

# **Submission to the Inspector-General of Taxation / Taxation Ombudsman’s Review – Identification and management of financial abuse within the tax system**

**Date of submission:** 20 December 2024

## **About Financial Counselling Victoria**

FCVic is the peak body and professional association for Victoria’s 300 practising financial counsellors. Our organisation was established in 1978 by Victorian financial counsellors to provide sector professionalisation, peer support, and undertake systemic advocacy.

FCVic’s vision is *‘a fairer and more equitable society with improved community wellbeing and better lives for vulnerable people’*. FCVic develops resources, builds sector capability, and advocates on behalf of financial counsellors and community members on systemic issues that cause and exacerbate poverty and financial hardship. We work with government, banks, utilities, debt collection agencies and other industries to improve approaches to financial hardship and vulnerability.

Financial counselling is a free, confidential, and independent service. It provides vital help for people experiencing, or at risk of, financial hardship. Financial counsellors are uniquely qualified professionals, specially trained to deal with complex financial matters. They assist more than 23,000 Victorians each year – including people impacted by catastrophic natural disasters, newly arrived migrants and refugees, and more than 3,800 family violence victim-survivors.

A flyer has been provided as Appendix 1 explaining the role that financial counselling can play when people are experiencing financial abuse and family violence.

## **About this submission**

We welcome the opportunity to provide an individual submission to the Inspector-General of Taxation / Taxation Ombudsman’s (IGTO) Review – Identification and management of financial abuse within the tax system (the Review), having also contributed to a joint submission by the Economic Abuse Reference Group (EARG) and the Non-payment of Child Support working group.

This submission has been informed by the input of family violence specialist financial counsellors, through a consultation process and also through many years of involvement in FCVic’s Family Violence Network. We acknowledge and give special thanks for their input and expertise which has helped to inform this submission.

The commentary and recommendations provided in this submission should be read in conjunction with a wide body of work already produced by FCVic (in conjunction with our advocacy partners) on issues relating to family violence and financial abuse, including:

- [Submission to the Parliamentary Inquiry into the financial services regulatory framework in relation to financial abuse in Australia](#)
- [Submission to the next stage in Victoria’s work to end family violence](#)
- [Joint submission to the Family Law Amendment Bill 2024 in relation to Non-Payment of Child Support](#)
- [Response to the draft National Plan to End Violence against Women and Children 2022-2032](#)

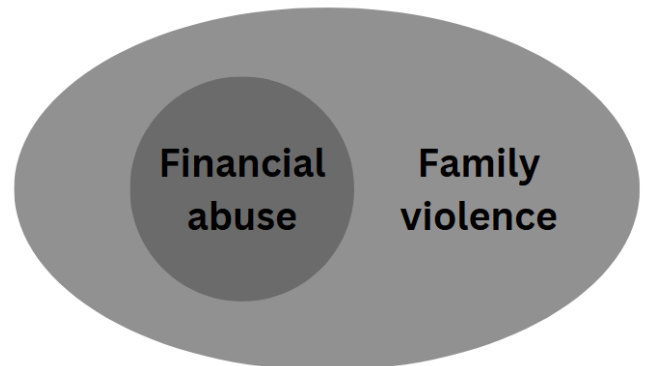
We also recommend that the IGTO review the comprehensive ‘*Financial abuse: an insidious form of domestic violence*’ report released in December 2024 by the Parliamentary Joint Committee on Corporations and Financial Services’ Inquiry into the financial services regulatory framework in relation to financial abuse. This report provides a number of key recommendations as to how financial and government systems can be reformed to protect against the risk of financial abuse – a number of which can be applied to ATO systems.

Further questions about this submission can be sent to Julie Barrow, Family Violence Lead at FCVic, at [jbarrow@fcvic.org.au](mailto:jbarrow@fcvic.org.au).

**Note** - we have attached as Appendix 2 to this submission a letter that was sent by FCVic to the ATO’s Lodge and Pay branch in February 2024 highlighting a number of the systemic issues identified by financial counsellors. To date, we have not received an official response to this letter though verbal acknowledgement of receipt has been received.

### **A note on family violence, financial abuse, and safety-by-design**

For the purposes of this submission, it’s important to note that financial abuse does not stand alone as its own phenomenon. Financial abuse is a form of family violence, and so it must be recognised that the commonly-recognised long-term impacts of family violence apply in experiences of financial abuse as well.



We recommend that the IGTO considers how this Review can address key actions of the *National Plan to End Violence against Women and Children 2022-2032* including in stopping violence before it starts, stopping violence from escalating or reoccurring, addressing existing violence, and helping to break the cycle of violence and reducing the risk of re-traumatisation. As a federal government agency, the ATO has an obligation to ensure that their processes and approach are responsive to this National Plan.

We have included a graphic below from WIRE’s ‘*When’s the right time to talk about money*’ resource (<https://www.wire.org.au/teachable-moments/>) to help illustrate the phases of the family violence journey.

v Fig 2.2 Phases of the family violence journey



As can be seen in the graphic, the nature of family violence, and therefore, of financial abuse, means that victim-survivors can often take a circuitous (rather than linear) route towards financial recovery. Therefore, it's important that to ensure that government and financial service systems follow safety by design principles to address the unique needs of victim-survivors at every part of their journey.

Safety by design is an approach that integrates safety into the early stages of product, system, or environment development. Instead of addressing safety as an afterthought, it proactively identifies and mitigates risks during the design process. This includes conducting risk assessments, incorporating safety features, and ensuring the design is user-centered, considering potential human errors or misuse. From a financial abuse perspective, safety by design would include safeguards against exploitation, with built-in access controls and system protections that detect fraud, secure authentication, and enhance data privacy.

We encourage the IGTO to keep this principle in mind throughout the course of the Review.

## Our commentary

Firstly, **we echo and reinforce all the observations and recommendations of the EARG and the Non-payment of Child Support working group submission to this Review, to**

which we have contributed. For brevity's sake, we will not reiterate these recommendations again in this submission, and will focus only on where financial counsellors can provide their unique insights into the questions posed in the Review's consultation paper.

We note that the consultation paper expressed that the IGTO would not deep dive into the topics of financial hardship and ATO support to taxpayers experiencing vulnerability. **We urge the IGTO to instigate stand-alone reviews into these issues**, given the prevalence and severity of poor ATO interactions reported by financial counsellors over a number of years, and ongoing evidence of the ATO continuing to pursue vulnerable people in financial hardship for tax debts for which they should not be liable.

We note that different government agencies have demonstrated collaborative and good-faith approaches to working with communities and consumer advocates on systems reform on different issues. A prime example has been the way that Services Australia has worked productively on reforming the exploitative Centrepay system with regular and meaningful community consultation, after many years of advocacy from consumer bodies on systemic issues.

There is an opportunity for the ATO to demonstrate the same commitment to addressing systemic issues of exploitation within their systems, with meaningful consultation with consumer advocates working on the frontline.

*Whether the ATO has appropriate processes, practice statements, training and guidance in place to assist its officers to identify potential financial abuse within the tax system (for the purposes of supporting and providing relief from tax liability).*

It is clear to financial counsellors that frontline ATO officers are not skilled in identifying potential financial abuse or family violence in their interactions with taxpayers. Through a series of 'listening webinars' conducted by the ATO in November-December 2023 with financial counsellors across the country, multiple stories were shared of the poor treatment of taxpayers by the ATO.

Examples were given where victim-survivors of family violence were grappling with lengthy delays on responses, and aggressive demands for unreasonable payment schedules. One victim-survivor on the Disability Support Pension was told to pay \$50 per fortnight for the rest of her life, while interest continued to accumulate on her debt. Others who had been coerced by violent partners into becoming puppet 'Directors' of businesses that incurred tax debt were aggressively pursued for this debt.

Formal written feedback on these issues have been provided to the ATO in the February 2024 letter provided in Appendix 2, yet improvements in the ATO's processes is not evidenced.

Firstly, we recommend that the ATO engage with lived experience experts, frontline workers and paid subject matter safety-by-design experts in financial abuse to review and revise their existing processes, practice statements, training and guidance to ensure that they are best practice in identifying and responding to financial abuse within the tax system. Where these does not already exist, they should be created.

Further, we recommend that all ATO staff, especially those serving on the frontlines, be required to undergo regular co-designed training on identifying and responding to client vulnerability and trauma-informed practice to better equip them with the skills they need to work with victim-survivors of family violence and financial abuse. There are recommended training providers on the EARG website (<https://earg.org.au/family-violence-training-providers/>) and we recommend that the expertise of financial counsellors be incorporated in this training process.

*How ATO systems may be used to identify potential financial abuse within the tax system (including through information sharing with other agencies or third parties), building off similar experience in the financial services sector.*

The amount of superannuation, income, assets and tax information held by the ATO presents an excellent opportunity to information-share with other government agencies and appropriate third parties to identify and act upon potential financial abuse.

Financial counsellors report that people using violence have inventive ways of ‘hiding’ money during family law proceedings.

### **Case Study**

Anna\* was a millionaire – on paper. However, since separating from her ex-partner after experiencing family violence, she was surviving with the support of emergency relief because her partner had managed to ‘hide’ a portion of his money in online gambling accounts (e.g. putting thousands of credit into an online gambling account because it is not reported or monitored) and overseas bank accounts.

Anna had no access to these accounts, and combined with the fact that her ex-partner was not following court orders after court proceedings, meant that Anna would be required to find funds to re-engage lawyers to take the ex-partner back to court to enforce the court order.

*\*not her real name*

The ATO could have a role to play here in information-sharing data about people using violence with the legal system to address cases like Anna’s where funds have been ‘hidden’.

This could be supported by using ATO systems to build a dashboard that could be provided to the courts for the purposes of property settlement negotiations. This dashboard could include a summary of all (taxable or not) assets, shares, income streams, company directorships, and liabilities reported by the person using violence. This dashboard could be informed by the existing ATO superannuation tracking dashboard.

Further, safeguards and trauma-informed practice can be built into the system through (by example):

- Reducing the number of times people have to disclose their experiences to reduce the risk of retraumatisation.

- Embedding a requirement for the ATO to cross-check that any early superannuation withdrawals<sup>1</sup> and/or tax refund payments are paid to an account belonging to the right person.
- Per our earlier recommendation, ensuring that all ATO staff, especially those on the frontlines, are trained to identify family violence red flags.
- Ensuring that all ATO systems be reviewed to ensure that there are appropriate checks and balances in place so that not one single person is responsible for managing a case.<sup>2</sup>

The few examples provided above are certainly not comprehensive – there are many other actions that could/should be taken to support the ongoing safety and recovery of victim-survivors as part of a safety by design approach.

We note that there are existing reputable organisations working to ensure safety by design including Flequity Ventures, the Centre for Women’s Economic Safety, Thriving Communities Partnership and the Victorian Essential Services Commission. The work of these organisations is informed and influenced by lived experience advocates, and the expertise of family violence specialist services such as Safe & Equal and family violence financial counsellors.

The ATO need not reinvent the wheel – they can speak to those who are already doing the work to understand what systems models have been successful in identifying family violence and financial abuse, and what actions have been taken to ensure safety.

*How the ATO provides effective support to victim-survivors and relief for tax liability created through financial abuse, in particular whether the ATO:*

- *is appropriately considering victim-survivor circumstances*
- *leverages the data / information, services and specialist expertise of other agencies and organisations*
- *raises awareness amongst taxpayers and tax professionals about financial abuse in the tax system and how to seek assistance from the ATO.*

*and Whether the ATO is utilising its full suite of powers to grant relief and provide support to victim-survivors of financial abuse within the tax system and hold perpetrators to account (e.g. reallocation or redistribution of liabilities or referral to law enforcement agencies).*

Financial counsellors believe that the ATO is stringent in their reading and application of their processes and guidelines, without sufficient nuance to respond to individual circumstances including experiences of family violence and financial hardship, and the presence of fraudulent activity.

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<sup>1</sup> Note - Financial counsellors saw many instances during the COVID-19 pandemic where early release of superannuation payments went straight into partners’ accounts, putting the victim-survivor of family violence into a worse financial position.

<sup>2</sup> Financial counsellors have reported instances of working with victim-survivors where the person using violence works within government systems – the victim-survivor then subsequently reports reluctance to take any action because of fear of reprisal.

Firstly, given the important role played by family violence specialist financial counsellors, we suggest that the ATO should have a more robust process in recognising a financial counsellor's authority to act, including by credential verification through the Financial Counselling Australia Toolkit as many other creditors and service providers do.

While financial counsellors report that the newly implemented Advocates Line is an improvement on previous processes, we hear that there is still confusion in third party identification with the tax records of financial counsellors being mixed up with the tax records of the clients they represent. Acceptance of professional credentials will assist with this data matching and security issue.

Financial counsellors have provided numerous examples of where the ATO is not providing relief and support to victim-survivors of financial abuse within the tax system, and holding people using violence to account. This is particularly obvious in cases of tax debt as the result of scam activity (Operation Protego) where people were coerced/convinced into filing inaccurate Business Activity Statements or tax returns to receive fraudulent funds. These Protego scam cases continue for years with no resolution, continuously re-triggering victim-survivors as they are forced to rehash the same issues repeatedly.

### ***Case Study***

Grishma\* saw a financial counsellor about a tax debt that the person using violence is ultimately responsible for. She told her financial counsellor that she had never worked in Australia and therefore could not owe debt to the ATO.

The financial counsellor worked continuously with the ATO for almost two years until the ATO confirmed that the debt was fraud related. However, six months after this confirmation, the ATO still have not finalised the case as they are trying to work out how to deal with confirmed fraudulent activity.

*\*not her real name*

We have recommended previously to the ATO (see Appendix 2) that at a minimum, their guidelines be amended so that penalty interest be waived where culpability in these 'fraudulent' transactions cannot be established and where financial hardship is evident. In an ideal scenario, the debt raised in these transactions should also be reconsidered as to whether it is better reallocated to the offending person using violence and/or released altogether on compassionate grounds to assist victim-survivors and their children to re-establish themselves after family violence.

However, we note that these decisions should be made only if the end result does not pose a safety risk to the victim-survivor. Safety-planning is essential, and if reallocation of debt responsibility puts a victim-survivor at risk, then this cannot be considered as a viable option.

### ***Case Study***

Taylor\* was set up as an employee at her partner's small business. On paper, she was earning \$80k a year with its associated PAYG tax liabilities, but in reality, she had never seen a cent of the money. The income was all theoretical, and a means for



her partner to report a lower income for his small business. Taylor was accumulating PAYG tax debt, but had no income to show for it.

*\*not her real name*

In the example provided above, an audit should pick up discrepancies in reporting, and appropriate informed and supportive actions taken to support the victim-survivor.

Further, we believe that the ATO should have an obligation to, in line with Recommendation 38 of the *'Financial abuse: an insidious form of domestic violence'* report, engage with and provide education to tax and finance professionals through their professional associations about financial abuse and family violence.

*The interactions between the ATO and other government agencies as it relates to financial abuse within the tax system, in particular:*

- *the information sharing arrangements between the ATO and Services Australia as they relate to financial abuse within the tax system*
- *how the tax consequences of financial abuse impact programs administered by other government agencies, in particular welfare and child support*
- *the administrative and legislative barriers (e.g. resources, systems, legislative settings etc) that prevent the ATO from being able to work more effectively with Services Australia to minimise the impacts of financial abuse within the tax system on welfare and child support services.*

**Financial abuse within the tax system is highly unlikely to occur in isolation.** Where tax-related financial abuse exists, it is likely that this may also manifest in financial abuse through banking, superannuation, social security, child support, and other financial and government systems.

As such, it is absolutely critical that the ATO as a critical entry point for identification of financial abuse, has well-designed mechanisms in place to share information with other government services – and consistent with recommendations in the *'Financial abuse: an insidious form of domestic violence'* report, with other financial, legal and justice systems where financial abuse has been flagged as a concern.

We support the recommendations relating to child support in the *'Financial abuse: an insidious form of domestic violence'* report – but these recommendations need to occur in an ATO system that is well-designed and resourced to respond to financial abuse and family violence in a trauma-informed, sensitive and effective way. We don't believe that the current ATO system is equipped to manage child support in a way that prioritises the welfare of victim-survivors of family violence and financial abuse.

As an example, financial counsellors already report instances of where people using violence deliberately delay submitting tax returns so that their income cannot be reconciled against child support payments and result in lost eligibility for social support payments for the victim-survivor. The ATO system would need to be able to flag accounts where the individual is party to a child support arrangement (building connections with Services Australia), and have robust mechanisms in place to not only pursue late tax returns, but to do so in a way that doesn't put the safety of the victim-survivor and their children at risk.



As such, one of our key recommendations is that the ATO adopt hardship obligations and provisions in legislation, mirroring similar protections as that in the *National Consumer Credit Protection Act 2009* and the *National Credit Code*. The precedent within the financial services sector has already been demonstrated as effective and working – though always with room for continuous improvement.

## A final note

On a final note, as a representative of the community sector, we note that there is a growing demand for specialist community supports for people facing tax-related financial abuse and exploitation – whether as an individual, or as a business entity.

Discussions with our counterparts at the Small Business Debt Helpline indicate that their dramatic increase in demand (Victorians calls to the Small Business Debt Helpline increased 81% in July-August 2024 compared to the same period in the previous year) is driven by ATO debts and ATO collection activity.

However, using Victoria as an example, state funding for small business financial counsellors has been reduced, and is due to cease entirely as of 30 June 2025, leaving an entire cohort of small business owners at risk of having no supports at all to address their ATO debts. Up till this point in time, the states have had to step in and fund a service that should be rightfully federally funded as the primary presenting issue for small businesses seeking financial counselling is tax debt – **a federal issue**.

We therefore recommend that dedicated federal funding for community services to address the harm caused by the ATO pursuing tax debt that is the result of financial abuse, be implemented as an interim measure while the above recommendations are enacted – and ongoing funding reviewed based on caseload demands.

**Thank you for the opportunity to provide this submission to the IGTO Review on behalf of Victorian financial counsellors who each year, assist over 23,000 vulnerable people experiencing financial hardship.**

## Appendix 1: Specialist family violence financial counselling flyer



### Financial hardship and financial abuse

People experiencing family violence are often impacted by financial hardship and financial abuse.

### Financial hardship


A client is in financial hardship when they are having difficulty paying for basic living expenses, bills and repayments on loans and debts when they fall due. Clients have rights when they are in financial hardship under credit law.

### Financial abuse

Also referred to as economic abuse, financial abuse is a form of family violence. It often happens alongside other forms of family violence and can include:

- controlling/preventing access to money
- stopping a person from getting a job
- incurring debts/accumulating fines in the victim-survivor's name
- placing debts and household bills in the victim-survivor's name
- forcing a victim-survivor to take out credit
- tracking expenditure as a way of tracking and controlling a person
- making a victim-survivor a director of a business and liable for business debts through coercion, or simply without their knowledge or agreement
- putting a victim-survivor in a position where they unfairly incur Centrelink debts.

There is a large gender pay gap, and related to this, a large gap between the superannuation savings of Australian men and women. Also, because the current superannuation system is linked to paid work, it overwhelmingly disadvantages women who are more likely to move in and out of paid work to care for family members, as a choice or due to coercive control and family violence. Women continue to earn less than men and are more likely to be engaged in casual and part-time work, which are also contributing factors to the gender gap in both income and retirement savings.



As a result, even before financial abuse many women are in a disproportionately weaker financial position to their male partners, and this amplifies the impacts of financial abuse from male perpetrators. Financial abuse can continue long after a victim-survivor has physically left a relationship, via access to historical banking, lending and utility accounts, or things like use of legal tactics designed to maximise financial costs.

There are many other issues affecting different cohorts that create forms of financial abuse and potential hardship – for instance in culturally and linguistically diverse communities, in first nations communities, amongst refugees and asylum seekers, or in LGBTIQ+ communities. Elder abuse often takes the form of financial abuse.

The real and credible threat of a victim-survivor being put into financial hardship can itself be a form of coercive control and financial abuse.

**The impacts of financial abuse are pervasive and often add additional barriers to a victim survivor being able to leave the relationship.**

## **Complexities working with clients experiencing financial hardship and financial abuse**

Advising or assisting people with financial matters is complex and normally requires the holding of a relevant credit or financial services licence. Risks to clients from unqualified and untrained people ‘assisting’ with financial matters are significant. Incorrect advice can mean the difference for a client between an opportunity for a sustainable life and going into long term poverty and hardship or being forced to return to living with a perpetrator and retraumatising the client. Financial counsellors work under a specific licence exemption instrument issued by ASIC, based on their professional expertise.

All Victorian financial counsellors are specifically trained in family violence and are qualified professionals able to assist clients with complex and challenging financial and debt issues, including financial abuse. In Victoria, moreover, there is a large cohort of financial counsellors with a family violence specialist focus in their role. Financial counsellors funded by Consumer Affairs Victoria are prescribed under FVISS and have intermediate responsibilities under MARAM.

**The earlier the intervention in addressing financial abuse the better the outcome for victim-survivors.**

## About financial counselling

Financial counsellors are skilled professionals, required to undertake regular professional development and professional supervision, who provide assistance, advocacy and information to people experiencing financial difficulty or who have problems with debt. They are required to work independently and confidentially with clients without charge, and without conflicts under a strict professional Code of Ethical Practice. This means they cannot be employed by a bank or credit organisation; they are typically employed by not-for-profit community organisations with government or philanthropic funding.

Financial counsellors are **not** the same as financial advisors, or financial planners who may be employed by a bank or credit provider and do not have obligations to be independent and free from conflicts.

Financial counsellors work under an empowerment model with clients experiencing trauma combining soft skills with technical knowledge and expertise in financial abuse, financial hardship, consumer and credit law, debt enforcement and bankruptcy. Financial counsellors generally do not focus on budgeting as part of their casework, however in cases of financial abuse, financial counsellors may also assist where there are no debts, but clients are seeking to build confidence around managing their money and assets.

The Victorian government funds specialist family violence financial counsellors across the state. The family violence financial counsellors have relationships with The Orange Door and frontline family violence services including co-location in some areas.

## How can a financial counsellor assist my clients?

Financial counsellors work from a trauma informed approach to assess your client's financial situation with a lens on safety and prevention of further financial harm and provide advice and options. The earlier they can work with clients, the more financial harms can be prevented, and the more options clients will have. Often financial counsellors can create space for clients from debt repayments and similar pressures, giving them more headspace to make other important life decisions around things like housing and employment.

Financial counsellors can negotiate repayment arrangements with creditors, explain the options for tackling debts, explain the effects of bankruptcy and explain how debt collection works; sometimes they can get certain debts waived. They can represent people in disputes with industry and in complaints resolution processes.

## How do I make a referral or connect with a financial counsellor?

If your client has debts they need assistance with or have experienced or are experiencing financial abuse contact **The National Debt Helpline** on **1800 007 007**, or you can search for your local agency with specialist family violence financial counsellors at [www.ndh.org.au](http://www.ndh.org.au) to speak with a financial counsellor for a secondary consultation and/or to refer a client.

## Appendix 2: Letter from FCVic to ATO's Lodge and Pay department

Tuesday 13 February 2024

Vivek Chaudhary  
Deputy Commissioner, Lodge and Pay  
**By email:** vivek.chaudhary@ato.gov.au

Jacqui Marchment  
Acting Assistant Commissioner, Lodge and Pay  
**By email:** Jacqui.Marchment@ato.gov.au

Dear Vivek and Jacqui,

Thank you again to the Australian Tax Office (ATO) for holding a series of listening webinars with the financial counselling sector last year.

Now that we are well into the new year, we are writing to seek an update from the ATO on the progress of the concerns and issues raised during these webinars. These issues are summarised below, and include our recommendations on how these may be addressed.

### **1. Recognition of the role of Financial Counsellors**

Many financial counsellors raised concerns about the ATO's identity verification processes for financial counsellors in order to satisfy the ATO's Proof of Record Ownership (PORO) requirements. Financial counsellors are carrying out a professional role on behalf of their clients but the ATO requires financial counsellors to provide their own personal identification rather than professional identification. Financial counsellors are very uncomfortable about the privacy implications of these requirements.

These requests appear to be the result of a lack of understanding by the ATO of the essential role of a financial counsellor as a helping professional.

We recommend that:

- 1) the ATO change their identification protocols to require professional identification by financial counsellors, rather than personal identification. A model that can be adopted is the *Banking Code of Practice* and its accompanying *Industry Guideline: Banks' financial difficulty programs* with the model guideline as follows – “where a financial counsellor has been appointed by a customer, the bank should accept the agreed industry standardised forms.” **(Note – a modified response to this issue has since been implemented as of August 2024 with the establishment of a dedicated phone line)**
- 2) the ATO work with the financial counselling sector to co-design training for all ATO frontline workers on the role of a financial counsellor and the authority they have to carry out their professional role



- 3) the ATO establish a dedicated direct phone and email line for financial counsellors working on behalf of their clients **(Note – this has since been implemented as of August 2024)**
- 4) the ATO to ensure that any referrals to financial counsellors to clients who are experiencing financial hardship work effectively by providing better provisions for the financial counsellors to work with the ATO (see recommendation 3 above)

## **2. Client vulnerability and hardship arrangements**

Case studies were provided during the webinars where clients with poor mental health, experiences of family violence, and low-level English skills were treated extremely poorly by the ATO, including lengthy delays on responses and requests for unreasonable repayment schedules. These ATO responses all impacted on clients, with a Victorian financial counsellor providing an example of a client having to seek medical advice from their GP for suicide ideation. The client subsequently relapsed into gambling in the hope of winning enough to repay the ATO.

There were many examples of the ATO requiring unrealistic repayment options from financial counselling clients, including ATO staffers telling clients to sell their home to repay debts despite the risk of homelessness for a young family where income levels were impacted by ongoing illness, and a family violence victim-survivor on the Disability Support Pension who was told to pay \$50 per fortnight for essentially the rest of her life while interest continued to accumulate on her debt.

We recommend that:

- 1) the ATO work with the financial counselling sector to co-design training for all ATO frontline staff on client vulnerability and trauma-informed practice to better equip them with the skills they need to work with these clients
- 2) The *Practice Statement Law Administration PS LA 2011/17* is reviewed to include GST, PAYG withholding and SGC debts as tax debts that may be released upon proof of financial hardship
- 3) Additional hardship indicators are added to the ATO's assessment process including experience of family violence, poor mental health, and that appropriate consideration is given to the client's engagement with a financial counsellor
- 4) ATO guidelines are amended to:
  - a. Standardise the waiving of penalty interest in cases where financial hardship has been established
  - b. Ensure that repayment arrangements requested by the ATO are realistic and affordable. In amending the ATO's processes, the financial counselling sector would welcome the opportunity to work with the ATO on developing guidance in this critical area.

## **3. Establishment of a case management model**

Financial counsellors provided feedback on the difficulty of speaking to numerous ATO areas on a single issue, and the conflicting information that was provided by different ATO

frontline staff. Additionally in some cases, multiple attempts to contact the ATO through general lines have resulted in no response.

We recommend that the ATO establish a case management model whereby dedicated case managers are assigned to work with financial counsellors on client matters, acting as a liaison point between financial counsellors and different ATO areas to ensure quick resolution of matters.

#### 4. GST scams

Financial counsellors provided evidence of an alarming increase in GST fraud cases (the ATO refers to this category of people as Operation Protego), where vulnerable Australians with lower levels of financial literacy are being scammed by third parties who assist them to file inaccurate Business Activity Statements or tax returns to receive funds from the ATO. The third party then claims a portion of the funds as their fee, and the client is left with ATO debts due to the inaccurately filed documents. In some cases, these scams were perpetrated as part of systemic financial abuse in family violence situations.

To date, there is little clarity from the ATO about whether these debts, which the ATO views as purposely fraudulent despite evidence of the client's vulnerability and extenuating circumstances, will still apply in the case of bankruptcy. In addition, the ATO needs to take the client's vulnerability and circumstances into account in relation to repayment arrangements. There are some cases where debts should be waived because of these.

We recommend that:

- 1) Consistent with the recommendation above, that ATO guidelines be amended so that penalty interest be waived where culpability in these 'fraudulent' transactions cannot be established and where financial hardship is evident
- 2) The *Practice Statement Law Administration PS LA 2011/17* be amended to include "**where the debt owed is the result of a 'scam'**" as a consideration under which a debt may not be economical to pursue or otherwise effectively extinguished.

Further to the issues above which were raised during the listening webinars, Financial Counselling Victoria also raised the 'Debt to Government' legislation that has been developed in New Zealand as a model that can be adopted in Australia. We believe that this model may provide a pathway to mitigating a number of the issues raised by financial counsellors in the listening webinars, and would welcome the opportunity to discuss this further.

We would be happy to meet to discuss further if that would be useful.

Yours sincerely,





Zyl Hovenga-Wauchope  
Executive Officer  
Financial Counselling Victoria

**On behalf of:**

- Fiona Guthrie, Chief Executive Officer, Financial Counselling Australia
- Kate Fox, Executive Officer, South Australian Financial Counsellors Association (including the NT)
- Danielle Slade, Chair, Financial Counselling Association of Tasmania
- Leanne Berard, Acting Executive Officer, Financial Counselling Association of WA
- Jon O'Mally, Executive Officer, Financial Counsellors' Association of Queensland
- Financial Counsellors ACT
- Jo Parker, Executive Officer, Financial Counsellors Association of NSW

