

SUBMISSION

Submission to Financial Services Regulatory Framework Inquiry

This submission is made to the inquiry on behalf of the Pilbara Community Legal Service.

Background

Pilbara Community Legal Centre (PCLS) is a not-for-profit, government-funded Community Legal Centre (CLC) providing a range of free services which include legal, financial counselling, tenancy advocacy and support, housing support, Redress, domestic violence advocacy and victim support and community migrant services. PCLS commenced operating in 1993 and has been providing services in the Pilbara for over 30 years. PCLS aims to reduce legal disadvantage, increase the capacity of individuals to manage their lives effectively and ensure people understand their rights and obligations.

PCLS is based in Karratha and operates offices in South Hedland, Newman and Roebourne. All PCLS services undertake regular outreach across the Pilbara Region. In-person outreach is complemented with audio-visual aids allowing online capability. PCLS receives Commonwealth funding under NLAP (National Legal Assistance Partnership), Department of Social Services for Redress Support and the Department of Home Affairs for Settlement and Transition Support for Migrants. State Government sources include funding for Family and Domestic Violence, Housing homelessness and Tenancy support and Financial Counselling. As such, PCLS is able to provide a holistic, wrap around integrated service to support clients across of range of intersecting issues.

Areas of inquiry that this submission addresses

This submission addresses two areas under Point 3 of the Terms of Reference, in particular:

- existing financial product design and
- culturally appropriate responses

Culturally appropriate responses

Case study:

Whilst undertaking outreach, a member of our financial counselling team visited a local indigenous arts studio in the Pilbara. This studio provides indigenous artists with a facility and opportunities to undertake art and to sell their products.

After speaking with some of the artists, our team member realised that there may be financial abuse occurring and involving family members. The artist was commissioned to do work over the year and was bringing in a substantial amount of money on a weekly basis (up to \$1500 weekly not including art shows). As some of the artists are in wheelchairs or are hearing and/or sight impaired, they rely heavily on family or friends to obtain cash funds out of their accounts for grocery shopping, to pay bills or general outings.

Often the family member or friend would gain access to the client's card and withdraw additional funds or use the account to make online purchases or pay for gambling. Banks would also not accept any liability on the basis that no fraud had been committed because the client was aware they were giving others access to their funds. Accordingly, the money is unreturnable to the client.

After speaking with the client, our team member arranged a meeting with the client and the bank to set up what we call a humbug account. The structure was that commission payments were made into a principal account and limited funds then fed the humbug account each week. The outcome was that only a small amount in the secondary account alleviating the possibility of financial abuse. The client still has access to the account, but they need to go into the bank to sign for the money if they need to access it.

It is our view that the above case study highlights the need for financial institutions to be alert to the increased risk of financial abuse that is evident as a result of cultural dynamics.

Although the case study describes a solution that was not particularly complicated, it was a solution that was nonetheless not obvious to the client.

We recognise that it should remain the choice of the client as to whether similar steps are taken however the inquiry may consider that the financial services sector be required to

provide specific advice about the hazards inherent in providing account details to other people and the simple steps to take to address these kinds of situations.

The Inquiry may also consider that third party authorities have not acted without proof that the account holder has received specific advice regarding the same.

Existing financial product design

Case study:

The client is a female, 32 years of age. The client originally moved to the Pilbara with her partner and 2 young children. The client did not work and cared full time for the children whilst the partner worked full time in the resources sector with a significant salary and benefits including provided housing at low cost.

Following a period of domestic violence then separation, the client moved out of the family home, still caring for young children. The partner remained living in the low-cost housing and maintained his full time shift work. The client was required to seek emergency accommodation and had no income. The client was also unable to access the couple's joint funds on short notice as the partner had put a hold on the account.

This case study highlights a very common situation that arises in regional areas. Situation of this kind are exacerbated by factors including, the presence of domestic violence and the vulnerability of one party due to both the domestic violence and the remoteness from supports such as family and friends.

From the point of view of the financial services sector, the issue that is most apparent was the inability of the client to access much-needed funds held by a bank in a joint account due to the other party placing a hold on the account.

Given the prevalence of domestic violence situations and the extreme vulnerability of victims who are in the process of escaping those situations, our view is that it would be prudent for the Inquiry to recommend that the financial services sector be required to take steps to review their policies and procedures to ensure that victims of domestic violence are afforded additional considerations. In particular, mechanism should be in place to allow victims to access joint funds where there is proof as to the legitimacy of their predicament.

Summary

In summary, this submission suggests that consideration be given by the Inquiry that:

- The financial services sector is required to provide specific advice about the hazards inherent in providing account details to other people and the simple steps to take to address these kinds of situations.
- Third party authorities do not act without proof that the account holder has received specific advice regarding the same.
- A mechanism should be in place to allow victims of domestic violence to access joint funds where there is proof as to the legitimacy of their predicament.

We thank you for the opportunity to make this submission. Please contact us if you require further clarification of any of the issues raised in this submission.