



**SUBMISSION OF GOOD SHEPHERD YOUTH AND FAMILY
SERVICE**

TO

**GREEN PAPER ON FINANCIAL SERVICES AND CREDIT
REFORM
JUNE 2008**

**“Improving, Simplifying and Standardising Financial Services and Credit
Regulation”**

Further Inquiries

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Good Shepherd Youth and Family Service

Good Shepherd Youth and Family Service congratulates the Minister for Superannuation and Corporate Law for enabling this timely discussion on financial services and credit regulation through the release of the Green Paper. We welcome the opportunity to submit to this significant review. It is very important that the review secures Government recognition of the place of credit and financial services as core services for all citizens, crucial to financial and social inclusion.

Good Shepherd Youth and Family Service is auspiced by the Good Shepherd Sisters and provides a range of community services from four major locations in the Melbourne metropolitan area- Collingwood, St. Kilda, St. Albans and on the Mornington Peninsula.

The mission of Good Shepherd Youth and Family Service is to advocate boldly for those who are marginalized. The inclusion of those on the margins can occur with policy and regulation which promote and build a just and inclusive society.

Good Shepherd offers financial counselling services at St. Albans and on the Mornington Peninsula. The services offered at St. Albans are generalist financial counselling services funded through Consumer Affairs Victoria/Department of Justice while the services offered by Good Shepherd on the Mornington Peninsula represent a combination of services funded through Consumer Affairs Victoria/Department of Justice, corporate funding through South East Water (a corporatised but not privatized utility) and through Mornington Peninsula Shire.

Good Shepherd also offers comprehensive micro finance programmes in the form of No Interest Loans Programs (NILS®) first established by Good Shepherd 25 years ago and now offered through a national network of 240 not for profit organizations. In addition in partnership with the National Australia Bank (NAB) Good Shepherd offers access to Step UP Loans which are low interest loans designed to encourage entry to mainstream financial services for people previously excluded. In addition Good Shepherd provides a Buying Service funded by the Victorian Government which assists low income households with the purchase of goods at fair prices and on reasonable terms.

Good Shepherd has therefore extensive experience with the use of credit by low income consumers. Good Shepherd also has experience with the deficits of the existing regulatory framework in ensuring adequate consumer protection and responsible behaviour of credit providers.

Catholic Social Teaching

Catholic Social Teaching expresses a preferential option for the poor. The Australian Catholic Social Welfare Commission develops the notion that a preferential option for the poor places the poor at the heart of public policy making rather than as the recipients of residual responses to poverty.¹ At the heart of public policy making should be the preservation of the dignity of all people regardless of their capacity to pay.

Credit and financial services are core services which directly address poverty and which can if responsibly provided give rise to hope and economic and social participation.

For Good Shepherd financial services sit alongside family services in preventing family breakdown and alongside services such as microfinance loans in building family strengths including assets, knowledge and participation.² We do not promote a charitable model of response to those in financial difficulty but speak from a paradigm which seeks structural guarantees of inclusion as a result of our intervention. Importantly we see that Government has a significant role in ensuring that financial services are adequately regulated. We are concerned that any approach to regulation will enhance the role of community finance and micro finance and recognize its unique contribution in bringing about social and financial inclusion.

Personal Credit

While over 86% of personal credit is held in the form of housing loans and Good Shepherd is increasingly seeing the down stream effects of mortgage stress in those presenting for financial counseling we are particularly concerned with the impact of personal credit in the form of credit cards and small loans from fringe lenders which comprise about 14% of the 1093.7 billion of total personal credit.

Good Shepherd recommends that the powers for regulation of all credit products and services should be referred to the Commonwealth Government and that regulation should encompass both prudential requirements of the credit providers and consumer protection components. This is conditional on the Commonwealth adopting **the highest level of consumer protection.** We would regard Federal regulation which results in a “drive to the bottom” for prudential supervision and consumer protection as retrograde.

¹ Australian Catholic Social Welfare Commission. “Market Principles and welfare: the dilemmas of privatizing Australia’s Welfare Services”. May 1993.

² Ayres-Wearne, Valerie and Palafox, Janet IBVM. (2005). “NILS® Small Loans-Big Changes: the Impact of No Interest Loans on Households”. Good Shepherd Youth and Family Service. Collingwood.

Good Shepherd has case studies acquired through our financial counselling and other services of:

- extraordinary fees and charges attached to small loans from fringe lenders outside the interest rate cap (in Victoria of 48%)
- inappropriate use of business purpose declarations to avoid regulatory requirements
- inadequate contracts and information
- consistent and inadequate documentation and exploitation in the used car finance sector
- multiple and inappropriate and unsolicited extensions of credit to credit card holders
- difficulty of dealing with foreclosures and legal action in one jurisdiction when the client lives in another
- credit providers operating under different entities in different states with the same ultimate beneficial owner of the business obscuring poor business practices
- threatening and inappropriate debt collection activities on the part of debt collection agencies contracted by major financial institutions
- the use of reverse mortgages by vulnerable and ageing Australians in the face of increasing inadequacy of social security payments for the aged.
- Vague and difficult to access hardship and dispute resolution mechanisms in some personal credit providers
- On-line and media advertising which does not adequately represent the product and which induces desperate consumers to further “risky” credit arrangements.
- The extension of credit where there is clearly no capacity of the consumer to repay.
- Multiple default and overdraw fees (penalty) in mainstream credit providers where direct debit arrangements are in place.

Good Shepherd has made representations over the years to various credit and legislation reviews at the Commonwealth and State level.³⁴ Even where there is general agreement at a state level for action there is considerable delay before it is taken up in legislation, particularly under the Uniform Consumer Credit Code. We believe strong Commonwealth regulation is necessary to achieve a consistency in the responsible operational and market behaviour of financial institutions and in the opportunity for consumers, particularly vulnerable consumers to identify and seek redress in relation to their rights.

³ Good Shepherd Youth and Family Service (2007). “Response to the Ministerial Council on Consumer Affairs Consultation Package”: Consumer Credit Code Amendment Bill 2007. Consumer Credit Amendment Regulations 2007 August 2007.

⁴ Good Shepherd Youth and Family Service and the Brotherhood of St Laurence. (2005) Submission to Victorian Government Consumer Credit Review: Discussion Paper. June 2005

Micro Finance and Micro Lending

The green paper makes a distinction between micro-loans and other forms of personal lending. While encouraging regulation in the area of small street level loans where exploitative credit has flourished Good Shepherd is particularly concerned that the Commonwealth Government find ways to enhance the developing area of micro finance and micro enterprise as a response to both market failure and market gaps.

It is clear that pay day lending and similar street level providers are meeting a demand but they are meeting that demand with exploitative behaviour. A feature of micro finance is that it aims to provide financial services to people with low incomes using means that are both fair and sustainable. A social agenda is inherent in their purpose –providing microfinance is a means to an end of alleviating poverty and exclusion. This important distinction has been set out by John Langmore in his presentation “Micro credit: More than just small change”⁵.

Burkett (2003) identifies the key features of microfinance as being concerned with

- provision of financial services to people who are economically poor and who therefore experience financial exclusion, in that they do not have ready access to mainstream, commercial financial services;
- provision of financial services to poor people using means which are as just, fair and sustainable as possible(therefore it excludes all exploitative financial services), with the underlying goal being that of poverty alleviation;
- having a community and/or social agenda inherent in its purpose, mission and /or goals- and the provision of various financial services may be a means to achieving this purpose rather than an end in itself;
- transactions that are relatively small compared to the typical transactions dominant in mainstream financial services;
- Including the full range of financial services to which poor people need access-it is not limited to the provision of credit.”⁶

It is important that any legislation preserve and enhance the capacity of the micro finance movement. Good Shepherd recommends that the use of the term “micro lending” in relation to commercial enterprises be abandoned and that “small loans lending” be used instead to avoid confusion with the not for profit and social enterprise sectors.

⁵ Langmore, John. (2005) “Micro credit: More Than Just Small Change” keynote address to “Micro credit: More Than Just Small Change” Conference Proceedings 9 -10 June 2005. Good Shepherd Youth and Family Service. Melbourne

⁶ Burkett, Ingrid. (2003) “Microfinance in Australia; Current Realities and Future Possibilities”. School of Social Work and Social Policy. University of Queensland.

Timeliness of Action and transition of power(s)

Good Shepherd recognizes the significant undertaking involved in the transfer of power for all consumer credit to the Commonwealth. We are also aware of the urgency in addressing some aspects of the behaviour of credit providers and of strengthening consumer protections. We are very aware of the difficulty for consumers is taking action under provisions which already exist both in terms of complexity, cost and access to advice about their rights. We are concerned that the transfer does not prevent these pressing problems from being addressed in a practical and timely manner.