



## **Standing Committee on Indigenous Affairs**

# **Inquiry into corporations' treatment of Indigenous Australians**

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## **About Financial Counselling Australia**

Financial Counselling Australia is the peak body for financial counsellors. Financial counsellors work in not-for-profit community organisations. They provide free and confidential advice and support to people experiencing financial stress.

## **About South East Community Links**

South East Community Links is a universal service provider, delivering a wide range of programs and assistance to meet the needs of people in the south east Melbourne community. From financial counselling and emergency relief, through to house, youth and family support services. South East Community Links works with individuals, communities, policy makers and business to ensure every person counts and every system is fair.

## **About HK Training and Consulting**

HKTC has been delivering the Money Support service since it's trial after the NT Intervention. HKTC delivers financial literacy, financial counselling, free tax help and emergency relief to the Darwin town communities, Belyuen and the Communities and outstations in West Arnhem Land and Kakadu, except for Maningrida, and all the renal patients in Darwin and Palmerston.

## **About MoneyMob Talkabout**

MoneyMob Talkabout is a not-for-profit organisation with a vision to empower Aboriginal people and communities to achieve economic wellbeing and self-determination. MoneyMob operates a money support hub in the APY Lands, the Mimili Family Wellbeing Centre, the Pawa Atunmanykuntjaku energy efficiency education program as well as providing Centrelink agency, Service SA and No Interest Loans.

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## 1. Introduction

This is a joint submission from Financial Counselling Australia (FCA), South East Community Links, HKTC and MoneyMob Talkabout.

The financial counselling and capability sector is on the front line in supporting First Nations people experiencing financial hardship and in building financial capability and wellbeing. We therefore welcome the opportunity to provide a submission to the House of Representatives Standing Committee on Indigenous Affairs Inquiry into corporate engagement with Indigenous consumers.

## 2. Meaningful engagement with Indigenous Consumers by Corporates

*Term of Reference - The way the corporate sector supports meaningful engagement with Indigenous Consumers*

Financial inclusion enables people to break out of poverty, reduces inequality, and empowers people and communities. How corporations and government engage with First Nations people and their communities can make the difference between building long-term financial inclusion or pushing people further into structural disadvantage. Front and centre of meaningful engagement must be a commitment by corporations to actions that empower First Nations people.

### 2.1. Identification challenges are a barrier to meaningful engagement

Issues in providing proof of identify are a long-standing, persistent problem for many First Nation's people when engaging with big companies including banks, telecommunications companies and utility companies. It is also a challenge for First Nations people in interacting with government services such as the Australian Taxation Office and MyGov.

There are many reasons for these challenges as set out below, including First Nations people having different dates of birth on different documents and the use of different names. Corporations interacting with First Nations people need to be aware of these issues and adapt their practices appropriately. Unfortunately, this is still not happening.

Another issue is that some locations, such as the APY Lands, still do not have officially recognised individual postal addresses. Therefore, when people are trying to fill out online forms for various financial services and products, there is no set convention for them to use to enter a recognised address. A variety of estimate or generic addresses are used, which results in confusion for people about what address they have used where and when, or what address they should use to access the product or service. The lack of an official address also prevents

people, for example, of having a choice of the full range of banking products where they cannot easily demonstrate an address for the purpose of getting through online applications.

## **Dates of birth**

Dates of birth for First Nations people can be different on different documents<sup>1</sup>. This is sometimes a result of old colonial practices in which people were considered the property of the cattle station on which they worked. Up until the 1970s, station owners were responsible for registering the births of First Nations people born on their property. For easy accounting purposes, station owners would simply record a January 1 (the beginning of the calendar year) or a July 1 (the beginning of the financial year) birthdate.

Missionaries and government officials sometimes recorded an approximate year of birth for First Nations children or young adults. Sometimes people can have up to four dates of birth. Inconsistent dates of birth with official records cause havoc for First Nations people because records do not match. As one example, First Nations people may not be able to access their own superannuation because of conflicting birthdates.

Further, conflicts of dates can occur between different government agencies, providing significant barriers to people accessing services. For example, if a First Nations person's birth has been registered with Centrelink on MyGov, and they then try to link with the ATO but that agency holds a different date of birth for the person, they are not able to successfully link this second service and must go through a lengthy process of identifying themselves over the phone to get a linking code. Sometimes, it is the agency which has recorded the incorrect date of birth, but the onus still falls on the person to provide accepted ID to have the problem rectified.

## **Spelling of names**

The spellings of names can be inconsistent.<sup>2</sup> As a First Nations woman Teresa Roe explained to the ABC, "When people were removed from their traditional lands and brought to places like Beagle Bay Mission and Moola Bulla Station, they were given names other than their traditional names."<sup>3</sup>

First Nations people also often have their traditional name, a kinship name, a European first name and/or surname based on the name of the pastoral station where they worked, and a nickname. Names may change due to marriage, partnerships, adoption or fostering. Colonial authorities also commonly misspelled names. Additionally, particularly when an Elder or a significant community member has passed away, due to Sorry Business protocol, their name will not be spoken and those with the same or similar name will use an alternative name. The name change may be temporary or permanent.

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<sup>1</sup> <https://www.abc.net.au/news/2016-07-03/mixed-emotions-for-stolen-generation-birthday/7563154#:~:text=Through%20much%20of%20the%2020,this%20year%20on%20the%20day.>

<sup>2</sup> <https://aiatsis.gov.au/family-history/you-start/indigenous-names>

<sup>3</sup> <https://www.abc.net.au/news/2016-07-03/mixed-emotions-for-stolen-generation-birthday/7563154>

Corporations need to ensure that important historical and cultural requirements are considered in the identification processes.

### **There has been some progress**

We also acknowledge that some progress has been made in some banks which now offer more flexible identification processes as set out below.

#### *Good practice in banking*

- Being able to open bank accounts without having to physically visit a branch, with details of identification sent or uploaded to the bank for verification
- Alternative forms of identification where a person does not have access to standard identification documents, including accepting a reference from a financial counsellor, community leader such as an Elder or community identification cards.

### 2.2.1 What needs to change

AUSTRAC recommends<sup>4</sup> a flexible approach to identifying and verifying customers who do not have conventional identification. This places the onus on financial services providers and other corporates to change their processes to better accommodate First Nations people. These recommendations include using alternative identification that is 'reliable and independent', such as:

- an Indigenous community identity card
- a reference from a community Elder
- a reference from a board member of a local Aboriginal Land Council or Aboriginal/Torres Strait Islander organisation
- a government letter that shows the customer's name.

As discussed in the example of good practice above, allowing advocates such as financial counsellors to be a reference for an individual will also provide additional options for identifying First Nation customers.

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<sup>4</sup> AUSTRAC guidance on identifying customers who don't have conventional forms of ID, <https://www.austrac.gov.au/business/how-comply-and-report-guidance-and-resources/customer-identification-and-verification/identifying-customers-who-dont-have-conventional-forms-id>

Additionally, the use of voice recognition technology, as is used by Centrelink, would be worthy investments made by corporations and government services to assist in resolving identification issues.

Finally, it should be ensured that all places in Australia have officially recognised addresses that follow a consistent protocol, to remove barriers at the first instance to people being able to access products and services.

## **2.2. Indigenous phone services**

Some corporations, such as major banks, have invested in dedicated lines for First Nations people. The intent behind these services is to provide culturally safe and equitable access for customers. We welcome this investment, however, more needs to be done to ensure these services are properly resourced and respond to the actual needs of First Nations people.

As a minimum, it is critical that dedicated phone lines are staffed by First Nations people who have adequate training to support people in a culturally sensitive way. Financial counsellors have also observed instances where these services fall short of providing the support intended. This includes experiences of long wait times, calls being redirected to mainstream lines, and language barriers.

Another limitation is that these specialist phone services only provide a limited range of services. For example, they may not be able to handle requests for financial hardship assistance, assist with reporting of scams or financial abuse.

### **2.2.1 What needs to change**

Corporations need to invest in adequately resourced, culturally sensitive dedicated indigenous phone lines that are staffed by First Nation people. These phone lines need to offer a full range of services to First Nations people.

## **2.3. ATO and Identification**

Government services also need to properly invest in, and manage, their Indigenous helplines. Despite having spent significant amounts of money in 2018 to invite numerous First Nations consumer representatives to Brisbane to attend a forum about how to improve services to ATSI clients, the ATO's services and processes have not improved. For example, financial counsellors continue to report challenges when using the ATO First Nations Helpline. First Nations people, financial counsellors and financial capability workers often contact the ATO Helpline for things such as linking a MyGov account to the ATO.

During 2020 we worked with the ATO to try and clarify the way their dedicated First Nations Helpline operates. For example, we understand that a financial counsellor and their First Nations client can ring the Helpline together and that the ATO procedures permit a:

- loud speaker call – so that both the financial counsellor and client can participate
- financial counsellor can explain the identity questions to their client
- a financial counsellor can spell the client's name for the ATO and assist by providing explanations to the ATO, for example, if the client has an aboriginal name and a government-registered name.

These procedures are very helpful and help overcome some of the identification barriers that First Nations people face. The trouble is that they are not always applied as set out in the case study below. Unfortunately, it is not an isolated example.

*Case study from a financial counsellor (from November 2021 – edited slightly for clarity)*

The ATO made a man spell his name after I told the operator he was illiterate. Luckily we were put on hold so she could consult her team leader about the situation. My client had four letters to his name, so while we were on hold, I taught him how to spell his name by letter word association, but I still had to remind him what we spoke about without telling him the answer when the operator came back.

The look of shame and embarrassment was heart wrenching, and then to my disgust after he gruellingly went through the process to spell his first name he was then asked to spell his last name, which was much longer. My reply was, did you not hear me, the gentleman cannot read or write, he is illiterate (I asked his permission to share this). She insisted it was a requirement to ID him.

We got there in the end without him having to spell his last name, however he had to come back the next day, as the operator would not / could not do what was needed. All of this was only to link his MyGov to the ATO.

I spent two hours on the phone for this one client. This is not an isolated incident when it comes to ATO and MyGov, however at this stage for me it is the worst, the client experienced humiliation, demoralisation and shame.

We have escalated the above case study to the ATO but it is not clear what may change. There also appear to be problems when the First Nations helpline is busy and calls are then forwarded to other areas in the ATO.

### 2.3.1 What needs to change

The ATO needs to have quality control processes in place to ensure that their First Nations helpline follows its own procedures and that when issues occur, they are investigated and fixed. Government departments should also be held to account for commitments made during consultations, to avoid raising expectations of consumer representatives and wasting taxpayer money on initiatives that are not followed through.

## 2.4. Access banking services in regional and remote areas

Having access to banking services in the community is fundamental to participating in our economy. This is important for both ensuring easy access to services and that those services are provided by those with knowledge and understanding of the community.

Having access to physical services is particularly important when identification challenges come into play. The requirement to visit a bank to be identified is not possible for people who may live hundreds of kilometres away from their nearest branch. This has been particularly challenging in communities that have experienced branch closures, or where banks do not make remote visits.

Where it isn't possible to sustain a branch, remote visits by appropriately trained staff can be a viable alternative to provide equitable access to banking services.

### *Case Study*

An Elder from Yalata Aboriginal community spoke with a financial counsellor seeking help with his identification and to access his bank account as he had lost his bank card. The financial counsellor called the bank for him and was told the Elder needed to go to a local branch to confirm his identity. The nearest branch is 550 kilometres away. The Elder had no money for fuel to get there as he had no bank card. He would also need to pay for accommodation to stay overnight because of the 1,100-kilometre round trip just to pick up a bank card. Fortunately, we managed to get some money for fuel and accommodation from the local emergency relief service.

The issue of access to banking services in regional areas is also being considered presently by the Regional Banking Taskforce, in a process managed by Treasury. The Taskforce “will bring together banks and other key stakeholders to assess how bank branch closures have impacted local businesses, industries and communities”.<sup>5</sup> We support the recommendation in the joint

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<sup>5</sup> <https://treasury.gov.au/review/regional-banking-taskforce>

consumer group submission to the Taskforce that banks should commit to a moratorium on regional bank closures until the recommendations of the Taskforce are known.<sup>6</sup>

#### 2.4.1 What needs to change

Banks need to provide regular mobile banking services in remote areas with staff that have undertaken cultural competency and cultural safety training, to provide direct services on the ground. Where banks are relying on local community services to provide a level of familiarisation or introduction to the area, they should provide financial compensation to the service involved for the time required and resources used.

### 2.5. Fee Free ATMs

Access to fee free ATMs in remote communities continues to be an issue. Where fee-free ATMs are not available, First Nations people can spend a disproportionate amount of their income on ATM fees. At a cost of \$2.50 or more for each transaction to check a balance or withdraw cash, these fees can quickly add up and have a disproportionate impact on people living on low incomes. The situation is also inequitable as people living in other parts of Australia can generally access fee-free ATMs.

For the past 10 years, the banking industry has underwritten the cost of 85 ATMs in remote communities so that they are fee-free. After a recent review, this number is planned to increase to 100.<sup>7</sup> While this is a welcome move, there will still be communities without access to a fee-free ATM. They can also be inaccessible to some people because they may not be placed in locations that are commonly accessed by individuals. Roadhouses and shops in transit locations frequently used by first nations people are a particular issue. For example, the journey between the APY Lands and Alice Springs takes five hours. There are three roadhouses along the way, where people may need to access cash or check a balance at an ATM that charges fees.

#### 2.5.1 What needs to change

There needs to be a fee-free ATM in every remote community and on transit routes to major centres. They also need to be adequately advertised so that people know the machine is free and placed in locations that are easily accessible to First Nations people.

## 3. Strengthening corporate sector cultural understanding

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<sup>6</sup> Joint consumer group submission to the Regional Banking Taskforce Issues Paper, December 2021, <https://www.financialcounsellingaustralia.org.au/fca-content/uploads/2021/12/211215-Joint-consumer-submission-to-Regional-Banking-Taskforce.pdf>

<sup>7</sup> This is conditional on changes being made to existing ATM deployer contracts as the actual ATMs are provided by private providers.

*Term of Reference - How to strengthen corporate sector cultural understanding, and how this is demonstrated through their engagement with Indigenous consumers*

### **3.1. Cascading cultural competency and cultural safety training**

While there is no one size fits all approach to cultural competency, it is a necessary condition if there is to be authentic engagement with First Nations people.

A starting point in building culturally competent and culturally safe organisations is through ongoing training programs. This work requires time, resources, practice, and reflection. This training should not be limited to those on the front line, but embedded throughout the whole of the organisation, from people answering the phone through to the executive and board.

We welcome the investment by some corporations into cultural competency and cultural safety training, particularly for teams designated to work with First Nations people. However, this type of training is not offered to the wider company and leadership teams.

It is critical that all parts of an organisation receive appropriate training to engage and support First Nations people, in particular the functions that have considerable influence over systemic practices and the culture of an organisation. This should include the risk, policy, legal, human resources, and the senior leadership of organisations.

#### **3.1.1 What needs to change**

Corporations need to invest in cultural competency and cultural safety training for all staff at all levels in an ongoing and reflective way.

### **3.2. Getting out in communities**

The building of empathy by leaders and teams working within corporations can be developed through being exposed to the issues and experiences of First Nations people at first hand. We believe therefore that it is critical that people take the time to get out on the road, both in urban and regional areas, as well as remote communities to understand the lived experience of First Nation people.

Corporates leaders who do this should also provide recompense to agencies who host and organise visits of this nature for the time and cost involved. The local agencies are best placed to know what is appropriate as well as the timing for any visit.

### 3.2.1 What needs to change

That the senior staff in big corporations, including the executive and board, get out in the community to get a first-hand understanding of the needs of First Nation people. This should include urban, regional and remote communities where First Nation people meet (e.g., Gathering places, co-operatives, legal and medical centres).

## 4. The impact of Reconciliation Action Plans (RAPs)

*Term of Reference - The impact of Reconciliation Action Plans (RAPs) in developing targeted approaches on engaging with Aboriginal and Torres Strait Islander people through such actions*

Reconciliation Action Plans (RAPs) play an important role in encouraging corporations to improve the way they work with and support First Nations people. Unfortunately, we commonly see a disconnection between RAPs and corporate practice. Three key themes we observe include:

- some areas in a corporation undertaking engagement with First Nation's communities but these areas are often under-resourced;
- learning that may take place within one team often does not cross over to other parts of the organisation. This can lead to RAPs only being applied within silos within the organisations;
- key individuals in an organisation that have considerable influence, such as those undertaking legal, risk and policy functions, often not being exposed to RAPs. This means that the RAPs are not mainstreamed into the day-to-day practices of the corporation.

The experience at Telstra is a case in point. Although Telstra had a RAP in place, some of the company's licensee stores were mis-selling telecommunication products to First Nations people leaving them with unaffordable debt. The ACCC instigated legal action against Telstra for unconscionable conduct in the Federal Court resulting in a \$50 million fine<sup>8</sup>.

It is important that there are clear accountability mechanisms and feedback processes to monitor RAPs and how they are connecting to wider practice, including agenda items at a board level and regular review and reflection by the teams responsible for implementation.

### 3.2.1 What needs to change

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<sup>8</sup> Telstra to pay \$50m penalty for unconscionable sales to Indigenous consumers, <https://www.accc.gov.au/media-release/telstra-to-pay-50m-penalty-for-unconscionable-sales-to-indigenous-consumers>

RAPs need to be more clearly part of the DNA of an organisation.

While the RAP process may require reporting at board level, independent verification and auditing would provide a higher level of accountability. Audits should, where relevant, also include consultation processes with local organisations as they can provide informed comments about what is actually happening on the ground.

## 5. Other matters as required

### 5.1. ATO sharing of superannuation information

First Nations people also face barriers in dealing with the ATO when trying to find out if a deceased relative had any superannuation. Without this information, it means that they may miss out on accessing money that should rightfully come to them.

#### Background

The ATO holds information about the existence of active and inactive superannuation accounts for every Australian. The ATO will tell the relative of a deceased person about the existence of any *inactive* super accounts. However, unless a relative has probate of the will or letters of administration, they will not tell them if there are any *active* superannuation accounts.

This means that many people, but particularly First Nations people, may be missing out on superannuation benefits, either lump sums or through an insurance claim, that should rightfully come to them after the death of a loved one. The case study below is an example.

#### *Case study relating identification challenges at the ATO - Mrs Bally*

Mrs Bally, an Aboriginal elder, made contact with a financial counselling service in relation to her late husband's superannuation.

Mrs Bally's husband had a number of jobs over his working life including as a stockman, ranger, policeman and in the mines. Mr and Mrs Bally were married for 33 years and had five children. When Mr Bally died, like many First Nations people, he didn't leave a will and there was little paperwork. But it is reasonable to assume that he probably had some super somewhere which could come in very handy to Mrs Bally. She is currently raising children and grandchildren so a potential lump sum would be life changing.

Two years on and the financial counsellor is still trying to find out. The Tax Office could tell Mrs Bally if there were any **inactive** superannuation accounts. But the ATO says the law prohibits it from telling Mrs Bally if there are any **active** superannuation accounts. And it is the existence of an active super account that is the key.

Instead, the ATO says the law requires Mrs Bally to jump through hoops. As Mr Bally didn't leave a will, she would need to spend a significant amount of money (\$3,000 or more) to get "letters of administration" to become the legal personal representative for his estate. The ATO says it can then pass on information about any active super accounts.

A classic catch 22 situation. Mrs Bally can't afford to get letters of administration and even if she did find a way to get the money, there is no guarantee Mr Bally has any active super so the risk is too high that it would just be a waste of money and effort.

The ATO's stance is also at odds with a recent report by the Inspector General of Taxation. Karen Payne's report noted that not all States and Territories even require deceased relatives to obtain probate or letters of administration to finalise estates. Ms Payne said that the ATO should be trying to reduce red tape, not add to it.

The financial counsellor helped Mrs Bally as much as she could. There was an inactive super account and Mrs Bally received the princely sum of \$35.91. Mrs Bally still doesn't know if Mr Bally has any active super.

The issue could be resolved through an amendment to Division 355 of the Taxation Administration Act 1953. This would allow the ATO to pass on information about the existence, or otherwise of an active superannuation account to the relatives of deceased people. There is next to no risk for the ATO in doing this - the decision as to whether a relative is entitled to any super, should it exist, is made by the trustee of the superannuation fund.

The ATO's own RAP says that it will build engagement with First Nations people through

*"encouraging and assisting willing participation in the tax and superannuation systems... We will explore ways to grow existing services and build new relationships with Aboriginal and Torres Strait Islander stakeholders, to support improved economic outcomes. This will lead to increased confidence in the Australian tax and superannuation systems".*

We welcome the ATO's positive work in partnering with the First Nations Foundation to help people to reunite with lost super through public awareness campaigns,<sup>9</sup> however this huge systemic issue has gone unaddressed and is not reaching large numbers of people. This points again to the disconnection between RAPs and corporate practice.

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<sup>9</sup> ATO support for Indigenous superannuation, <https://www.ato.gov.au/Media-centre/Speeches/Other/ATO-support-for-Indigenous-Peoples-superannuation/>

### 5.1.1 What needs to change

The Government needs to make a simple amendment to the Taxation Administration Act to allow the ATO to disclose the existence of an active superannuation fund to relatives.

The ATO needs to commit to making its RAP mean something. In relation to this specific issue, the ATO's "Law Design and Practice" unit could usefully consider the law reform required and document this for government.

## 5.2. MyGov – two step identification is a barrier

The shift towards digitisation is impacting those without reliable access to computer, mobile or internet technology. The digital divide experienced by First Nation's people has been well documented, with a recent report from the Good Things Foundation showing 30% of people in remote First Nations communities have no household internet or phone.<sup>10</sup> In the experience of MoneyMob Talkabout this figure is much higher and in the APY Lands would be closer to 90%. A shift towards digital identification makes it harder for people without access to computers to undertake the necessary steps to prove their identify.

An example of where this becomes a challenge in government services is with MyGov's two-step identification process, which can be difficult to arrange for some First Nations people. One reason is the shared ownership of mobile phones by multiple members of a family or due to no access to the internet or phone services at all.

This is not just an issue of First Nation's people living in remote areas. It is also the experience in urban & regional areas. Older people are especially disadvantaged as they do not have the technology or skills to navigate the systems. Often, they are attempting to navigate the system on the phone and with poor eyesight which is impossible for them.

#### *Case study relating to the digital divide*

An elder who had spent the first 20 years of his life living in the bush sought help from a financial counsellor to access his superannuation. His partner had suffered a stroke and was in Kalgoorlie Hospital. He needed money to register his car and renew his licence so he could visit her. Like many of his generation, including some in the white community, he couldn't use a computer.

The financial counsellor knew the elder had superannuation but couldn't get the required identification documents nor could they get the information from the Tax Office or the superannuation fund. Six weeks later, still stuck in this loop, the elder was so desperate to

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<sup>10</sup> The Good Things Foundation Digital Nation Report 2021, [https://www.goodthingsfoundation.org.au/wp-content/uploads/sites/2/2021/08/GoodThingsFoundation\\_DigitalNation\\_Report\\_Final\\_-August.pdf](https://www.goodthingsfoundation.org.au/wp-content/uploads/sites/2/2021/08/GoodThingsFoundation_DigitalNation_Report_Final_-August.pdf)

see his wife that he ended up driving down to Kalgoorlie. He was stopped by police on the way and jailed for more than three months for not having a licence and driving an unregistered car.

### 5.1.2 What needs to change

MyGov needs to put in place alternative processes for people unable to use two-factor identification because they do not have reliable access to the internet or digital devices.

## 5.3. Predatory or unsafe business practices

This section describes a set of predatory or unsafe business models which target First Nations people directly, and/or often result in detriment. Some of these practices involve reasonably large companies, some of which are listed on the ASX, others relate to smaller corporates.

### 5.3.1 Sale of overpriced photographs

The sale of photography packages to First Nations people, either door-to-door or in shopping centres, can cause detriment.<sup>11</sup> Financial counsellors and capability workers report examples of salespeople targeting vulnerable communities, with sales worth thousands of dollars. Companies do not send the final product until final payment, which for some customers may take years.

#### *Case study*

I have had the same personal experience with this photography company when they came through the Kimberley (Kununurra) early 2015. I did not get all my photos back when I had made the final payment. I actually was given someone else's photos. I would be putting the word out that this photo company isn't what they promote themselves to be. I also know of many community people that fell into \$3,000 or more financial commitment trap.

#### *Case study*

This company used to do the rounds in Central Australia and was notorious for charging people thousands of dollars (as in \$4k) for photo packages which they tried to pay off on Centrepay and didn't receive the photos for years - if ever. I had a couple of clients in this position - of course they always wanted the photos as they were of beloved family members.

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<sup>11</sup> For an example of a company offering this service see Classic Family Photos - <http://www.classicfamilyportraits.com.au/>

But after a few years of payment and not receiving anything, they became disillusioned and changed their minds.

#### *Case study*

My partner and I had photos taken of our kids in early 2015 when the company came through the Kimberley region. I would not recommend this company as they charged us around \$1,200 for 4x A4 size framed (no glass) pictures, the photos also had bubbles under 3 out of the 4 frames we received. The company does wait for full payment to be made before they send them out and, with other financial commitments, it took us about 18 months to pay this off.

### 5.3.2 Charities – auto donations, people sign up to get rid of them

Donation sign-ups by charities, both on the street, telephone and door to door, is another practice that is impacting First Nation people who can often feel pressured to commit to a donation. Some people sign up just to get salesperson off their back. The related issue of gratuitous concurrence, where First Nations people because of cultural reasons will agree with statements, is also a factor. Some people also experience difficulties when trying to cancel regular direct debits, such as HHES Books and DVDs (see case study below).

#### *Case study from a financial counsellor*

I spoke to my colleague who sees multiple bank statements on a daily basis. One particular client she saw was an elderly lady (70) living in central Australia. The charities we saw were:

- ChildFund Australia
- Plan International
- CP Alliance (Cerebral Palsy)
- Taronga (presumably the zoo)

It is not clear if she was signed up for these while in town or in community.

We also see a lot of HHES Books & DVDs (Home Health Education Service or bible books) who refuse to cancel direct debits. Guide Dogs who seem to be easier to deal with.

## 5.4. Unsafe lending practices & consumer leases

### 5.4.1 Unsafe credit products are causing harm

First Nations people continue to be harmed by unsafe lending, sometimes to extent that it is predatory. Examples include:

- high-cost pay day loans;
- the sale of expensive consumer leases for household goods (sometimes described as “rent to buy”). These products can see consumers paying three to five times the cost of the goods, and sometimes continuing to pay long after the contract should have finalised;
- the growing use of buy now pay later products. BNPL is poorly regulated, making it easy for people to become overcommitted with debt;
- door-to-door sales of products, such as Christmas hampers, which during COVID-19 restrictions have decreased but are likely to re-emerge with the lifting of COVID-19 restrictions.

#### *Case study*

Between 2014 and 2016, a salesman targeted First Nations people to pressure them into signing up for Harvey Norman GO MasterCards (Latitude Finance), falsifying the customers’ personal information so they would qualify for sales credit. Most people targeted had limited English and did not have stable incomes, so were unequipped to enter into any contract. They were left with debts in the thousands that they could not repay and were constantly chased by Latitude Finance for repayments.

With the intervention of a legal centre and with financial counsellors, these debts were eventually waived. But they should not have occurred in the first place.

### 5.4.2 Consumer leases

Financial counsellors have been raising issues about the practices of some consumer lease companies for many years, including payments still being taken even after the lease term has finished. IT equipment such as iPads and other tablets are leased in areas where the internet capacity is too low for goods to be used. Financial counsellors have seen cases where basic

household items like low quality tables and chairs can be sold in packages where the cost is up to \$8,000 over numerous years.

This is further compounded in remote communities, where some people may not want to give up access to consumer leases or even report predatory companies because of interpersonal barriers that make it hard to address harm, including:

- a personal relationship with the vendor;
- Companies using the fact that repayments can be made via Centrepay as a selling point. That can then result in payments being made ahead of essential goods such as food and electricity, gas, for example.

In addition, consumer lease providers have been observed by financial counsellors doing things such as asking for referrals of friends or family members from the original consumer, which multiplies the financial impact of the predatory behaviour.

#### 5.4.1 What needs to change

We need to change the laws to make consumer leases and payday loans (small amount credit contracts) safer. A 2016 review recommended a suite of changes and in 2017 the government released a consultation draft of the proposed legislation. This bill however has not been introduced.

Structural change is needed to prevent corporations from exploiting First Nation communities through predatory lending practices. Without legislation the systemic challenges we are seeing on the ground will continue.

#### 5.5. **Vehicle Sales**

Poor quality cars, coupled with high finance costs, continue to be an issue in community, with a lack of access to affordable quality vehicles. The issues financial counsellors and capability workers report include:

- sale of poor-quality vehicles, at inflated prices
- dealerships preying on consumers by upselling to inappropriate, expensive vehicles
- high-cost financing
- cars obtained through salary packaging arrangements for people who have irregular or insecure employment. For example, financial counsellors report some First Nations client who were employed as teachers being able to salary package expensive cars, but when they were not receiving an income, such as during the school holidays, then had trouble making repayments. Salary packaging can be a good thing but needs appropriate safeguards.
- high towing costs when a vehicle breaks down;

- long distances that can exacerbate issues with poorly maintained vehicles.

#### *Case study*

The financial counsellor's client was an older ranger in a remote Arnhem Land community. He had taken out a car loan of \$39K, but received no benefit as the car was actually for his sister. The car yard told his sister she didn't have the income to get the loan and had advised her to put a family member down on the Toyota Finance contract. The client felt obliged to say yes to his older sister for cultural reasons. The sister's ex-partner wrote off the car, and the debt collector hassled the client for the debt, which blew out to \$85,000.

#### 5.5.1 What needs to change

Stronger consumer protection and regulatory oversight is needed to prevent the sale of lemon cars. Some solutions could include:

- introducing a motor vehicle ombudsman, which would be an independent body that would be able to investigate breaches of the law and to identify fair outcomes for consumers;
- stronger repair rights, with easier access to dispute resolution;
- access to cheaper compulsory insurance;
- subsidised car share arrangements.
- subsidised car share arrangements or subsidising a vehicle "social enterprise" to enable sale of quality cars to people in remote areas
- more stringent financial assessments need to be applied to novated leasing arrangements.

#### 5.6. Utilities

First Nations people are experiencing high and unaffordable energy bills. Of particular concern to First Nations people are disconnections and utility issues which arise when:

- family members visit from other areas for example, to attend a funeral
- service delivery is transferred to another retailer without the account holder's knowledge
- payment plans expire but the Centrepay payments continue
- utility accounts are difficult to understand (even for a financial counsellor)
- account holders have poor literacy
- direct debits are dishonoured
- payment plans are unaffordable and unrealistic and not related to the client's capacity to pay.

- people are directed onto pre-payment arrangements which result in frequent disconnections.

These issues are usually resolved when a financial counsellor gets involved and advocates, however this should not be necessary. Essential service issues should be able to be resolved by the client in the first instance without having to resort to advocacy from a community service.

### **Case study – Treatment of First Nation customers over unpaid utility bills**

The high cost of electricity and water and poor hardship practices by Cooper Pedy Council is having significant impacts on residents, particularly First Nation people. Cooper Pedy Council provides essential services such as electricity and water retail services to the district.

In 2018, the financial counselling service at the Aboriginal Legal Rights Movement (ALRM) identified 40 cases of residents who raised complaints about the way they were being treated by the Council. Core to the issue is unaffordable utility costs, untransparent bills that do not appropriately break down the itemised cost of utilities, and inflexible hardship arrangements which force people into repayment plans that are unaffordable.

Yankunytjatjara Pitjantjatjara Elder Sammy Brown was an original complainant to ALRM in 2018. At the time he was caring for his two primary school-aged grandchildren when his power was cut off after he owed \$12,000. They had no electricity for the washing machine or baths or to stay warm. It took more than five months to get reconnected, during which time the grandchildren had to live with other relatives while he relied on a backyard campfire to stay warm at night and cook his food.

Earlier this month the ABC told the story<sup>12</sup> of Rachael Tsakiridis and her family who have had their house repossessed due to an unpaid \$13,000 bill. They have not lived in the house for seven years, because the Council has refused to reconnect the power. After returning from giving birth in 2014, the family found their power had been switched off. They were forced into a repayment plan that was unaffordable at \$250 per week, while Rachael and her family's only income was a pension.

A complaint by ALRM was made to the SA Ombudsman, which found that Coober Pedy council's management of electricity and water debts for members of its Aboriginal community was "unreasonable", "unjust", "wrong" and "contrary to law"<sup>13</sup>.

<sup>12</sup> <https://www.abc.net.au/news/2021-12-05/human-toll-of-coober-pedy-utility-burden/100673904>

<sup>13</sup> <https://www.ombudsman.sa.gov.au/publication-documents/investigation-reports/2021/District-Council-of-Cooper-Pedy-2018-04687.pdf>

In his report, ombudsman Wayne Lines found the council's debt-collection processes made residents feel pressured to use native title money to pay outstanding bills to the local council, a practice it said effectively "propped up" the council's utility debts<sup>14</sup>.

So far \$70,000 from the Antakirinja Matu-Yankunytjatjara Aboriginal Corporation (AMYAC) trust had been used to pay off similar debts. AMYAC lawyer Michael Pagsanjan told the ABC that the impact was plain to see: "We're talking about vulnerable members of the community, higher levels of unemployment, alarming rates of poor mental and physical health being faced with this additional pressure," he said<sup>15</sup>.

The issue is outstanding, with residents still expected to repay their high utility bills.

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<sup>14</sup> Ibid

<sup>15</sup> <https://www.abc.net.au/news/2021-12-05/human-toll-of-coober-pedy-utility-burden/100673904>