



Te Ope Whakāora

**SOCIAL POLICY AND
PARLIAMENTARY UNIT**

Working for the eradication of poverty in NZ

**Responsible Lending Code (RLC)
Ministry of Business, Innovation and Employment (MBIE)**

The Salvation Army (New Zealand, Fiji and Tonga Territory) Submission

1. BACKGROUND

- 1.1 The Salvation Army is an international Christian and social services organisation that has worked in New Zealand for over one hundred and thirty years. The Army provides a wide-range of practical social, community and faith-based services, particularly for those who are suffering, facing injustice or those who have been forgotten and marginalised by mainstream society.
- 1.2 We have over 90 community ministry centres and churches (corps) across the nation, serving local families and communities. We are passionately committed to our communities as we aim to fulfil our mission of caring for people, transforming lives and reforming society by God's power.¹ The Salvation Army also has a well-established Courts and Prisons Services located throughout New Zealand. This service provides Court Officers and Prison Chaplains who offer advice and practical support to those facing the court process.
- 1.3 This submission has been prepared by the Social Policy and Parliamentary Unit (SPPU) of The Salvation Army. This Unit works towards the eradication of poverty by advocating for policies and practices that strengthen the social framework of New Zealand.

2. THE SALVATION ARMY PERSPECTIVE

- 2.1 Generally, we are very supportive of the development of this RLC. The Salvation Army has tried to consistently engage with government in the progression of the Credit Contracts and Consumer Finance Amendment Act 2014 (the CCCFA). We have tried to present oral and written submissions throughout the development of this legislation that is informed by our front-line budgeters and community workers. We have done this because we believe it is essential that important policy such as this should not just be developed in isolation from real-world situations facing New Zealanders. Policy development needs to be balanced between rigorous analysis, and injecting real life experiences into the process.
- 2.2 This submission has been prepared by the SPPU. But it gathers together the voices, feedback, thoughts, experiences and concerns of our Salvation Army budgeters and community workers located in our Community Ministry centres from around the country. Therefore we honour and acknowledge all

¹ <http://www.salvationarmy.org.nz/our-community/mission/>

those who have fed into this submission via discussions, phone conversations and written feedback.

- 2.3 Our submission does not answer the very large number of questions set out by MBIE in their discussion document. Instead, we have tried to focus our responses on specific questions or sections of the discussion document.

3. GENERAL RESPONSES TO THE RLC

3.1 Binding nature of RLC

As per the CCCFA, we acknowledge that this RLC is not binding on lenders. We appreciate that this has now been codified into the CCCFA. However, we submit that this RLC could become binding in the future in New Zealand. Other countries, most notably the United Kingdom, have a RLC-type document that is legally binding on consumers and lenders. We propose that the MBIE investigate further whether or not the RLC should be binding in New Zealand as in other jurisdictions.

Moreover, we submit that if lenders continually breach aspects of the RLC, then these breaches should be recorded in some sort of register of company history for that lender. Evidence of RLC breaches will be, as per paragraph 16 of the Discussion Document, treated as non-compliance with the RLC and lender responsibility principles. Therefore if these breaches are accurately recorded, then regulators, consumers and the wider public can effectively assess the lender's practice and make better informed decisions.

3.2 Interest Rates

The Salvation Army has, throughout this reform process, consistently advocated for a cap to interest rates². We call upon the MBIE and the Government to not discount this policy lever when promoting responsible lending and uptake of credit contracts and consumer finance. Even though the CCCFA has passed into law, amendments can still be made to this important piece of legislation in the future.

3.3 A regular review - flexibility to capture new developments

The world of credit contracts and consumer finance is constantly changing. In our experience, lenders have developed numerous unique ways to promote and offer credit, products and services to consumers. These methods are ever-changing. For example, in recent times, Salvation Army budget advisors have noted that there seems to be an increasing number of door-to-door sales people selling credit or products from catalogues. This is on top of the more common 'mobile trucks' and finance companies that feature strongly in many of the communities that our service centres are located in.

Therefore, we submit that the RLC needs some sort of review evaluation in the near future *after* the Code has been in operation for a few years.

² <http://www.salvationarmy.org.nz/research-media/social-policy-and-parliamentary-unit/submissions/credit-contracts-bill>

Moreover, we submit that a regular review is needed as well. We make these submissions because we contend that since the nature and forms of credit contracts and consumer finance are constantly evolving. The RLC must be able to capture and account for newer developments in this area. It cannot do this if it is not regularly reviewed and adjusted to include these new developments.

We propose that the RLC is formally reviewed by MBIE in June 2017. That would be 2 complete years since the RLC came into force. This would allow for the RLC and the CCCFA to operate together for 2 full years and give MBIE, the Commerce Commission and other key stakeholders a fair period of time to assess the effectiveness of the RLC and CCCFA. We also propose that the RLC is reviewed at least every 3 years after 2017, again to keep pace with any changes in these credit-related relationships.

4. SPECIFIC RESPONSES TO RLC QUESTIONS

Please note that as aforementioned, this submission is an amalgamation of feedback from various budget advisors and community workers serving in Salvation Army service centres across the country. We hope this approach provides a unique snapshot into the real life experiences of often vulnerable consumers of credit contracts and consumer finance.

4.1 ADVERTISING

What does good credit advertising look like to you? Should advertising of certain products have risk warnings?

- There should be risk warnings but this should not be lost in the fine print of the contract.
- Good credit advertising should clearly show the underlying costs of entering into this contract or sales and purchase process.
- A checklist can be developed that would assist in this area. It may include elements such as:
 - Is the portrayal of the application process realistic? Does it seem too easy to obtain the credit?
 - Are the interest rates mentioned in the advertising?
 - Are the other costs of credit mentioned (if not specifically, at least that they do exist?) i.e. Application Fees, Account Fees?
 - Is the pertinent information, such as reference to consumer rights or the relevant legislation, displayed or advised in a way that is accessible? Can it be read in a visual advertisement? Can it be heard properly in an audio advertisement? Is it understandable?
 - Does the advertisement promote further unnecessary debt? For example a recent advertisement for debt consolidation that ends showing a person in the middle of a whole lot of new consumer goods such as video games etc... This seems to encourage further consumerism fuelled debt.
 - Is the advertising targeting specific people? An example of this is a flyer some years ago advising that if the lender contacted the company to address their debt arrears, then they could apply for further finance for the upcoming Christmas season. This

promotes further debt to someone who is already exhibiting payment problems by being in arrears already.

Should guidance on advertising processes take account of the size and nature of the lender? If so, how?

- Not necessarily. Although there are differences in approach in different sectors of the industry, the overall intent of the Act and the Code are to promote an even and fairer approach to lending and borrowing that provides strong guidelines for the industry that protect both sides. The inherent nature of lending is to secure profit through the lending of money.
- If the guidance provided in the Code is aimed at assisting the lenders to comply with the regulations and intent of the amendment to the Act, then the overall principles of the Code should be able to be applied across the industry.
- Therefore we contend that these principles and rules in the RLC and CCCFA regarding advertising should apply universally to all lenders whatever the size or nature of their work is.

What existing guidance or codes of practice for advertising will help inform the Code? Should these codes be referred to or translated into the Code?

- The New Zealand Banker's Association has a Code of Practice with a specific area on 'Provision of Credit' and 'Guarantors and Providers of Other Security' that may assist with the development of aspects of the code:
<http://www.nzba.org.nz/assets/Uploads/codeofbankingpractice/NZBA.CoBP.2012.05.WEB.PDF>
- The Advertising Standards Authority website includes a code for financial advertising which, whilst mainly seems to be aimed at investment advertising has some transferrable principles that can apply to the writing of this code.
<http://www.asa.co.nz/fa/ASA%20Code%20for%20Financial%20Advertising%20February%202014.pdf>
- (The ASA link and guidelines is already mentioned in the Consumer Affairs document but is still worth mentioning in this response.)

What types of advertising should responsible lenders not use? Can you send us examples of bad advertising?

- We have discussed with MBIE officials that we will try to gather examples of bad advertising and send this to MBIE in the near future.
- We have however attached to this submission an example of a Home Direct warning flier that has been quite helpful to our budget advisors and clients in West Auckland³.
- We have also noted a radio advertisement currently playing on Niu FM Radio Station selling cars that has words to this effect - *NEED A CAR? WE CAN HELP... BAD CREDIT, OK! .LEARNER LICENCE, OK... OVERSEAS LEARNER, OK... (Niu FM ad, 2014)*. We cannot identify the company at this time but finding it through the radio station should be straight

³ See document attached to the email.

forward. Advertisements like this via radio, print media and TV are attractive to many of the clients using our services, especially if they are on low incomes and/or they have been declined loans from banks or more reputable lenders.

- We also submit that the use of community role models, celebrities or famous people in the promotion of some companies is very troublesome for some of our clients. We appreciate that companies are free to seek endorsements from whomever they choose. But using celebrities or famous people, particularly sports heroes, in the advertising of these products or services encourages many of our clients to more easily put their trust in these companies without always understanding the details consequences of the arrangement.

Should there be specific guidance in relation to advertising which is targeted at a specific group or persons known to have specific characteristics? If so, which groups/characteristics?

- People who have a low and/or fixed income.
- People who are experiencing financial difficulty.
- People with bad credit ratings. This demographic has been targeted in advertising campaigns before.
- People with English as their second language.
- Advertising to young people in this area must be regulated more. There are clothing stores in Auckland that specifically target young people who become locked into repayment plans and high interest rates. We have had many clients who have had younger brothers and sisters default in their repayments to these stores, sometimes via Q Cards, and then struggle with to repay the penalty fees and interest rates.

4.2 ASSISTING INFORMED DECISIONS

How should responsible lenders help borrowers or guarantors to understand the terms of a credit agreement, guarantee or credit related insurance agreement (or any changes to the terms)?

- Allow enough time with the borrower for further questions, and to relay information to their spouse, family member, friend or advisor.
- Provide relevant summaries and bullet points of the contract in plain English or whatever language is the borrower's first language if appropriate.
- Use simple, plain English.
- Terms and condition must be readable.
- Allow client to seek advice from external party.
- Refer to an interpreter if English is a second language.
- Responsible lenders should allow a period to consider the provision of the loan whereby the borrower can take the papers away from their office and read them at their leisure and/or seek advice from a third party such as a lawyer or a budget advisor.
- Lenders should have access to a list of independent providers of these services as part of the Code (possibly an Appendix) that they should provide to their customers. This will address issues of the conflict of

interest that arises when the person giving the loan is required to comply with the full disclosure regulations in the Act.

- The above information should be required to be given orally in face to face or telephone contracts.
- Online application processes should provide links to an appropriate site for information such as Consumer Affairs to give guidance to borrowers before they complete their application.

What should responsible lenders do where English is not a borrower's or guarantor's first language?

- Our budgeters and community workers were unanimous in the need for lenders to provide information and access to a recognised translator where English is not the first language.
- Using or referring to other services such as the language line, CABs or other specialist NGOs is preferable here. However, this process might put more stress on those services, particularly if that service is not funded for these types of translation services.
- The minimum requirement should be to ensure the person has a support person (a third party not associated with the lender) who is able to translate both what the lender is saying and the loan documentation for the borrower. This should be noted on the documentation as well to ensure that both parties are protected.
- If possible the Code should strongly recommend the translation of the document in to the language of the applicant.
- Lenders should speak slowly and clearly when initially explaining the contractual arrangement. The explanation of this information is critical in this credit or contract relationship.

What opportunities do/should responsible lenders provide to borrowers to ask questions about the agreement? Would providing access to frequently asked questions be sufficient?

- The provision of FAQ's would be helpful, but not sufficient due to the document being written by the lender and the potential conflict of interest in this scenario. If the FAQ's were written by a third party in a collaborative arrangement with the lender whereby the other party asserts this with their logo being on the fact sheet, this would represent a stronger model.
- Other than this, there should be an opportunity for questions at the time of the application, and a grace period, as mentioned above to give the borrower time to digest the information and/or seek alternative advice.

How do/should responsible lenders assist borrowers to understand the implications of the credit agreement? For example, if technical or legal concepts are referred to, should the agreement explain the implications of those concepts?

- An explanation of technical or legal terms is essential and may form part of a Glossary of Terms in a contract. The standard ones used on a regular basis should be identified, outlined and defined in the Code for access by lenders to use in their contracts.

- A responsible lender should vigorously advise the consumer to seek independent legal advice or advice from a qualified advisor. This means that the lender would not be quickly rushing to complete the transaction but take reasonable time to conduct a fair transaction.

What are/should be responsible lenders' processes in relation to independent budgeting or legal advice for borrowers and guarantors? In which circumstances should the lender require or recommend independent legal advice?

- The lender should always allow for a time period to allow borrowers the option of consulting a third party (as mentioned above). This would particularly apply to borrowers who are approaching the lender for the first time. This also, allows for a 'cooling off' period for the transaction.
- If, at any stage, the lender is not sure that the contract and obligations of the contract are not understood by the borrower, then they should require third party intervention.

What do/should responsible lenders do to assist guarantors to make informed decisions?

- They should verbally confirm that the guarantor understands that they will become responsible for the loan contract requirements should the original borrower default on their obligations under the contract.
- The lender could also where possible ask the borrower to explain back to them the basic elements of this specific transaction.
- There should be signed evidence of this discussion and acknowledgement in the agreement with a provision for transactions over a certain amount (to ensure protection against undertakings that could have a large financial impact on the guarantor) to be witnessed by an independent third party.
- This would protect the lender against accusations of not following due process and the borrower in that the third party would promote understanding of the obligations.

What information do/should responsible lenders give a borrower to assist them to make an informed decision on credit related insurance?

- The compulsory requirement for credit related insurance should not be allowed for in the Code. This type of insurance should intrinsically reduce the interest rate for the loan. Given that the justification for high interest rates is the risk involved, this insurance (paid for by the borrower nonetheless) represents a movement of the risk (and also a further income source to the lender in the form of commission paid by the insurer) from the lender to a third party.
- Many borrowers do not understand this situation and do what they are told in respect to this. Lenders must advise borrowers what the purchase of this insurance means and should, in fact, refer the borrower to a third party for an explanation of this scenario.

4.3 LENDER TO MAKE REASONABLE ENQUIRIES

What information should responsible lenders require from a borrower when they apply for credit?

- A full list of Income and Expenditure, with a preference being for a full Budget completed with the assistance of a third party such as a Budget Advisor. The budget should be supported by financial information such as a bank statement, copies of bills for existing payments. The allowable payment amount should not exceed an established percentage of household income under the budget. This percentage should be decided by qualified advisors during the process of writing the Code and should be mentioned in the Code itself. The repayment levels could also vary for different types of loans.
- Further to percentage levels of individual debt repayment there should also be included in the code levels of overall debt commitment that are factored in. For example: A lender should be concerned if a potential borrower has say 30% of their finances already committed to debt repayment. Note: this figure could be higher or lower and is only for the purpose of giving this example. The levels would need to be worked out by qualified advisors to the writing of the Code.
- I believe that the lenders should also check that all payments/commitments have been advised by the potential borrower and request that the borrower sign a document to confirm this.
- A credit check is only one tool in the process of checking the borrower's ability to service the loan and should only be used in conjunction with the above mentioned and other information.
- A full budget sheet and their credit history for the last 5 years
- Valid ID and proof of current income.
- Proof of current address and contact details.
- 3 months bank statements for all accounts they own.
- Budget report for affordability.

When should responsible lenders check whether the information a consumer has provided is correct?

- During the interview.
- Before actually granting any credit.

What do/should responsible lenders explain to the borrower in relation to the purpose of the checks and assessments of affordability?

- This should be a transparent and fully disclosed process. The lender must explain to the borrower that their ability to repay the loan is based on factors such as income and expenditure and that they would be likely to default on the loan if their current situation is unworkable. The purpose of the checks and assessments is to safeguard both parties from issues with loan repayment defaults and over commitment of household income.
- They should also be required to advise the process for seeking redress should they feel that the lender has not taken a responsible approach to the lending process. The borrower could sign to this effect.

How do/should responsible lenders assess whether the information a consumer has provided is correct? In what circumstances do/should responsible lenders be able to rely on information provided by a borrower?

- There are methods and standards for confirming a person's identity such as two forms of photo ID and presentation of other documentation. See above for the provision of correct financial information.
- At all times, the lender must follow due process to confirm the borrower's details. If they are unsatisfied with the information given, the Code should inform them to not proceed with the loan.

How does/should a responsible lender's check differ for existing customers and new customers?

- Existing customer's information can be checked on an updating basis. Situations do change and time frames for when updated financial and personal details should be provided by the borrower should be included in the Code. The nature of the lending may dictate different time frames too. Potentially, pay day type lending would require more regularly updated details than other lending types.

How should the lender responsibility to be satisfied that it is likely that the credit will meet the borrower's requirements and objectives be balanced against not unduly restricting consumer choice?

- The development of a standardised lending checklist as part of the Code, that indicates the lender has considered the appropriate information and has signed to this effect. Examples of checklist questions are listed below:
 - Does the income level of the borrower indicate initial ability to finance the loan repayments?
 - Does the borrower have sufficient means to pay the loan after *all* expenses are listed against current income?
 - Does the borrower fully understand the amount of the loan, the repayment amounts and frequency, the security (if any) attached to the loan?
 - Does provision of the loan meet the presented need of the borrower?

What factors should be taken into account in considering what should constitute substantial hardship?

- Is the household budget in surplus and deficit?
- Is the provision for food in the household budget in line with current levels of accepted expenditure?
- Is the household rent being paid?
- Are the household utilities up to date?
- Are the current loan repayments allowing the household budget to cover other expenses such as medical bills, school costs and other budgeted costs?
- Hardship provisions should not be prohibited if the borrower is in arrears on their repayments. The Code should state that hardship can be

considered at any time during the life of the loan and can be applied for by the borrower at any time.

Should substantial hardship be assessed by reference to any particular indicators or reference budgets?

- Guidelines could be provided for in local rental/mortgage figures, consumer price index figures for food expenses, current rates of utility charges on average household use and inflation figures to name a few sources of knowledge of how the household is covering the three essentials of rent, power and food.

To what extent do/should responsible lenders take into account likely future market conditions (e.g. interest rate raises) when assessing affordability for the borrower (particularly for long term credit agreements such as mortgages)?

- A percentage variance for the repayment amounts should be allowed for when the loan is considered for approval. This variance could be based on historic market information using the highest and lowest interest rates over an established period.

Do/should responsible lenders engage in lending that relies primarily or solely on the value of any security provided by the borrower?

- Not always, but if they do take security, the value of the security should not exceed the value of the loan and security should not be realised that exceeds the value of the loan principle at the time of repossession.

Are there circumstances in which it should be presumed that the consumer will only be able to make repayments with substantial hardship?

- The Code should work to ensure lenders avoid undue hardship. If the process of assessing hardship indicates that basic needs and necessities (as discussed above) are not being met or attended to, then the loan arrangement must be revisited.

What policies do/should responsible lenders have in place to assess whether the security taken is excessive relative to the size and length of the credit provided?

- There could be a table of average values for potential security items that is provided for in the Code that guides the taking of security for loans. This could be updated regularly online and lenders should refer to this when they undertake security arrangements.

What other inquiries should a responsible lender make, and who should they ask?

- Obtain 2 character references for the borrower.
- Have discussions with any person or organisation that has provided financial advice to the borrower in the previous 2 years.

What information do responsible lenders need to consider when deciding whether the credit arrangement meets the requirements and objectives of the borrower?

- The relevant information to be considered is how much the borrower needs to meet their goal, how much they can manage and to not offer to the borrower any more than they need to fulfil the initial goal.
- Considering the affordability of the arrangement for the borrower is essential. Also, unforeseen circumstances can play a major role here and responsible lenders should consider these as well.

What factors should lenders consider when deciding whether the payments will cause substantial hardship? Are there particular indicators or reference indexes that can be used?

- One community worker commented about how beneficiaries, particularly long term beneficiaries, present to them with such high levels of debt. If the borrower is already on a very low income and even a government support payment, then this is a good indication that hardship could be likely for that borrower.
- Another budget advisor suggested that cost of living and contingency plans might need to be developed by the lender. A scale could be designed that covers all the demographics and average costs set and this could be used as a guide and adhered to and used by all credit providers.
- Yet another advisor stated that the number of dependents the borrower has or even the number of children at home should be considered, particularly as school-related costs can escalate. Also, other key expenses that are likely to require spending such as major birthdays or events should be considered as well.

Other than complying with disclosure requirements, what information do/should responsible lenders provide to borrowers in relation to the credit agreement during the life of the agreement? For example, should lenders provide certain information to borrowers to enable borrowers to make decisions as to whether to exercise their rights under the agreement?

- At times of exception such as issues with repayments, requests to change securities arrangement and other situations, the lender should be obliged to disclose the borrower's rights under the Act.
- They should also provide reasonable information to allow the borrower to seek further, third party advice, and inform them of avenues for internal and external complaints and redress.

What practices do/should responsible lenders refrain from during the life of the credit agreement? (For example, should responsible lenders refrain from the practice of holding multiple direct debit forms so that one can be re-submitted if a form is cancelled?)

- Multiple direct debit forms should not be allowed for under the Code.
- The control of the borrower's money is not part of the intention of a credit arrangement.

- Issues with repayment should be handled in the appropriate manner allowed for under the law should the repayment cease or be reduced without advice to the lender.
- Direct debit forms themselves give too much control. Should repayment amounts change due to increased and/or decreased lending, the arrangements for repayment should be under the control of the borrower.
- Automatic payment amendments initiated by the borrower and not direct debits should be the industry standard. Direct debits are intended for the payment of regularly variable amounts for items such as utilities.
- This one change would significantly alter the credit industry for the better.
- One of our budgeters commented extensively about a potential issue of borrowers unknowingly being charged two types of interest on their repayments.
 - This budget advisor stated that creditors or lenders usually disclose the first or main interest in the contract.
 - However, the budget advisor said several lenders were not disclosing the second way in which interest is being charged to the borrower.
 - The lenders have different forms of this wording of this other interest. One example is: *interest charges are calculated and charged (depending on the creditor they may charge these weekly, or monthly) by multiplying the average unpaid daily balance for the preceding week by a weekly interest rate. The weekly interest rate is calculated by dividing the annual interest rate by 52.*
 - The interesting thing is that the client doesn't get to see the 2nd part of the interest being charged because it's charged on their statement of account, which in a lot of cases the client doesn't get to see unless they request this statement from the creditor.
 - A lot of the borrowers are not aware of this 2nd interest charged, however if they were to see their statement of account it shows it very clearly.
 - This advisor has attached 3 cases or examples of this potentially hidden interest charge⁴.
 - The key thing is that the lender should disclose all forms of interest charged to the borrower.

4.4 FEES

Are there examples of fees you consider to be unreasonable? Why?

- One worker commented that the massive amounts of interest charged remains the most unreasonable sets of fees she sees in her work. Also, there are numerous fees for late payments, cancellation of payments etc. that add more hardship to consumers.
- Other examples include:
 - Direct Debit fees.
 - Administration fee for any *payment* made.
 - Letter fee of \$30.00 any time a missed payment is made.

⁴ These are attached to the email the submission was sent in.

- \$5.00 for a telephone, fax or text message in regard to a missed payment
- These fees are far too excessive and only add more debt to the client who is often struggling trying to make ends meet as well as repay the loan.
- The fee should not be set as a punitive measure. Fees should also reflect the physical value of the service and should not be set to cover the organisational costs for the conducting of their business. An example of this is the cost to send an arrears advice to a borrower. This should not cost \$20.00 and should be a nominal charge to reflect perhaps the postage and stationary involved.
- The rationale for this is that the risk of default to lenders is built in to the interest rates charges (which are often excessive) as well as the cost of lending to the sector they are involved with. If the fees are punitive and support the overall cost model of the business then the rationale for high interest rates has less justification and becomes part of the profit model for the business, as do the fees.
- There should be a schedule of established, reasonable charges in the Code.

What costs or losses should the lender be able to recover through default fees?

- The main rationale for higher interest rates (particularly on unsecured lending) is the risk of default. In a situation where many loans are repaid, these higher interest charges provide a pool from whereby other losses can be absorbed dependant on the business model of the lender.
- The system of default interest rates seems to be the rationale for covering the risk and cost of and actual arrears/potential default situation. Extra fees on top of this only serve to be punitive and to make the repayment of the loan that much more difficult. Default interest rates should be set at a reasonable rate as well in the Code if allowed for at all.
- Given the above, the charging of extra and excessive fees on top of this seems only to serve to bolster the margins of the lender and to make repayment of the loan more difficult.

4.5 REPAYMENT DIFFICULTIES

What steps should a lender take when borrowers fail to meet repayments or are having difficulty making payments?

- The responsible lender should meet with the borrower and a Budget Advisor if there is one involved.
 - A community worker told a story of a particular client who had difficulty meeting a repayment plan: *After our session I sent through a payment proposal which was declined, I was told they had been in communication with client since February this year. The company said the borrower had to have an appointment on site and at this appointment they look at the client's budget. I had asked if they considered our Budgets that we had put together and they said they did not consider this external budget. I then rang again this week and asked about their*

processes. From our last conversation I was told that a Financial Hardship Application had to be sent in before any proposals could be considered. When asked for these forms, I was asked to pass the phone onto the borrower. After 3minutes of talking, the borrower hangs up. The borrower then tells me that the lender says if payment is not made he will repossess his household items. Now we are trying to work through the process again with this client. English is not the borrower's first language. From my perspective, this lender was using bullying tactics because after the borrower and I informed them that there is absolutely no way borrower can make the repayments, they immediately threatened repossession. The borrower was led to believe that paying the amount was the only option or else goods will be repossessed.

- The lender could also:
 - Contact client and find out where the client is at financially.
 - Work out how much they can afford or offer a holiday time until the client is able to pick up.
- Given that some credit contracts do request the borrower advise if there has been a significant change to their financial situation, this can be the trigger to revisit the household budget and determine ongoing affordability of the loan.
- Other than this, it would seem that an initial repayment default would still remain the first and possibly best indicator of any issues.
- Another step could be to renegotiate the terms of the contract. This could be more successful if the borrower had more external advice and support at this stage.

What should responsible lenders take into account when considering repayment plans proposed by borrowers suffering unforeseen hardship? Closing the account, to avoid the extra fees?

- The responsible lender should take into consideration that there are unforeseen circumstances that people cannot avoid.
- Put payment on holiday for a certain time frame
- Freeze interest
- Consider reconsolidation
- Extend time frame
- Make affordable payment
- It is better to be merciful rather than being pushy which will lead the client into bankruptcy, then, they will get nothing.

4.6 REPOSSESSION

What other options could be explored before repossession?

- The borrower could be encouraged to voluntarily surrender the goods within a certain time period or meet with the lender to renegotiate the repayment plan.
- The responsible lender should send a pre-possession letter to the address followed by attempts to contact the borrower.

- One worker retold a story to illustrate that other circumstances often affect these arrangements: *A previous client of mine who was undergoing huge medical issues had people turn up to his home to repossess the goods. Luckily neighbours were home and intervened. They left, yet they continued to harass the borrower while they were still in hospital. The borrower had defaulted because of their major health concerns and issues. But the repossession agents seemed to not consider or care about this. The borrower has since filed a complaint with the Financial Disputes Resolution.*

Should there be guidance on the repossession of items of little economic value?

- Our workers were again unanimous in saying there needs to be clearer guidelines into what is re-possessed. Items that don't carry much economic value but have huge personal, cultural, religious or social value are vital to many of the clients we see daily. Repossessing these to repay a debt is often unconscionable.

How should responsible lenders ensure that ethical behaviour is observed during repossession or debt collection?

- One community worker stated that re-possession agents should ensure the actual borrower is at home before they turn up. Furthermore, we submit that any actual repossession should be done in a manner that minimises any detrimental harm to the children present at this house.
- They should be professional and courteous in their work, not threatening.
- More regulation and staff training for bailiffs and repossession agents should be explored.

4.7 OTHER COMMENTS

Are there any other things you would expect a responsible lender to do?

- Treat borrowers with more dignity and respect.
- Multiple direct debit forms are completely unethical and deceptive.
- The RLC should ensure that lenders should not be able to freely call borrowers who have almost repaid their loans and offer them more credit.
- MBIE should further investigate and possibly promote the use of Payment Protection Plans and other forms of loan protection.

5. CONCLUSION

Thank you for the opportunity to comment on the development of the RLC. Our intention was to provide a submission that was uniquely informed by the first-hand experiences of our frontline budget advisors and community workers. These are our real experts. We hope the RLC, in conjunction with the CCCFA, will lead to fairer and more just credit contract and consumer finance arrangements, and reduce harm and hardship to many Kiwi families.

For any questions, please contact:

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