



# National Legal Assistance Partnership Review

[submissions@nlapreview.com.au](mailto:submissions@nlapreview.com.au)

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[info@financialcounsellingaustralia.org.au](mailto:info@financialcounsellingaustralia.org.au) | [www.financialcounsellingaustralia.org.au](http://www.financialcounsellingaustralia.org.au)

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Level 6, 179 Queen Street  
Melbourne Vic 3000

p: 03 8554 6978  
tw:@FCAupdate

**contact**  
Fiona Guthrie  
p: 0402 426 835

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## REQUIRED INFORMATION

<b>Organisation name</b>	Financial Counselling Australia (FCA)
<b>Organisation type</b>	Peak body
<b>Whether you or your organisation has ever received Commonwealth funding under the NLAP or funding from other Commonwealth or State and Territory government sources.</b>	FCA has never received funding under the NLAP. FCA receives government funding through the Department of Social Services (DSS). Financial counselling services, depending on the agency, are funded variously by DSS, State/Territory governments, philanthropic sources and self-funded.

We consent to:

- our submission being published on the Review website
- being identified in the report of the Review as having made a submission
- being quoted with attribution in the report of the Review.

## **PART A - BACKGROUND**

### **1 Overview of this Submission**

This submission is in two parts:

- Part A has contextual information about the financial counselling sector and financial capability workers.
- Part B responds to some of the topics canvassed with us by the reviewer in our meeting on 18<sup>th</sup> October 2023, as well as some elements in the issues paper.

### **2 About Financial Counselling**

#### *2.1 Overview of the sector*

Financial counsellors provide advice and support to people with money and debt problems. Working in community organisations, their services are free, confidential and independent.

Financial counsellors are experts in financial difficulty and need an in-depth knowledge of many topics including credit law, bankruptcy law, debt collection law and practices, industry hardship processes and government concession frameworks. Financial stress is often an overwhelming and stressful experience for people and financial counsellors also need excellent counselling skills.

The entry qualification to the profession is a Diploma of Financial Counselling, but many financial counsellors hold a range of other degrees. Financial counsellors are also required to undertake continuing professional development each year.

Some of the advice that financial counsellors provide would normally require either a Credit Licence<sup>1</sup> or an Australian Financial Services Licence (AFSL).<sup>2</sup> Financial counselling agencies however are exempt from holding both of these licences as long as they meet certain criteria, including that the financial counselling service is free, staff are adequately trained and the advice provided by the financial counsellor remains within the scope of financial counselling.

There are approximately 1,100 financial counsellors in Australia, and we estimate this translates into around 850 full time positions.<sup>3</sup>

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<sup>1</sup> For example, by engaging in credit activities such as negotiating a payment arrangement on a credit card or mortgage.

<sup>2</sup> For example, to provide advice about early access to superannuation, bank accounts and term deposits, or managing an insurance claim.

<sup>3</sup> We are planning on conducting a workforce survey later in 2023 or early 2024 and this will give us more accurate figures.

Financial counsellors are sometimes confused with financial planners, presumably because the name sounds similar. The role however is quite different as financial planners provide advice to people with money to invest.

We often find that members of the public, as well as some politicians, describe financial counselling as focusing primarily on financial literacy, saying for example that financial counsellors help people to “manage their money better”. While financial literacy can be a component of the role, the reasons that people experience financial hardship are generally not because they are poor at managing money. The most common reasons for financial hardship are unemployment or under-employment, relationship breakdown, illness or poverty – the levels of income support in Australia still mean that many people simply do not have enough money to make ends meet.

Attachment 1 is an extract from a bank publication that described “A day in the life” of a financial counsellor. This provides a good insight into the complexity of financial counselling casework.

Financial counsellors are also involved in policy and law reform and systemic advocacy. This is based squarely in our casework. A good example has been the work our sector has done in advocating for the adequate regulation of the Buy Now, Pay Later industry as financial counsellors were seeing more and more clients being harmed by this product.

## *2.2 Access to Financial Counselling*

People can access financial counselling through a number of channels:

- telephone - the National Debt Helpline (NDH) on 1800 007 007
- webchat – the NDH website offers online chat between 9 am – 8 pm from anywhere in Australia
- face-to-face services – the “Find a Financial Counsellor” map on the NDH website includes the contact details for over 600 different locations.<sup>4</sup>

We estimate that face to face financial counsellors assist around 125,000 people each year. In 2022-23, the National Debt Helpline received almost 130,000 calls.

In 2020, the Federal Government provided new funding to set up a Small Business Debt Helpline.<sup>5</sup>

People accessing financial counselling are often in vulnerable circumstances. The majority of clients have low incomes, with many in receipt of Centrelink payments. Around one in four clients is affected by family violence.

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<sup>4</sup> <https://ndh.org.au/financial-counselling/find-a-financial-counsellor/>

<sup>5</sup> [www.sbdh.org.au](http://www.sbdh.org.au)

Appendix 2 includes summaries of research into the impact of financial counselling.

### *2.3 Specialist Financial Counselling*

There are also specialist financial counsellors who receive specific training in assisting clients affected by:

- Family violence – there are more than 20 of these positions in Victoria, but other States have just one or two positions. Many of these financial counsellors work within community legal centres and/or specialist family violence services
- Gambling – financial counsellors working with this client group will often work hand in hand with therapeutic gambling counsellors.

There are also financial counsellors working predominantly with other specific client groups: people in prison, people diagnosed with cancer, people from culturally and linguistically diverse backgrounds and First Nations people.

## **3 About Financial Capability Workers**

### *3.1 History of the Role*

The “financial capability role” was introduced by the Department of Social Services (DSS) in the 2014 tender round for financial counselling, with the program described as “Financial Wellbeing and Capability”. Before this, DSS (and its predecessor agencies) had funded a role called “money management worker” in First Nations communities.

Financial counsellors and money management workers had worked together very effectively in these communities, for example, the money management worker might assist a person to access government services, to understand the banking system or put together a budget, with the financial counsellor negotiating payment arrangements with creditors.

The 2014 DSS tender had the effect of expanding a financial capability role to anywhere in Australia (there was no evaluation). Agencies responding to the tender could decide whether they would engage financial counsellors or financial capability workers. The expansion was also within the context of the then existence of income management. This was a government-imposed system affecting people in receipt of social security payments, living in certain parts of Australia, that quarantined a portion of their income so that it was required to be spent on meeting basic needs such as rent. Financial capability workers were required to give priority to clients who were living in areas subject to mandatory income management.

### 3.2 What does a Financial Capability Worker do?

The DSS tender described financial capability services as:

“...help(ing) people to build longer-term capability to budget and manage their money better and make informed choices. Financial Capability workers deliver financial literacy education, information and coaching and maintain a strong focus on supporting consumers to change their behaviour and ‘learn by doing’ ...”<sup>6</sup>

Financial capability workers assist individual clients and may also provide community education and workshops. They often work closely with financial counsellors.

In a practical sense, some of the things that a financial capability worker might do include helping:

- a person to access their correct Centrelink entitlements
- helping a First Nations person with identity requirements with their bank or the ATO (identification is a real barrier for First Nations people in remote communities in particular. First Nations people may not have birth certificates, often face language and numeracy barriers, may have a different name to that on their documents, may have lost documents and passwords)
- a person with their banking e.g. to set up internet banking, replace a lost keycard, assist in opening a bank account
- negotiating a debt either by a payment plan and/or a debt waiver for non-credit products
- assist in lodging complaints
- identify issues where a financial counsellor or community lawyer needs to assist.

Agencies that employ financial capability workers, and are funded by DSS, are exempted from holding a AFSL allowing these workers to provide advice about basic bank accounts.

### 3.3 Current Situation

Since 2014, our role in Financial Counselling Australia (FCA) has included coordinating a network of financial counsellors and financial capability workers working in First Nations communities, as well as a network of financial capability workers from around Australia. There is an overlap between the groups. The networks involve sharing information and the provision of training and support.

At the date of this submission, the numbers involved in these networks are:

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<sup>6</sup> Australian Government, Department of Social Services, Families and Communities Programme, Financial Wellbeing and Capability Guidelines Overview, June 2014, p 8.

- Financial Capability Workers Network – 128 members, of which 28 identify as First Nations
- First Nations Network – 201 members, of which 82 identify as First Nations. Of this group of 82, 36 are financial counsellors and 37 are financial capability workers.

The majority of identified First Nations people in both networks work in regional and remote communities and generally with First Nations clients.

The diagram on the next page shows the overlaps and distinctions between the roles of financial counsellors and financial capability workers.



# Role Clarity: Financial Capability Workers and Financial Counsellors

Financial counsellors and financial capability workers work closely together. This document explains the core skill set and focus for each and where there are overlaps.

## Financial Capability Worker

### Target client group

- People who want to improve money management skills
- People recovering from financial difficulty

### Delivery

- Individual case work
- Group education sessions

### Role

- Provide information, money management skills and coaching to help clients make better financial decisions and build financial resilience

### Examples

- Delivery of financial literacy information, education and support
- Ongoing budgeting support to individuals
- Ongoing support around saving
- Help in accessing utility or telco hardship programs
- Help in accessing government concessions
- Help in accessing services eg filling in forms
- Information about financial rights
- Referral to financial counselling/ other community services

### Boundaries: no go areas

- Legal advice

## Financial Counsellor

### Target client group

- Clients experiencing financial difficulty

### Delivery

- Predominantly to individuals and families
- Community education

### Role

- Provide information, advice and advocacy to help clients overcome financial difficulty
- Identify marketplace problems which require a broader response (systemic advocacy)

### Examples

- Assesses client's financial situation, including income and entitlements; whether debts are correct and legally owed
- Explore options and consequences with the client to address financial difficulty eg debt negotiations, waivers, bankruptcy
- Assistance in completing more complex documentation eg statement of affairs, letters to creditors
- Provide on-going support to the client

### overlaps

- Identifying spending leaks and remedies
- Strategies to increase income
- Using tools like a personal money plan/budget
- Provide appropriate referrals

### Boundaries: no go areas

- Dealing with debts from banks or similar providers
- Provide advice about bankruptcy or debt recovery
- Provide advice about superannuation or insurance products

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## **PART B – RESPONSE TO SPECIFIC TOPICS**

### **1 Responding to Natural Disasters**

#### *1.1 Financial counsellors*

Given the financial impact of natural disasters, financial counsellors play an important role in recovery efforts. This role begins immediately, providing emotional support and helping people navigate systems to access financial support, such as grants and government entitlements. “Listen twice, speak once.”

It is the subsequent period however, from six months to two years, when many of the financial or insurance issues arising from the natural disaster become acute. Financial counsellors can help people negotiate with creditors, assist in making insurance claims and if necessary, lodge and help in managing disputes with the Australian Financial Complaints Authority. In undertaking this role, financial counsellors will often work collaboratively with legal aid commissions and community legal centres. As an example, the Consumer Action Law Centre provided training, and provided support, to financial counsellors working in Gippsland and north-east Victoria following disasters.

#### *1.2 Financial capability workers*

In our meeting, Dr Mundy asked us whether there would be a role for financial capability workers in responding to community need after natural disasters. Our view is that these workers could usefully be a part of the response in First Nations communities, but it is less clear what role they might play in other communities.

In First Nations communities, a financial capability worker, particularly if they are a First Nations person themselves, will be more likely to gain the trust of the community. This will be important in answering questions and providing emotional support. A financial capability worker will also be able to help with some of the issues that First Nations people are very likely to experience, such as the loss of identification documents or access to bank accounts. As noted elsewhere, managing issues of this nature can be very challenging for First Nations people in remote communities because of literacy and language barriers.

### **2 Integrating Financial Counselling into Community Legal Centres**

#### *2.1 Financial counselling is a complementary addition to CLCs*

Legal issues and financial issues are often intertwined. As an example, a person escaping family violence might benefit from family law advice about the distribution of property or how to obtain an AVO, but they may also be financially fragile and experiencing financial abuse. A client in these circumstances would benefit from both legal advice and financial counselling. Ideally, those services would be available in the one wrap-around service.

Some of the community legal centres that specialise in credit and consumer law already employ financial counsellors. These include the Consumer Action Law Centre in Victoria and the Financial Rights Legal Centre in New South Wales. Legal Aid NSW also employs a financial counsellor.

Another innovative example is Mortgage Stress Victoria, part of the WEstjustice community legal centre. The website describes their model as:

Mortgage stress can be complicated. We are a team of lawyers, social workers and financial counsellors, working together with our clients to help resolve their legal, financial, emotional and health issues that cause and result from mortgage stress. We may provide advice or ongoing representation and support with many issues. We can also connect you with local support services.<sup>7</sup>

## 2.2 *Evaluations of an integrated financial counselling/CLC model*

The benefits of integrating financial counselling into community legal services was evaluated recently by the Financial Counselling Foundation. The Foundation is a charitable trust, set up to accept donations from industry and the public, to fund financial counselling.

Over the past few years, the Foundation has provided funding to community legal centres to employ financial counsellors in various roles. These are:

- Women's legal services across Australia to employ specialist family violence financial counsellors (10 positions)
- Financial Rights Legal Centre in New South Wales – to fund a financial counsellor to attend the Federal Court to provide assistance to people facing forced bankruptcy
- Tenants Victoria and Tenants Queensland – to provide financial counselling to vulnerable renters.<sup>8</sup>

The Foundation's 2022-23 annual report summarised the results of social impact evaluations of the funding for women's legal services and tenancy services.<sup>9</sup> The impact for clients was positive and is reproduced in the box below.

A large portion of the Foundation's initial funding came from enforceable undertakings negotiated by ASIC. In more recent times, there have been donations from industry. These sources of funding however are unlikely to continue. This means that these positions funded by the Foundation may not continue.

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<sup>7</sup> WEstjustice website, <https://www.westjustice.org.au/mortgage-stress-victoria-303>

<sup>8</sup> Funding was also provided to Verto in New South Wales. This is not a community legal centre.

<sup>9</sup> Financial Counselling Foundation, Annual Report 2022-23, [https://www.financialcounsellingfoundation.org/\\_files/ugd/2acbafe5fc9e2d55bde46bbb30ecd401a71dac1.pdf](https://www.financialcounsellingfoundation.org/_files/ugd/2acbafe5fc9e2d55bde46bbb30ecd401a71dac1.pdf)

### **Impact for Clients of funding to Women’s Legal Services and Tenancy Services to engage financial counsellors to work alongside lawyers**

- A more holistic wrap-around model allowed agencies to provide a better service. Clients in crisis may only find the strength to call an agency once, and not follow through with advice or referrals. Clients in both evaluations noted that they appreciated internal referrals which helped reduce the stress that comes from having to retell their story.
- Improved financial situation and wellbeing for most clients.
- People felt empowered through understanding their financial situations and knowing about options and supports available to them.
- For tenancy services the post-intervention survey indicated that for 53% of clients, their housing situation was more secure.
- For Domestic and Family Violence services women were able to prioritise safety and break harmful cycles.
- Neither service could resolve all issues for all clients with barriers including: housing affordability, tenancy issues, pressures of being a sole parent and cost of living increases.

*Reproduced from the Foundation’s Annual Report.*<sup>10</sup>

## **4 Specialist Consumer Credit Legal Services**

### *4.1 Financial counselling and consumer credit legal services*

Specialist consumer credit legal services support financial counsellors in three main ways. They:

- provide training to financial counsellors about relevant laws. As an example, the FCA’s annual conference always includes concurrent sessions about credit and consumer law. State financial counselling associations work closely with the consumer credit legal service in their State (if it exists) to integrate training from them into their professional development calendars covering topics such as social security law, bankruptcy, tenancy, consumer credit.
- put together practical resources that are used by financial counsellors and others. Good examples are the Bankruptcy Toolkit and Mortgage Stress Handbook published by the Financial Rights Legal Centre<sup>11</sup>
- provide legal advice to financial counsellors about specific casework issues. There are some examples of the type of advice that a consumer credit lawyer might provide in the box below.

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<sup>10</sup> Ibid, p 12.

<sup>11</sup> These are available on a password-protected website for financial counsellors managed by FCA. Copies can be provided if useful.

The Consumer Action Law Centre undertook an evaluation of its Worker Advice Line in 2021. This found that 66% of advice is provided to financial counsellors.<sup>12</sup>

This last point – the ability for financial counsellors to access legal advice - is invaluable. It leverages the complementary skills of consumer lawyers and financial counsellors, so that financial counselling clients receive the best possible advice. In that sense, it is a cost-effective way of meeting legal need.

**Examples of the issues a financial counsellor may seek advice about from a specialist consumer credit lawyer**

- How to run a dispute in the Australian Financial Complaints Authority, particularly one involving responsible lending
- What information to request from a lender where a person has guaranteed a loan, but under duress as a result of family violence
- Clarification about the steps in the repossession of secured assets, such as homes or cars
- How to avoid re-starting limitation periods
- How to respond to new lending models in the marketplace. A financial counsellor will benefit from understanding what laws might apply to the lending and therefore what rights and remedies their clients may have. Recent examples of new lenders, and lending models, include those operated by Cigno,<sup>13</sup> Clear Loans and Swoosh
- Enforcement of debts in the courts (debt enforcement laws are State-based, so differ between jurisdictions).

Financial counsellors and consumer credit law services also frequently collaborate in submissions to government about law reform and in policy development. It is absolutely vital that advocacy and law reform activities are supported by the NLAP.

#### 4.2 *Access to consumer credit legal services*

Access to specialist consumer credit legal services varies across the country.

There are specialist services in Victoria (Consumer Action Law Centre), New South Wales (Financial Rights Legal Centre), Western Australia (Consumer Credit Legal Service WA), South Australia (Consumer Credit Law Centre of SA) and the ACT (Care Consumer Law). As

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<sup>12</sup> See <https://consumeraction.org.au/evaluation-of-consumer-actions-worker-advice-service/>

<sup>13</sup> A company that designed business models to deliberately avoid the credit laws.

noted above, some of these services also employ financial counsellors, as there are synergies when they are co-located. Some of the services provide worker advice lines for financial counsellors but not all.

While all of these agencies are busy, the smaller centres are particularly under-resourced (SA and Tasmania in particular) and specialist consumer credit agencies do not exist in others (Queensland, NT). This results in unmet legal need.

#### *4.2 The lack of access to legal advice for small businesses*

This section includes some brief comments about the lack of access to legal advice for vulnerable small businesses. We recognise that this is outside the terms of reference for this review, but there are very few fora where the issue can be raised.

FCA operates the Small Business Debt Helpline ([www.sbdh.org.au](http://www.sbdh.org.au)). The vast majority of small businesses seeking assistance are micro small businesses: 92% have five or less employees and 57% have no employees. The most common business structures were either companies or sole traders.

Through the Helpline, we have first hand experience of the desperate circumstances facing many small business people. These are often no different to the circumstances facing individuals seeking financial counselling, other than that the client happens to have an ABN. The Helpline assists people whose homes are at risk, who are facing aggressive debt collection activity and who are often overwhelmed.

We also see examples of egregious behaviour by small business lenders taking advantage of the weaker regulatory framework applying to small business lending and the lack of business literacy or desperation by business owners.

Individuals in financial hardship have the protections of the credit laws and can access free legal advice. Neither of these is available for small businesses.

### **5 Funding for Financial Counsellors, Community Lawyers and the NLAP Review**

For the sake of completeness, this final section of the submission describes recent government processes that have highlighted the close linkages between financial counselling and legal assistance services, and the implications these linkages have on funding.

In February 2019, Commissioner Hayne provided the Government with the final report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. In that report, the Commissioner specifically commented on the need for, and funding of, the financial counselling and the legal assistance sectors. Appendix 3 includes the relevant extract.

Commissioner Hayne noted the “asymmetry of knowledge and power between consumers and financial services entities”<sup>14</sup> and that the “majority of the consumer witnesses before the Commission who gave evidence of having resolved their dispute with an entity did so with the assistance of a legal adviser or financial counsellor”.<sup>15</sup> He concluded that these services “are a necessity to the community”<sup>16</sup> and that the:

desirability of predictable and stable funding for the legal assistance sector and financial counselling services is clear and how this may best be delivered is worthy of careful consideration.<sup>17</sup>

The Government of the time “agreed” with this suggestion by Commissioner Hayne in its response.<sup>18</sup> However, in practical terms, the Government acted only on the financial counselling aspect, commissioning an independent review of the funding for financial counselling.<sup>19</sup> The review was undertaken by Louise Sylvan, a former Deputy Chair of the ACCC, and has come to be known as the “Sylvan Review” for that reason.

The Sylvan Review was delivered to the Government in a rapid timeframe (March 2019) and recommended that the industries that benefit from financial counselling, and refer their customers to financial counsellors, such as banks, telecommunication providers, energy and water companies, should also fund financial counselling through a mandatory levy. Her review recommended that this funding be distributed through a new independent body.

Some five years later, that exact model has not come to fruition, however additional funding will be provided by industry. A key difference is that the model will instead involve voluntary contributions from a number of industries. At the time of writing the new independent body to accept and distribute this funding has not yet been established.

Some industries and companies have declined to be involved in the voluntary model, so the funding that will be provided – probably around \$10 million per annum over three years – will be a long way short of meeting estimated demand for financial counselling. The funding requested was \$18.1 million per annum with that number based on data from June 2022, when demand for financial counselling was below pre-Covid levels.

Of relevance to this review of the NLAP is that the issue of funding for legal services remained outstanding. The Sylvan Review noted that:

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<sup>14</sup> Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry 2019, Final Report, Volume 1, p 490.

<sup>15</sup> Ibid, p 490.

<sup>16</sup> Ibid, p 491.

<sup>17</sup> Ibid, p 493.

<sup>18</sup> The Australian Government the Treasury, Restoring Trust in Australia’s Financial System: The Government response to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, February 2019, p 39, <https://treasury.gov.au/sites/default/files/2019-03/FSRC-Government-Response-1.pdf>.

<sup>19</sup> Fletcher, Paul. 2019. “Government appoints Louise Sylvan to head review of financial counselling services”, <https://treasury.gov.au/sites/default/files/2019-03/FSRC-Government-Response-1.pdf>.

Increasing the availability of financial counsellors as well as improving the visibility and reach of these services will also drive the need for legal assistance service providers who work hand-in-hand with financial counsellors. As the work of financial counsellors is within a legal context of, for example, contract law, statutory dispute schemes or hardship arrangements, many of these services are co-located. This allows financial counsellors to easily refer complex consumer legal issues, including misconduct, to the legal assistance sector for their attention.

Legal assistance is currently funded under the *National Partnership Agreement on Legal Assistance Services 2015-20* and the *Indigenous Legal Assistance Program*.

Due to the connection between financial counselling and legal assistance, any increased provision of financial counselling services will have flow on implications for the provision of legal assistance and may need to be considered.<sup>20</sup>

In summary, there will be some industry funding for financial counselling which will probably start flowing near the end of 2024. While the additional funding will not meet demand, it will mean the employment of more financial counsellors. As noted in the Sylvan Review, this in turn will place more pressure on legal advice services.

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<sup>20</sup> The Countervailing Power: Review of the coordination and funding for financial counselling services across Australia, p v.



## **Appendix 1 – Extract from “A Day in the Life” of a Financial Counsellor**

This extract is from a publication by the Commonwealth Bank for its customers, “Brighter Magazine”, Issue 3, September/October, 2023. It is available at <https://www.commbank.com.au/brighter.html>

## *My Story*



# *A day in the life of a* **financial counsellor**

STORY BY BEK DAY + PHOTOGRAPHY BY SHARI HINCH

With the cost of living crisis, Carly Baker is the busiest she's ever been. Still, she wishes more people would ask for help.

### *8:30am*

I'm lucky enough to work from home so my commute is a grand total of zero minutes. I settle in with a coffee before reading through emails. The cases that I encounter on a daily basis vary so much that my job changes every day. Financial counselling is a free service and we mostly work with people in financial difficulty but within that I could be advocating for a client with a debtor or financial institution, or making them aware of what their rights are. No two days are the same.

### *9:30am*

I have an initial phone consult with Janet\* – she's in her fifties and has been diagnosed with brain cancer. Janet has had to give up work and travel for specialist appointments so the bills are piling up. As someone who always managed money well, the speed with which she exhausted her savings has been a shock. We speak for more than an hour so I can get an idea of her increased medical expenses and unmanageable bills, which include mortgage repayments, rates and household bills. The most urgent is the car rego, as it's due next week and Janet needs the car to drive to her treatments. She wasn't aware that she can change the billing options so we organise for her to contact VicRoads to set up a three-month rego payment. In the coming weeks, I'll also help Janet negotiate payment plans for her bills and ensure concessions are applied.

## 11:30am

Matt\* is a client I've worked with for the past year. When we first met, he'd been in a terrible workplace accident and taken a lot of time off work. But instead of getting support from his workplace, he'd been bullied. He then quit his job and moved to a regional town where he felt alone and was flat broke. Matt was in a lot of debt and experiencing suicidal ideation – at our first meeting, he told me that he didn't think I could help. I convinced him to talk to me and listened without judgement, which is a big part of my job. Since then, I've been able to tell his story to the bank and have his credit card debt waived. We also discovered that his super included total permanent disability insurance. With support from Matt's doctor, we've been able to have that paid out. And today, I get to officially

let him know that he's won the claim. Matt's mental health has completely transformed. He tells me that he can breathe again.

## 12:30pm

It's time for a weekly team debrief, where I'm able to get help, if needed, from fellow financial counsellors. We refer to our job as being a marathon, not a sprint. We're exposed to heavy material that requires us to look after each other in order to look after our clients.

## 1:00pm

I notice two missed calls from clients and after calling the first one back, I know I'm not having lunch any time soon. Fernanda\* is 29 years old and in acute crisis. She recently escaped a family violence situation and

has been saddled with a \$5000 debt that her ex racked up in her name. I've been working to have it waived by the bank due to these circumstances. Now, her ex has shown up at her home to harass her further. After making sure she's safe, I check on what support Fernanda has in place. At the moment, she has none. So, with her consent, I refer her to Victoria-wide family violence support service The Orange Door ([orangedoor.vic.gov.au](http://orangedoor.vic.gov.au)). I check the status of her debt-waiver application and find that the bank has approved it. For Fernanda, this is a bit of relief in a complex and extremely challenging situation. She's so grateful. We'll continue to work together to figure things out.

## 1:45pm

I finally get to eat my lunch and check some emails.





## 2:15pm

Two new clients have been added to my case allocation from our six-week waiting list so I call them to introduce myself and our services, setting up appointments in the coming weeks. Honestly, I've never seen our waiting list so long. More and more businesses are collapsing into administration and housing is hard to come by as rents continue to increase. Property owners are struggling to cover costs and people are having to choose between food and medicine.

## 3:30pm

My next client, Omar\*, arrives with his support worker. He's facing electricity disconnection because he hasn't paid his bill. So we call the retailer together to discuss his situation. On the call, I notice that Omar has no concessions on his account and has not accessed a utility relief

grant. We're able to action all of this and once the concessions are added to his account and the grant is approved, the overdue bill will be cleared. Omar can afford the adjusted bill and will pay via Centrepay, a free billing service that arranges deductions from Centrelink payments.

## 4:30pm

As I wind down, I check in on some advocacy work, which is another rewarding part of the job. With our insights, we're able to make recommendations or lobby sectors for change. In the past I helped lobby for better payment conditions on car rego in Victoria, which resulted in the choice of three-, six- or 12-monthly payments. Protecting and strengthening consumer rights is a big part of what we do. After sending a few more emails it's time to clock off. Tomorrow will bring a whole host of new clients and situations. ♦

## Common questions

### When is the best time to call a financial counsellor?

The sooner the better.

Quite often we see clients at crisis point and we're like an ambulance coming in at the last minute. If you're struggling to pay a bill, reach out. In my experience these situations can snowball quickly. That said, it's never too late. There's always something we can do to help.

### What do you need to bring to the appointment?

I always say, bring anything you think you should show me. I've had clients come into my office with shopping bags full of bills. I've had suitcases. And a lot of times the bills are unopened, because my clients feel so overwhelmed. There's no shame in any of this – it's so normal.

### How do you know if someone is good at their job?

A good financial counsellor will listen without judgement and help you understand your options as well as the wider context of your situation.

### Will financial counsellors charge?

Never. Financial counselling is free – if you paid for it, it wasn't financial counselling.

### How long do people need to wait for a counsellor?

Most organisations are reporting anywhere from six to eight weeks at the moment.

### How do I get an appointment?

The easiest and quickest way to speak with a financial counsellor in your state or territory is to call the National Debt Helpline on 1800 007 007.

**If this subject matter brought up any difficult feelings for you, please contact Lifeline on 13 11 14 or the National Debt Helpline.**

*\*Names have been changed.*

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## Appendix 2 – Impact of Financial Counselling

Below are summaries of research into the impact of financial counselling.

Together with the Department of Social Services we are currently developing an outcomes framework for financial counselling. Once the measures are agreed, the next step will be to work with the sector on implementation. Some measures may be straightforward, but others may need changes to systems/technology and be more challenging.

### 2005 – ANZ Qualitative Research

In 2005, ANZ commissioned qualitative research into financial difficulty. In relation to financial counselling the research concluded that:

“For people who saw a financial counsellor, it was unanimously a positive empowering experience for them, albeit at a negative point in their life. In addition, the majority stated it had changed the way they viewed their finances and changed their financial behaviour.”<sup>21</sup>

### 2007 – Consumer Affairs Victoria – randomly selected in-depth interviews

In 2007, the Consumer Affairs Victoria commissioned research as part of its review into the funding for financial counselling.<sup>22</sup> This involved 30 in-depth client interviews, randomly selected from files. Clients reported relief from stress and the pressure of their immediate financial situation. Arrangements between clients and creditors were negotiated in all cases. A significant number of clients maintained their financial stability.

### 2012 – Swinburne University – Client Survey

In 2012, Swinburne University surveyed 225 clients who had accessed the Salvation Army’s MoneyCare service.<sup>23</sup> Survey respondents indicated that as a result of financial counselling:

- 66% said their financial difficulties had been resolved
- 75% said they were better able to prioritise debt
- 74% said the advice had helped them avoid legal action
- 53% had avoided bankruptcy
- 74% were better able to budget
- 73% were able to access creditors' hardship programs

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<sup>21</sup> ANZ Bank, *Understanding Personal Debt and Financial Difficulty in Australia*, November 2005, p 17.

<sup>22</sup> bluemoon research + planning Pty Ltd (2007) *Financial Counselling Program Research Report*, Victoria: Consumer Affairs Department.

<sup>23</sup> Dr Nicola Brackertz, “I Wish I’d Known Sooner” *The Impact of Financial Counselling on Debt Resolution and Personal Wellbeing*, Swinburne University, 2012.

The research also demonstrated a link between early access to financial counselling and resolution of financial difficulties - people who sought financial counselling sooner were statistically more likely to report that their financial difficulties had been resolved (72%).

Financial counselling also provided broader social benefits:

- 51% of respondents indicated that their housing situation was more secure; and
- 45% of respondents indicated that their relationships with family and friends and their children (46%) had improved.

### **2014 – Adelaide University – Cost-Benefit Analysis**

A cost-benefit analysis of financial counselling services funded by the Wyatt Trust in South Australia, found that every \$1 invested provides a \$5 return. The research "*Paying it Forward*" was undertaken by the Australian Workplace Innovation and Social Research Centre at Adelaide University.

The report showed that:

- 46% of clients were on incomes of less than \$20,000 per annum;
- 82% of clients had experienced at least one financial crisis leading, most commonly related to credit card or store card debts (42%) and/or utility debts (40%). 55% had 2 or more financial crises.
- 86% of clients had experienced at least one personal crisis in the last year, with one-third of these related to housing issues (31%). 55% had at least two personal crises. Personal crises or those of family members can increase the impact of financial issues.

The researchers noted that the cost-benefit analysis did not include other benefits which are more difficult to quantify, such as improvements in financial literacy, stabilised housing or avoidance of legal action. In other words, the \$1:\$5 cost benefit is an understated and conservative measure of the benefit of financial counselling. For example, financial counselling clients often report improvements in health. The average cost of a general hospital admission in Australia is \$5,205 per day.<sup>24</sup>

### **2022-23 – Financial counselling in women’s legal services**

*The following text is from the website of the Financial Counselling Foundation.*<sup>25</sup>

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<sup>24</sup> Productivity Commission [http://www.pc.gov.au/\\_data/assets/pdf\\_file/0003/132339/rogs-2014-volume-chapter10.pdf](http://www.pc.gov.au/_data/assets/pdf_file/0003/132339/rogs-2014-volume-chapter10.pdf).

<sup>25</sup> See <https://www.financialcounsellingfoundation.org/completed-projects>

The Financial Counselling Foundation provided grants totalling \$3.9million over three years to fund 10 specialist financial counsellors trained to deal with clients experiencing family Violence.

The grants for three years went in the main to women's legal services across Australia where up to 95 percent of clients experience domestic family violence.

During the three years over 4,000 women with highly complex financial and other needs received financial counselling casework.

The majority of the women were low income, sole parents or lone persons and at least half had experienced economic abuse. Issues included utility arrears, private rental and mortgage stress, debt including credit cards and PAYG, over reliance on BNPL schemes and more recently the additional impact of the cost of living.

Responses from the financial counsellors included debt settlement or waivers, links to hardship programs and victims' compensation or escaping violence payments, referrals to the legal team and other support agencies, and encouragement of self advocacy ...

The Social Policy Research Centre University of NSW conducted a social impact evaluation in five of the 10 funded agencies. This found that:

“ financial counselling helped women to better understand their needs and how their confidence and capability with financial matters improved. Integrating the financial counselling with legal and other supports enabled women to address a more comprehensive range of challenges”.

## **2023 – Financial counselling for vulnerable renters**

*The following text is from the website of the Financial Counselling Foundation.<sup>26</sup>*

In February 2021 the Foundation granted \$1.17 million for in-house financial counselling services for private tenants to the following organisations for three years:

- Tenants Victoria
- Tenants Queensland and
- VERTO in New South Wales.

The grant provides financial counselling to help vulnerable renters in-house alongside tenancy support services to private renters who are struggling financially ...

The Final Evaluation Report was received in May 2023 and the key findings were:

- Most clients' financial situation improved along with their wellbeing and an increase in their knowledge and understanding of their financial situation.

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<sup>26</sup> See <https://www.financialcounsellingfoundation.org/funded-projects>



- The tenancy staff increased their awareness of financial counselling, which helped streamline referrals and the sharing of professional knowledge. This holistic approach reduced stress and improved the experience for clients.
- Risks around workforce issues and legal setting requirements were identified and risks were able to be mitigated.

## Appendix 3 – Extract from the Final Report of the FSRC

*Formatting and footnotes as in the original.*

This excerpt is from page 490 – 493.

The asymmetry of knowledge and power between consumers and financial services entities has been evident throughout the Commission’s work. Financial products and services have grown ever more complicated, numerous, and difficult to distinguish. Engagement with the financial services industry, by way of bank accounts, insurance and superannuation, is necessary in order to participate in society. Yet financial literacy among Australians is varied, and research suggests that people struggle with more complex financial dealings such as investments and superannuation. And the laws governing the relationship between customers and entities are frequently opaque. Each of these conditions contributes to the onset of disputes and puts customers at a disadvantage in their resolution.

Aggrieved customers can try to negotiate directly with an entity, they can commence legal proceedings, or they can go to alternative dispute resolution. In each case, the existing asymmetry means that legal assistance is often of critical importance to the customer’s position.

The majority of the consumer witnesses before the Commission who gave evidence of having resolved their dispute with an entity did so with the assistance of a legal adviser or financial counsellor. That was true of disputes resolved by direct negotiation, farm debt mediation, and recourse to FOS. That is, access to professional legal advice or counselling services assisted claimants to engage in these alternative dispute resolution mechanisms even though they were designed to improve access to justice and do not depend on claimants having legal representation. Most entities have access to expert legal advice throughout the course of a dispute, and it is unsurprising that customers would benefit from being placed on the same footing. Some consumers may not even know that they have a dispute to resolve until they speak to a financial counsellor or legal adviser.

A number of the consumer witnesses before the Commission received free assistance from the legal assistance sector<sup>27</sup> or free financial counselling services. Often, perhaps in part by force of the situation that gave rise to the dispute, they could not have afforded private financial advice or legal representation. Often, the difference between the result the witness ultimately achieved and the situation that they initially faced before they received legal assistance was very large.

The legal and other assistance available to disadvantaged members of the community in pursuing claims against financial services entities is therefore relevant to the Commission’s considerations. It was not a question on which submissions were specifically called for,

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<sup>27</sup> Paragraph 52(e) of the National Partnership Agreement on Legal Assistance Services defined this term to include community legal centres, family violence prevention legal services, indigenous legal assistance providers and legal aid commissions: Council of Australian Governments, *National Partnership Agreement on Legal Assistance Services* (Undated) Council of Australian Governments <[www.ag.gov.au/LegalSystem/Legalaidprogrammes/Documents/NationalPartnershipAgreementOnLegalServices.pdf](http://www.ag.gov.au/LegalSystem/Legalaidprogrammes/Documents/NationalPartnershipAgreementOnLegalServices.pdf)>.

although a considerable number addressed it. I therefore make limited observations on this point, but I encourage that it be given careful consideration.

The legal assistance sector and financial counselling services perform very valuable work. Their services, like financial services, are a necessity to the community. They add strength to customers who are otherwise disadvantaged in disputes with financial services entities. In that sense, their role in the financial services sector is complementary to the broader recommendations in this Report that are designed to hold entities to account. Reforms to the law, and to practices of regulators and entities, will not eliminate that need though they will properly aim to reduce it. There will always be sources of legitimate dispute, and there will always be vulnerable individuals with a poor understanding of financial services or limited experience or resources who are nonetheless compelled to use these services. As I have said elsewhere in this chapter, simplification of financial services laws is broadly supported. However, financial services laws will always involve a measure of complexity. Asymmetry of knowledge and power will always be present. Accordingly, there will likely always be a clear need for disadvantaged consumers to be able to access financial and legal assistance in order to be able to deal with disputes with financial services entities with some chance of equality of arms.

The legal assistance sector and financial counselling bodies are also recognised by ASIC as playing an important broader role in the financial services sector, for example by bringing issues to the attention of the regulator<sup>28</sup> or providing a balancing consumer voice in policy development.<sup>29</sup>

Information about financial counselling services is published on the websites of each of the four major banks.<sup>30</sup> Information about legal assistance and financial counselling services is also included on the ACFA website.<sup>31</sup>

The legal assistance sector and financial counselling services frequently struggle to meet demand, which is increasing.<sup>32</sup> Some submissions identified areas where the present coverage of such services could be expanded, for example in the provision of consumer advocacy and representation for superannuation consumers.<sup>33</sup> Other areas that were identified were small business assistance<sup>34</sup> and community-led specialist education for

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<sup>28</sup> For example, through the ASIC Consumer Advisory Panel. ASIC, *Consumer Advisory Panel* (Undated) ASIC <<https://asic.gov.au/about-asic/what-we-do/how-we-operate/external-panels/consumer-advisory-panel/>>.

<sup>29</sup> ASIC, Module 5 Policy Submission, 42–3 [204]–[205].

<sup>30</sup> For example, NAB, *NAB Assist Customer Care Kit* (Undated) NAB <[www.nab.com.au/personal/help-and-guidance/financial-hardship/customer-care-kit](http://www.nab.com.au/personal/help-and-guidance/financial-hardship/customer-care-kit)>.

<sup>31</sup> AFCA, *Other Places to Get Help* (Undated) AFCA <[www.afca.org.au/what-to-expect/other-places-to-get-help/](http://www.afca.org.au/what-to-expect/other-places-to-get-help/)>

<sup>32</sup> CALC, *Submission in Response to Initial Request*, 22 January 2018, 8 [2.30]; National Association of Community Legal Centres and FCA, Interim Report Submission, 5; Financial Rights Legal Centre, *Submission in Response to Initial Request*, 5 February 2018, 2.

<sup>33</sup> CHOICE and Superannuation Consumers' Centre, Module 5 Policy Submission, 6, 31–2; ASIC, Module 5 Policy Submission, 42–3 [204]–[205].

<sup>34</sup> National Association of Community Legal Centres and FCA, Interim Report Submission, 9; CALC, Module 3 Submission, 7 [8.1]–[8.2].

Aboriginal and Torres Strait Islander communities regarding funeral insurance and other financial products.<sup>35</sup>

Funding for the legal assistance sector and financial counselling services comes from various sources and structures, but is primarily Federal and state government funded, with pro bono and other donations also contributing. A portion of existing funding to some community services is sourced from arrangements such as community benefit payments under **enforceable undertakings** given to ASIC.<sup>36</sup> However, such funding is 'one-off' in nature, and reliance on sources of funding that are uncertain presents a longer-term challenge for community-based services to continue to provide services and maintain expertise and scale.

Proposals have been made over time for other models of funding. For example, one submission made to the Commission contained a proposal for an industry levy to fund financial counselling and consumer legal services.<sup>37</sup> The submission stated that this model was operating effectively in the United Kingdom.<sup>38</sup>

**I offer no views about the most appropriate sources, level or mix of funding. However, the desirability of predictable and stable funding for the legal assistance sector and financial counselling services is clear and how this may best be delivered is worthy of careful consideration.** Such consideration should look at all options that may be available to supplement existing funding.

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<sup>35</sup> CALC, Module 4 Submission, 9 [32].

<sup>36</sup> ASIC, Module 5 Policy Submission, 43 [207].

<sup>37</sup> National Association of Community Legal Centres and FCA, Interim Report Submission, 2 [3]–[5].

<sup>38</sup> National Association of Community Legal Centres and FCA, Interim Report Submission, 2 [5]. The UK has adopted an industry levy model to fund financial counselling and financial literacy services: *Free and Impartial Money Advice, Set Up by Government* (Undated) The Money Advice Service <[www.moneyadviceservice.org.uk/en](http://www.moneyadviceservice.org.uk/en)>.