



**Redfern
Legal
Centre**

SUBMISSION ON CENTREPAY REFORM

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Introduction

RLC is a non-profit community legal centre that provides access to justice. Established in 1977, RLC was the first community legal centre in NSW and the second in Australia. RLC provides free legal services and education to people experiencing disadvantage in our local area and statewide. RLC works to create positive change through policy and law reform work to address inequalities in laws, policies and social practices that cause disadvantage. RLC specialist legal services focus on tenancy, credit, debt and consumer law, financial abuse, employment law, international students, First Nations justice, and police accountability, and provide outreach services including through a health justice partnership.

We provide effective and integrated free legal services that are client-focused, collaborative, non-discriminatory and responsive to changing community needs – to our local community as well as state-wide.

Since 1977, RLC has provided specialist assistance to people who have consumer law problems. In addition to RLC's Credit and Debt practice which services the local community, we provide consumer law advice through our state-wide International Student Legal Service NSW, our local First Nations Justice practice and our Health Justice Partnership that provides legal services at Royal Prince Alfred Hospital and Sydney Dental Hospital.

Responses to Questions Raised in Discussion Paper

Do the critical areas for reform outlined above reflect the evolving needs of customers and stakeholders?

The critical areas for reform outlined in the Discussion paper are a reasonable summary of issues that advocates and Centrepay users have been raising for some time. Reform should identify high-risk products and ensure the right products are available through Centrepay. Reform should also include a focus on removing harmful or unsuitable products and services available through Centrepay.

A focus on the ability of Centrepay itself to address consumer harm should be part of any Centrepay reform. A product or service that causes consumer harm should not be available via Centrepay. In the event that it does become available, there should be clear processes for consumers and advocates to raise concerns and action should be taken promptly to remove the product or service.

Does the current list of authorised goods and services include what should be available through Centrepay?

In our view the list should not be further expanded. The list is in line with the focus of Centrepay to reducing financial risk and manage expenses. Expansion of the list may increase financial risk to Centrelink recipients.

Are there any specific goods and services, including those already approved on the program as per the listing above, that should be excluded from Centrepay?

There are a number of approved goods and services that we consider should be excluded. These are:

- a. Loans and products permitted under "Household" that are credit products, other than No Interest Loan Schemes and products clearly designed to benefit Centrelink recipients. This is because the charging of interest or fees disadvantages Centrelink recipients due to their relatively low-income levels compared to median income earners;
- b. Products that are considered utilities but allow for the purchasing of goods rather than usage charges, such as solar panels, or phone handsets.

What criteria should be used to consider whether to include or exclude any goods or services?

The needs of the consumer and protecting the consumer from harm should be the primary criteria used to determine whether goods and services should be included. This is in compliance with the objective of Centrepay, which is to “reduc[e] financial risk”¹.

The [REDACTED] following years of false and misleading conduct is a clear example of the risk associated with Centrepay. More recently, there have been repeated concerns regarding the behaviour of [REDACTED]. The Australian Securities Investment Commission (ASIC) has taken action to remove the ability of [REDACTED] to enter into Centrepay arrangements, one of the major concerns being “grossly-inflated prices for low-grade products”². These goods and services failed to meet the needs of consumers and caused great harm.

Redfern Legal Centre welcomes Services Australia’s commitment to reform, specifically to empower consumers and facilitate self-management. Businesses that are granted access to consumers through Centrepay should have a commitment to these principles, and be required to demonstrate that their goods or services meet consumer need, are fairly priced and rigorously adhere to consumer protection laws before they can be funded through Centrepay.

The primary criteria used to consider whether to include or exclude goods and services should be:

- Do the goods or services reduce financial risk for the consumer? Are there alternative payment methods available which could better service the consumer?
- Is there an unreasonable markup to goods and services?
- Do the goods or services support the objectives of Centrepay?

Should businesses retain the ability to establish Centrepay deduction arrangements on behalf of customers?

Businesses should not retain the ability to establish Centrepay deduction arrangements on behalf of customers. In our view, anyone who is arranging credit should be required to hold an Australian Credit Licence. Centrepay is a form of credit in a number of circumstances. Only the consumer should have the right to establish Centrepay deduction arrangements. This will reduce the risk of financial harm to consumers accessing Centrepay arrangements as there will have to be a clearer understanding of the arrangements in setting the arrangements up themselves.

Redfern Legal Centre has assisted clients who are unable to meet their day-to-day expenses due to excessive Centrepay deductions. In some cases, they were unable to explain all of the Centrepay deductions associated with their account and required assistance to obtain this information.

Should certain businesses have conditions imposed limiting the access they have to manage deductions on behalf of customers?

We consider that businesses that provide accommodation and energy should be able to manage deductions – with clear consumer authority – in long term arrangements, to ensure that consumers do not default on their accommodation and energy payments.

Other businesses that do not provide goods and services that provide for basic life necessities should have conditions limiting the access they have to manage deductions for consumers.

¹ Services Australia ‘Centrepay Policy and Terms’ (10 December 2018).

[REDACTED]

What are the further conditions that should be applied to deduction arrangements to further strengthen customer protections?

We recommend that there be a payment hierarchy to Centrepay arrangements, to meet the objectives of reducing financial risk and self-empowerment for consumers. The hierarchy should be as follows:

1. Accommodation to provide shelter;
2. Necessities of life - access to utilities including energy, water and telecommunications usage (but not devices like telephones or solar panels);
3. Medical treatment and supplies;
4. Any other deductions.

Other conditions we recommend are:

- Measures be put in place to avoid unreasonable credits;
- Centrepay deductions should only be available without an end date for accommodation and utilities, and should be subject to conditions in relation to unreasonable credit balances;
- Informed, express consent should be required to increase deductions or change the end date of existing arrangements;
- Clear information should be provided to consumers about their purchases, for record keeping purposes, in support of the self-empowerment and self-management objectives of Centrepay;
- All consumer rights under Australian Consumer Law should apply equally to consumers who obtain goods and services by way of Centrepay, including the ability to obtain a refund for defective goods;
- Breaches of these conditions should lead to businesses being required to undergo audits at their own cost.

Does the agency's existing Centrepay resources and information available to customers clearly outline the customer authority process and customer's ongoing requirements to manage their deductions?

Resources and information should be available in plain English and community languages, and in ways that are accessible to consumers with diverse communication needs, such as Easy Read resources, to ensure that consumers understand ongoing requirements. This will assist in achieving the objectives of self-management and financial empowerment.

Having regard to the Centrepay Procedural Guide for Businesses, are there any further obligations that businesses should be required to comply with in order to become or remain an eligible registered Centrepay business?

Businesses using Centrepay are, in many cases, providing products on a form of credit. The consumer receives a product and is required to pay off the amount over time through deductions from their Centrelink entitlement.

As a result, businesses should be required to confirm that the consumer will not be at risk of financial hardship by entering into the proposed Centrepay arrangement. This is a basic tenet of responsible lending that applies to other credit arrangements under responsible lending obligations, which should certainly be applied to those receiving Centrelink payments, given that their income is lower than the average Australian income earner.

We have assisted clients who were entitled to write offs or waivers of Revenue NSW managed fines who ended up in financial hardship because of existing Centrepay arrangements. Some have instructed us that they have never been able to make the payments without being in serious financial hardship, but believe a Centrepay deduction arrangement is their only option.

What community expectations could be incorporated into assessing Centrepay registered businesses?

Centrepay registered businesses should be required to provide consumers with access to a free, independent and binding External Dispute Resolution scheme for the resolution of disputes. A requirement for a consumer to pay a Tribunal or Court application fee to resolve a dispute is unreasonable, given the objective of Centrepay to reduce financial risk.

Consumers should be provided with information about options for complaints if they have issues with products or services, or are facing financial hardship, as well as with referrals to financial counsellors, community legal centres and other legal assistance providers.

In addition, businesses should be required to meet community expectations for reasonable pricing and accessibility for the community that they operate in.

Centrepay businesses should be subject to audits in response to any community complaints or other evidence of breaches of their obligations.

What risk factors should the agency consider in assessing a business for Centrepay registration?

Risk factors that should be considered include:

- Lack of access to a free and binding External Dispute Resolution scheme;
- The products or services and ASIC Target Market Determination appear mis-matched with the needs of consumers accessing Centrepay arrangements;
- Large numbers of complaints; and
- Directors, owners or associates who have previously been banned from participating in Centrepay or subject to other regulatory action.

What, if any, additional conditions should be placed on businesses to ensure increased flexibility and protections for customers when considering the use of Centrepay as a payment method?

Redfern Legal Centre recommends that there should be a limit on the number of Centrepay deductions a consumer can have, and at least 25% of a consumer's income should be quarantined from Centrepay deductions. This is in recognition of the fact that there are essential goods and services which cannot be paid for through Centrepay.

Businesses should be required to:

- communicate via multiple methods to consumers if a Centrepay deduction is not paid, to reduce the risk of consumers being unaware of defaults and suffering consequences such as eviction;
- Communication via multiple methods in the event that an overpayment is received, to avoid ongoing issues. Businesses should face potential removal as a Centrepay registered business if they are unreasonably overpaid;
- Funding audits, both in the event of complaints, and on a random basis, to increase the likelihood of identifying risks to consumers early.

What flags would you expect the agency to be monitoring to trigger engagement with businesses in relation to their compliance with Centrepay policies?

Services Australia should monitor complaints from consumers, financial counsellors and other consumer advocates, and engage early with businesses if concerns are raised in relation to any business practice or consumer harm. There should also be monitoring of business information, including complaints and profit and loss statements, to ensure that businesses are meeting community expectations. Should a business obtain the majority of their income through Centrepay, there should be engagement and auditing, to ensure that risks to consumers are actively monitored.

Are there any business models that should be excluded from Centrepay and if so, what criteria should be used to consider their inclusion or exclusion?

Business models that target a particular community, such as the Aboriginal and Torres Strait Islander community, should be subject to careful scrutiny. [REDACTED] targeted Aboriginal and Torres Strait Islander communities by misrepresenting itself as an Aboriginal-owned or managed business.

What should a business be monitored against to remain registered as a Centrepay business?

As noted above, Services Australia should monitor complaints, internal complaints management, External Dispute Resolution outcomes, and profit and loss statements.

Centrepay businesses should be required to demonstrate how they are complying with the procedural guide. Failure to do so should lead to de-registration as a Centrepay business, with the potential for a permanent ban.

What information should be made available, to Centrepay customers and the public, regarding any compliance action taken by Services Australia against a Centrepay registered business?

As much information as possible should be made available to allow consumers and consumer advocates to be well-informed of the risks to consumers. This should include the reasons for the compliance action and any remedial action ordered or undertaken. If information about compliance action is not publicly available, Services Australia risks not being informed if the business is not complying with their obligations at all times.

What information and further assistance would be useful to customers when an overpayment has occurred?

Consumers should be informed of the dates and reasons for any overpayment. This information should also be communicated to Services Australia. Further assistance should include engagement about how to remedy the overpayment in a way that best meets the needs of the consumer. As many options as possible should be provided to consumers for the refund of any overpayment that does occur.

Case Study

Katie is an Aboriginal woman who is in long term receipt of the Disability Support Pension. She is in serious financial hardship and is struggling to meet her day to day needs. She is reliant on a number of support services to ensure that she is able to eat every day. We are assisting her to negotiate with creditors for reasonable payment arrangements in the circumstances. She reports that her electricity provider has recently provided her with a reimbursement on her account obtained through Centrepay deductions; however, this will happen by way of a cheque posted to her address. This limits her ability to pay for her regular needs and requires her to travel to her bank to cash the cheque, as well as delaying her access to funds that are rightfully hers.

If a business fails to communicate with consumers and/or Centrepay in relation to overpayments, this should be considered a breach for which enforcement or compliance action should be taken.

How would customers prefer to be notified about overpayments?

Customers should be notified of any overpayments by as many means as possible. Consumers have different needs and preferences when it comes to remedying overpayments. Centrepay businesses should be required to retain details of attempts to notify consumers and means of refunds.

What factors are contributing to customers accumulating credit with businesses? And how can the agency better support customers to avoid overpayments with businesses?

Consumers who face digital exclusion or are led to misunderstand their financial position may accumulate credit with businesses. Consumers who receive Centrelink payments are required to budget highly effectively to avoid serious financial consequences such as eviction or utilities disconnection and therefore may choose to pay more to avoid those consequences. Perpetual arrangements and lack of clarity around arrangements also lead to overpayments.

Increased information available to consumers in different forms, not just digitally, would assist consumers. This should be written in plain English and easy to understand. Perpetual and long term arrangements should be limited and businesses should be required to communicate with consumers in the event that there are variable costs, eg utilities usage, to empower consumers to vary arrangements and make sound financial decisions. Referrals to financial counsellors could also assist in ensuring consumers receive accurate financial information and are making the best choice possible with Centrepay arrangements.

What does meaningful consultation and engagement look like to you with respect to reforming the Centrepay service?

Consumers should be consulted in relation to reforming Centrepay services. Proper consultation requires the funded involvement of community workers and financial counsellors and a commitment to a process that is culturally appropriate for different communities. Resources should be produced in community languages and in video form to ensure that consumers understand and can provide feedback.

There should be ongoing consultation with financial counsellors and community workers to inform the process and ensure that any changes do not have unexpected consequences.