**Correspondence**

**1** Mr Stuart Turnbull, Acting Deputy CEO, Services Australia, letter correcting evidence given at a public hearing on 20 September 2024 (received 11 October 2024)

**Media Releases**

**1** Joint media release from the Chair, Senator Deborah O'Neill and Ms Zaneta Mascarenhas MP, Federal Member for Swan

**Tabled Documents**

**1** Bendigo and Adelaide Bank, Opening statement, 8 July 2024, tabled by Mr Richard Fennell, Chief Customer Officer for Consumer Banking at a public hearing in Melbourne on 8 July 2024

**2** National Australian Bank, Opening statement, 8 July 2024, tabled by Ms Jocelyn Turner, Executive, Customer Resolution and Remediation at a public hearing in Melbourne on 8 July 2024

**3** Commonwealth Bank of Australia, Opening statement, 8 July 2024, tabled by Ms Kylie Rixon, Chief Risk Officer, Retail Banking Service at a public hearing in Melbourne on 8 July 2024

**4** AustralAsian Centre, Opening statement, 8 July 2024, tabled by Professor Manjula O'Connor at a public hearing in Melbourne 8 July 2024

**5** Ms Cathy Oddie, Correspondence with ME Bank, 31 May 2019 and 7 June 2019, tabled by Ms Cathy Oddie at a public hearing in Canberra on 8 August 2024

**6** Ms Cathy Oddie, Correspondence with CBA, 15 June 2021, tabled by Ms Cathy Oddie at a public hearing in Canberra on 8 August 2024

**7** Anglicare Financial Counselling Service, Riverina case studies, tabled by Mr Chris Heckenberg at a public hearing in Wagga Wagga on 9 August 2024

**8** Ms Jenny Rolfe-Wallace, considerations surrounding the experience of financial abuse for people living in rural and regional areas, tabled by Ms Jenny Rolfe-Wallace at a public hearing in Wagga Wagga on 9 August 2024

**9** UNSW Tax and Business Advisory Clinic, Closing policy gaps: Preventing the weaponisation of the tax system by perpetrators of economic abuse, tabled by Dr Ann Kayis-Kumar, Founder, at a public hearing in Wagga Wagga on 9 August 2024

# Appendix 5
# Public hearings and witnesses

*Friday 28 June 2024*
Main Committee Room
Parliament House
Canberra

*Centre For Women's Economic Safety*

- Ms Rebecca Glenn, Founder and Chief Executive Officer

*ANROWS*

- Dr Tessa Boyd-Caine, Chief Executive Officer
- Dr Rebecca Goodbourn, Senior Project Officer

*Women's Legal Services Australia*

- Dr Jennie Gray, Deputy Chair of WLSA and Chief Executive Officer of Women's Legal Service WA
- Ms Elise Whitmore, Committee member of WLSA and Principal Solicitor at Women's Legal Service Tasmania

*Flequity Ventures*

- Ms Catherine Fitzpatrick, Founder and Managing Director

*Relationships Australia*

- Mr Nick Tebbey, National Executive Officer
- Dr Susan Cochrane, National Policy Manager

*Australian Federal Police*

- Commander Helen Schneider, Human Exploitation

*Department of the Prime Minister and Cabinet*

- Ms Padma Raman, Executive Director, Office for Women

*Department of Social Services*

- Mr Ben Peoples, Group Manager, Participation and Family Payments
- Mr Patrick Burford, Group Manager, Communities
- Mr Tim Crosier, Branch Manager, National Policy, Ending Gender-based Violence

*Services Australia*

- Ms Kirsty Faichney, Deputy Chief Executive Officer, Program Design
- Ms Jodie Robinson, General Manager, Child Support and Tailored Services

- Ms Juleigh Cook, Acting General Manager, Working Age and Pension Programs
- Mr Tony Piazza, General Manager, Families, Indigenous and Tailored Programs

*The Treasury*

- Mr Robb Preston, Assistant Secretary, Banking, Credit and Insurance Branch
- Ms Shibani Iyer, Acting Assistant Secretary, Member Outcomes and Governance Branch

*Australian Securities and Investment Commission (ASIC)*

- Mr Alan Kirkland, Commissioner
- Mr Michael Dorman, Senior Manager, Strategic Surveillance
- Ms Danille Abbot, Senior Manager, Indigenous Outreach Program

### *Monday 8 July 2024*

Parkroyal Melbourne Airport
Melbourne Airport, Arrival Dr, Tullamarine, Melbourne

*Customer Owned Banked Association*

- Mr Michael Lawrence, Chief Executive Officer
- Mrs Darlene Mattiske-Wood, Board Director

*Financial Counselling Australia*

- Dr Domenique Meyrick, co- Chief Executive Officer
- Mr Peter Gartlan, co- Chief Executive Officer

*Economic Abuse Reference Group*

- Ms Laura Bianchi, Managing Solicitor, Financial Abuse Service NSW, Redfern Legal Centre
- Ms Jasmine Opdam, Senior Policy and Advocacy Officer, Financial Abuse Service NSW, Redfern Legal Centre
- Ms Julia Davis, Senior Policy and Communications Officer, Financial Rights Legal Centre
- Ms Dacia Abela, Program Manager, Economic Justice Program, WEstjustice

*Women's Legal Services Victoria*

- Ms Jess De Vries, Director, Legal Services
- Ms Bronwyn Davis, Family Violence Financial Counsellor

*AustralAsian Centre for Human Rights and Health*

- Dr Manjula O'Connor, Executive Director

*Australian Banking Association*

- The Hon Anna Bligh, Chief Executive Officer

- Ms Amanda Pullinger, Head of Customer Policy

*Bendigo and Adelaide Bank*
- Mr Richard Fennell, Chief Customer Officer Consumer Banking
- Ms Hayley Bransgrove, Customer Advocate
- Mr Will Conlan, Chief of Staff

*NAB*
- Ms Jocelyn Turner, Executive, Resolution and Remediation
- Mr Edward Grieve, Head of NAB Assist

*Commonwealth Bank*
- Ms Kylie Rixon, Chief Risk Officer, Retail Banking Services
- Ms Angela Macmillan, Group Customer Advocate

### *Tuesday 9 July 2024*

Adelaide Town Hall
128 King William St
Adelaide

*Westpac*
- Mrs Lisa Pogonoski, General Manager, Customer Solutions
- Mr Adrian Ahern, Group Customer Advocate

*Uniting Communities*
- Mr Simon Schrapel AM, Chief Executive
- Mr David Ferraro, Manager - Lawyer
- Mrs Belinda Lambert, Lawyer
- Ms Rachael Pearse, Advocacy Project Officer

*Single Mother Families Australia*
- Ms Terese Edwards, Chief Executive

*Aged Rights Advocacy Service*
- Ms Carolanne Barkla, Chief Executive Officer

### *Wednesday 10 July 2024*

Mercure Perth
10 Irwin Street
Perth

*Economic Abuse Reference Group of Western Australia*
- Ms Bev Jowle, Chief Executive Officer, Consumer Credit Legal Service WA
- Ms Mel Hopkinson, Chief Executive Officer, Financial Counsellors WA
- Dr Alison Evans, Chief Executive Officer, Centre for Women's Safety and Wellbeing

- Mr Jack Thornton, State Coordinator, Economic Abuse Reference Group WA and Policy
- Ms Sarah Holman, Community Legal Education and Communications Coordinator, Consumer Credit Legal Service WA

*Jacaranda Community Centre*

- Mrs Lyndsey Fitzgerald, Chief Executive Officer

*Ms Shenane Hogg, Private capacity*

*Women's Legal Services Western Australia*

- Ms Merlene Price, Financial Counsellor
- Ms Georgina Cahill, Client Support Worker

*Aboriginal Family Legal Service WA*

- Mrs Gail Dodd, Principal Legal Officer
- Ms Beverly Eades, Social Worker
- Ms Diane Welsh, Social Worker

*Curtin University*

- Professor Jaya A R Dantas, Dean, International

*Anglicare WA*

- Mr Colin Harte, Practice Consultant, Financial Inclusion

*Financial Wellbeing Collective*

- Ms Helena Jakupovic, General Manager

### *Thursday 8 August 2024*

1R0, Main Committee Room
Australian Parliament House
Canberra

*Ms Cathy Oddie, Private capacity*

*Ms Janine Rees, Private capacity*

*ANZ*

- Mrs Katherine Bray, Managing Director, Retail Banking
- Ms Evelyn Halls, Customer Fairness Advisor

*Insurance Council Australia (via videoconference)*

- Ms Kylie Macfarlane, Chief Operating Officer
- Ms Alix Pearce, Director Climate and Social Policy

*Afterpay (via videoconference)*

- Mr Michael Saadat, International Head of Public Policy

- Ms Clare Girdwood, Global Customer Service Leader

*Zip (via videoconference)*
- Mr Peter Gray, Co-founder and Chief Executive Officer, ANZ
- Mr Chris Patrick, Chief Operating Officer, ANZ

*Latitude Financial Services (via videoconference)*
- Mr Mark Brudenell, Chief Risk Officer
- Ms Cassie Brice, General Manager, Customer Care

*Australian Finance Industry Association (via videoconference)*
- Ms Diane Tate, Chief Executive Officer

*Super Members Council*
- Ms Misha Schubert, Chief Executive Officer
- Ms Mel Birks, Executive General Manager Policy

*The Association of Superannuation Funds of Australia*
- Ms Fiona Galbraith, Director, Policy

*Women in Super (via videoconference)*
- Ms Jo Kowalczyk, Chief Executive Officer

### *Friday 9 August 2024*
Avenue 2 & 3 Rooms
International Hotel
Corner of Sturt Hwy & Lake Albert Rd
Wagga Wagga

*Riverina Law Society*
- Mr Jason Goode, Co-President

*The Salvation Army*
- Ms Jennifer Kirkaldy, General Manager of Policy and Advocacy
- Ms Jen Cameron, Doorways Coordinator
- Mr Joshua Gani, Senior Policy and Advocacy Advisor

*Anglicare Financial Counselling Manager*
- Mr Chris Heckenberg, Outreach Financial Counsellor

*Wagga Women's Health Centre*
- Ms Johanna Elms, Director

*Relationships Australia Wagga*
- Mrs Samantha M, Case Manager

*Sisters Housing Enterprises Inc.*

- Mrs Nani Coulter, Manager
- Mrs Tammy Marks, Senior Case Manager
- Ms Megan Clifford, Case Worker

*Dr Rachel Hogg, Private capacity*

*Ms Jenny Rolfe-Wallace, Private capacity*

*UNSW Tax and Business Advisory Clinic (via teleconference)*

- Dr Ann Kayis-Kumar, Associate Professor and Clinic Director

### *Thursday 15 August 2024*

Committee Room, 2S3
Australian Parliament House
Canberra

*Australian Tax Office*

- Mr Will Day, Deputy Commissioner, Client Engagement Group
- Mr Ben Foster, Acting Deputy Commissioner, Digital Delivery *(via videoconference)*
- Ms Anita Challen, Assistant Commissioner, Frontline Risk and Strategy

*Attorney Generals' Department*

- Mrs Samantha Byng, Assistant Secretary, Family and Community Safety Branch, Children and Families Division
- Ms Catherine Fitch, Assistant Secretary Privacy Reform Taskforce, Integrity Frameworks Division
- Ms Kathleen Denley, Assistant Secretary, Family Law Branch, Children and Families Division

### *Friday 13 September 2024*

Main Committee Room
Australian Parliament House
Canberra

*Dr Amanda Gearing, Private capacity*

*Ms Julie Adams, Private capacity (via videoconference)*

*Domestic, Family and Sexual Violence Commission*

- Commissioner Micaela Cronin, Commissioner

*Australian Financial Complaints Authority*

- Dr June Smith, Deputy Chief Ombudsman
- Ms Natalie Cameron, Lead Ombudsman, Banking and Finance

- Ms Clare McCarthy, Acting Executive General Manager, Regulatory, Policy and Research

*Australian Retail Credit Association*

- Mrs Elsa Markula, Chief Executive Officer
- Mrs Mary Vancea, General Manager, Legal and Policy

*Macquarie Bank*

- Mr Greg Ward, Deputy Managing Director and Head of Banking and Financial Services Group

*Future Group*

- Ms Christina Hobbs, General Manager of Advocacy and Impact

*Lifeline Australia*

- Ms Emma Carr, National Manager of Strategic Government Relations
- Ms Kerry Wall, First Nations Lead DV-alert
- Ms Iresha Lehane, Financial Counsellor

### *Friday 20 September 2024*

House of Representatives Committee Room 2R1
Australian Parliament House
Canberra

*Law Council of Australia (via videoconference)*

- Ms Pip Bell, Chair, Financial Services Committee, Business Law Section
- Mr Darryl Browne, Chair, National Elder Law and Succession Law Committee
- Ms Dana Beiglari, Member, Consumer Law Committee, Legal Practice Section
- Mr Nathan MacDonald, Deputy General Manager, Policy

*Department of Social Services*

- Mr Patrick Burford, Group Manager, Communities
- Ms Anna Lutz, Group Manager, Ending Gender-Based Violence
- Mr Benjamin Peoples, Group Manager, Participation and Family Payments

*Services Australia*

- Ms Kirsty Faichney, Deputy Chief Executive Officer, Program Design
- Mr Tony Piazza, General Manager, Families, Indigenous and Tailored Programs
- Ms Lauren Callinan, National Manger, Tailored Programs
- Ms Cathy Toze, General Manager, Working Age and Pension Programs
- Ms Juleigh Cook, National Manager, Centrepay MDT
- Ms Jodie Robinson, General Manger, Child Support and Tailored Services

- Ms Jodie Robinson, General Manger, Child Support and Tailored Services

*Australian Taxation Office*

- Mr Robert Thomson, Assistant Commissioner, Experience, Government and Case Leadership, Individuals and Intermediaries
- Ms Anita Challen, Assistant Commissioner, Strategy, Frontline Risk and Strategy
- Ms Claire Miller, Acting Deputy Commissioner, Digital Delivery
- Ms Farisha Ali, Assistant Commissioner, Small Business and Individual Objections, Objections and Review

*Attorney-General's Department*

- Ms Celeste Moran, First Assistant Secretary, Integrity Frameworks
- Mrs Samantha Byng, Assistant Secretary, Family and Community Safety Branch
- Ms Rebecca Mills, Acting Assistant Secretary, Family Law Branch
- Ms Virginia Jay, Acting Assistant Secretary, Privacy Reform Taskforce