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Public Accounts and Estimates Committee
Parliament House, Spring Street
East Melbourne VIC 3002

Dear Committee Members

Inquiry into Victoria's Response to COVID-19

Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Public Accounts and Estimates Committee (**PAEC**) Inquiry into Victoria's Response to COVID-19

COVID-19 has deeply affected the Victorian community in unprecedented ways. With a significant number of job losses and most of the population staying at home in compliance with public health orders, the need for Victorians to stay connected to essential services like energy is more important than ever. The financial impacts of COVID-19 have only started to show, and we expect these to worsen as various government stimulus measures are potentially rolled back.

In our submission, we have included both data and case studies to show just how important staying connected to essential services is during this difficult time. While the Victorian Government has taken some positive steps to assist Victorian consumers during the COVID-19 emergency, there are also areas where there is potential for reforms and improvement.

We discuss these comments in more detail below and a summary of recommendations is available at **Appendix A**. Case studies are available at **Appendix B**.

About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.

TABLE OF CONTENTS

About Consumer Action	2
Impact of COVID-19	3
Statistics from advice services	3
Impact on the Victorian Aboriginal community	3
Victoria's response to COVID-19	4
Energy disconnections data	4
Energy reforms and enforcement	5
Targeted support for Victorians struggling with energy bills	6
Other financial support measures	7
Tower lockdowns	7
Other consumer disputes	8
Further responses required	8
Debt management firms and predatory lenders	8
APPENDIX A – Summary of recommendations	10
APPENDIX B – Case Studies	11

Impact of COVID-19

Statistics from advice services

We have continued to provide free legal and financial counselling services to Victorians since the outbreak of the pandemic. Key issues raised in COVID-19 related calls to our service in May and June 2020 included:

- Financial counselling practice
 - Credit card debt (51% of COVID-19 related calls)
 - Housing arrears (mortgages) (22%)
 - Utility debts (predominantly electricity and gas) (17%)
 - Housing arrears (rent) (16%)
 - Small business debt (16%)
- Legal practice
 - Consumer services (including travel and wedding cancellations) (38% of COVID-19 related calls)
 - Car loan debt (11%)
 - Payday loan debt (9%)
 - Credit card debt (9%)

We are particularly concerned about energy debt, which we anticipate will continue to feature heavily in our casework. COVID-19 has caused significant disruption to households in Victoria, with more and more people learning and working from home. Throughout winter, the need for essential energy services is particularly pressing. COVID-19 has highlighted the need to ensure that people's health is not put at risk due to energy disconnection or under-usage. Accessing appropriate heating and power for essential household goods is critically important.

Staying at home means that households are consuming more energy. Many of our clients face a hard choice about whether to turn on the heater out of fear of the cost. Billing cycles may mean large winter bills arrive when COVID-19-related income support measures are reduced, home loan payment deferrals are reassessed, savings or superannuation are exhausted, and individuals face uncertain or reduced employment.

When compared to previous years, there has been an increase in the proportion of calls to our National Debt Helpline regarding energy debts. In the March to June periods in 2018 and 2019, energy was flagged as a financial difficulty type in 15% of total calls, while in March to June 2020 this figure had risen to 25% of total calls.¹ It is vital that disconnections do not occur or external debt collection for energy bills recommence, especially when stimulus payments or other government support is being rolled back.

Impact on the Victorian Aboriginal community

We are concerned that COVID-19 could exacerbate many of the consumer, credit and debt issues already facing the Victorian Aboriginal community. In March 2019, Consumer Action and the Victorian Aboriginal Legal Service (VALS) embarked on an Integrated Practice Project as one way of addressing the unmet consumer, credit and debt issues that affect the Victorian Aboriginal community. Since the project began, we have been able to attend numerous community engagement sessions throughout Victoria with local VALS staff and other local services such as community legal centres and financial counsellors, to connect with community and provide financial counselling and legal advice on civil and consumer debt issues.

¹ These figures relate to all calls to our financial counselling practice, not just COVID-19 related calls as referred to above.

The project has continued during COVID-19 with ongoing engagement via social media, online training sessions and stakeholder meetings, despite not being able to physically visit communities. We have also continued to provide legal advice via our dedicated Koori Helpline and financial counselling services via the National Debt Helpline. One of the outcomes of the Integrated Practice Project was our joint report with VALS on consumer issues impacting Aboriginal communities, which was released in February 2020.² We have referred to the observations in the report further below.

Since the official date Victoria started COVID-19 restrictions on 23 March 2020 until 7 August 2020, our National Debt Helpline financial counsellors have spoken with 30 people who identified as Aboriginal and/or Torres Strait Islander. People called about a range of issues including energy bills, issues with their telecommunications provider, credit card debt, payday loans and consumer leases. In the same period (23 March 2020 to 7 August 2020), we provided legal advice to 35 people who identified as Aboriginal and/or Torres Strait Islander, who raised similar issues including consumer leases, telecommunications, insurance, energy, car loans and payday loans. We are concerned that these issues could become more prevalent as the impacts of COVID-19 become more and more apparent within Victoria.

Our casework suggests that some Victorian Aboriginal community members are struggling to pay their electricity and gas bills, as well as phone or internet bills. We are also worried that payday lenders and consumer lease providers are continuing to market themselves as a solution, when there is compelling evidence these short-term, high-cost loans worsen people's financial situation through creating cycles of debt.³

We are concerned that if members of the Victorian Aboriginal community are accessing these exploitative forms of finance, there could be huge knock on effects. Debt spirals – where an individual is unable to meet repayments on a current high-cost payday loan and then takes out another to meet the short-fall – are extremely hard to break away from. These debt spirals can have a negative impact on housing security, access to services, basic essentials and healthy lifestyle options, community connectedness as well as gas, electricity, water and telecommunications connections and usage. Our report noted above, *'Consumer Issues in Victorian Aboriginal Communities'*, also highlighted the correlations between financial hardship being a driver of offending and increasing the risk of family violence.⁴

It is important now more than ever for community leaders and members to stay connected with each other. We are concerned that skyrocketing energy bills, phone and internet bills, as well as trying to put food on the table for family members, and increased unemployment, will mean that community members might turn to these predatory lenders.

Victoria's response to COVID-19

Energy disconnections data

Based on data from the Essential Services Commission (ESC), it appears only one electricity disconnection for non-payment has happened since the COVID-19 restrictions were imposed,⁵ which is a dramatically different scene to what we saw before COVID-19. The data released by the ESC in the Victorian Energy Market Update showed that

² Consumer Action Law Centre and Victorian Aboriginal Legal Service, *Consumer Issues in Victorian Aboriginal Communities*, February 2020, <https://consumeraction.org.au/wp-content/uploads/2020/02/200213-VALS-IP-Report.pdf>

³ <https://consumeraction.org.au/consumer-issues-victorian-aboriginal-communities/>

⁴ Consumer Action Law Centre and Victorian Aboriginal Legal Service, *Consumer Issues in Victorian Aboriginal Communities*, February 2020, <https://consumeraction.org.au/wp-content/uploads/2020/02/200213-VALS-IP-Report.pdf> pp. 22-24.

⁵ <https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/energy-customer-support-during-coronavirus-pandemic>

that 484 gas and electricity customers were wrongfully disconnected for non-payment in 2018-2019, which was down from 502 from the previous year.⁶ We welcome the ESC's proactive approach in setting out its expectations in relation to hardship and disconnections during this time,⁷ which has been supported by distributors largely refusing to action disconnection requests from retailers.

Regular data reporting by the ESC from electricity and gas retailers about energy customer support during the COVID-19 pandemic has also been a welcome step.⁸

Energy reforms and enforcement

We welcome the ESC's recent draft decision to increase support for residential households during the COVID-19 pandemic by requiring retailers to provide additional support for people who are applying for Utility Relief Grants (URGs), and conduct tariff checks for all customers receiving tailored assistance. We were also pleased to see the ESC progress other planned reforms during the pandemic, including a suite of changes related to ensuring energy contracts are clear and fair,⁹ changes to back-billing¹⁰ and capping maximum prices for embedded networks at the Victorian Default Offer rate.¹¹ These are important additional consumer protections that are needed now more than ever as an increasing number of Victorians face higher bills from staying at home, and are feeling the intersecting economic impacts of COVID-19.

While these have been welcome measures, recent research indicates that the energy sector can continue to improve its hardship responses, as shown by a Consumer Policy Research Centre survey that was conducted in May 2020.¹² Their survey of Australian consumers found 27% of respondents were concerned about their ability to pay energy bills, but only 10% were taking action to manage payment. There are many reasons for disengagement with essential services providers, and effective hardship responses must be proactive to overcome this disengagement. This is particularly important when attempting to help the most vulnerable in our society, who are more likely to disengage.

Households that are engaging with energy retailers are often finding the responses to financial hardship unhelpful. A survey completed by Energy Consumers Australia in May 2020 found that 20% of 'energy decision makers' said they have already requested financial assistance to pay their electricity bill. Of these only half (10%) received help which was useful, and half (10%) did not receive help that was useful.¹³ Victorians calling our financial counsellors at the National Debt Helpline have also raised conduct issues, such as:

- Retailers refusing affordable payment amounts in payment plans;
- Ultimatums to pay unrealistic lump sums in order to access some forms of assistance;
- URGs not being offered properly and confusion around URGs delay; and
- Issues with being 'bounced around' call centres or struggling to get through.

Ongoing monitoring and enforcement of the Payment Difficulty Framework by the ESC will be crucial as higher than usual winter energy bills arrive. Furthermore, we consider that a public moratorium on disconnections until

⁶ <https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/victorian-energy-market-report>

⁷ For example: <https://www.esc.vic.gov.au/media-centre/energy-watchdogs-ramp-monitoring-protect-customers>

⁸ <https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/energy-customer-support-during-coronavirus-pandemic>

⁹ <https://www.esc.vic.gov.au/electricity-and-gas/inquiries-studies-and-reviews/electricity-and-gas-retail-markets-review-implementation-2018/ensuring-contracts-are-clear-and-fair-2019>

¹⁰ <https://www.esc.vic.gov.au/electricity-and-gas/inquiries-studies-and-reviews/changes-back-billing-rules-2020>

¹¹ <https://engage.vic.gov.au/review-maximum-prices-embedded-networks>

¹² <https://cprc.org.au/2020/06/25/consumersandcovid/>

¹³ <https://energyconsumersaustralia.com.au/publications/energy-consumer-sentiment-survey-findings-june-2020-covid-special-reports>

further notice is needed to give households the confidence to use the energy they need to stay healthy while protecting those who disengage from falling through the cracks. We also recommend the ESC implement additional safeguards in relation to external debt collection practices and the sale of debts, and explore the possibility of debt waivers for households unable to afford ongoing essential energy costs where they are receiving no income.

Recommendation 1: The Victorian Government introduce a public moratorium on energy disconnections until further notice.

Recommendation 2: The ESC continue prioritising monitoring and enforcement of the Payment Difficult Framework.

Recommendation 3: The ESC consider additional safeguards in relation to external debt collection practices and the sale of debts and explore the possibility of debt waivers in appropriate circumstances.

Targeted support for Victorians struggling with energy bills

The Victorian Government recently announced a \$3.7 million support package to protect Victorians experiencing energy hardship.

We welcomed the announcement of this funding package, which includes funding for additional financial counsellors so that Victorians who are experiencing financial hardship can get support to assist with their energy bills.¹⁴ We agree with the Energy Minister's concerns about more and more Victorians spending time at home for work or learning purposes and the impact this will have on energy bills and household finances.

We remain concerned about the financial impact of stricter Stage 4 restrictions on households. A robust safety net starting with efficient application of concessions to relieve unaffordable debt is needed more than ever. We urge the Victorian Government to increase concessions, particularly via the URG scheme. It is critical that applications for these concessions are accessible and assessed promptly. While we understand the Department of Health and Human Services has worked to clear a previous backlog of URG requests, we are still receiving reports from financial counsellors with concerns around processing delays. We are also concerned that consumers might not be getting the financial assistance available to them, for example, when energy retailers fail to properly assist customers with an URGs application.

We have previously raised concerns about people's inability to access URGs on closed accounts.¹⁵ We have received a report from an external financial counsellor that this continues to be an issue during COVID-19. The financial counsellor told us that her client is a woman in her seventies who was admitted to hospital in early 2020 with multiple health conditions and suffering from malnutrition. The financial counsellor said that her client was trying to keep paying her bills by going without food. After nearly a month in hospital she was sent into respite care at an aged care facility, but she was unable to leave after the COVID-19 crisis began. We are told that due to the uncertainty around when she would leave the aged care facility, the financial counsellor's client shut off the electricity and gas. The financial counsellor says her client now has an energy debt she can't afford but is prevented from accessing the URG scheme.

Recommendation 4: The Victorian Government increase energy concessions, particularly via the Utility Relief Grant scheme, and ensure applications for concessions are accessible and processed promptly.

¹⁴ <https://consumeraction.org.au/3-7-million-package-announced-for-victorians-struggling-with-energy-bills/>

¹⁵ https://consumeraction.org.au/wp-content/uploads/2014/08/Utility-Relief-Grants-Draft-Case-Study-Report-Draft_FINAL.pdf, 14

Other financial support measures

A range of other financial support measures has recently been announced, including the Victorian worker support payment of \$1,500 for workers who have been instructed to self-isolate or quarantine, and a \$300 COVID-19 Test Isolation Payment.¹⁶ We strongly support these additional financial support measures. However, it is critical that the application process for these support payments is straightforward, and that payments are made promptly to ensure maximum take up by all eligible members of the Victorian community. We also welcome the recent announcements by the Federal Government about an additional \$1,500 payment for people required to self-isolate or quarantine, and the extension to JobKeeper. However, we reiterate our previous submissions that have called for an adequate and permanent increase to Centrelink payments generally, including a significant increase to the former Newstart (now JobSeeker) payment.

Recommendation 5: The Victorian Government continue or increase financial support measures, and ensure applications are straightforward and payments are made promptly to ensure maximum take up.

Recommendation 6: The Federal Government commit to a permanent increase to Centrelink benefits to avoid leaving people in poverty and having difficulty accessing essential services.

Tower lockdowns

The restrictions imposed on the tower blocks located in Flemington, Kensington, and North Melbourne raised numerous issues in terms of the impact on the people and communities that live and surround these estates. The effects were detailed by many community organisations, as well as many community and family members living in or with connections to the tower blocks. Issues raised included access to food and essential supplies, physical and mental health, and access to support, among others. We express solidarity and support for community members and organisations living in and supporting those affected by the lockdowns.

Consumer Action was primarily concerned about residents keeping connected to essential services during the hard lockdown. We understood that many people affected by the lockdown were already likely to be facing financial hardship, and were concerned that some of the residents might not be able to pay for some of their bills, while using energy and telco services more than ever while confined to their homes.

Staying connected to family and community, as well as work and government services, via phone and internet was also critical to the health and wellbeing of tower residents. For example, residents were requested to call numbers listed on the Victorian government document "How to access the services you need"¹⁷ if they had specific health or dietary needs. We had hoped and advocated for a public announcement from all telecommunication providers and energy retailers with a consistent plan for assistance detailing what they were going to provide to the residents, particularly a halt on disconnections.

While several energy retailers and telecommunications providers did make public statements about support available, this was relatively piecemeal. There would have been benefits to the government and industry delivering unified and public messaging about the supports available to residents during that difficult time. There was limited co-ordinated communication, and we were concerned about potential confusion about disconnection and issues with bills and hardship payments. There were no public government announcements made calling on telecommunications service providers to increase their supports to residents stuck inside the tower blocks.

¹⁶ <https://www.dhhs.vic.gov.au/financial-support-coronavirus-covid-19>

¹⁷ "How to access the services you need" (factsheet) accessed 13 July 2020 from <https://www.dhhs.vic.gov.au/information-and-supports-public-housing-restrictions-covid-19>.

Other consumer disputes

The information provided by Consumer Affairs Victoria on people's consumer rights during COVID-19 has been helpful. In particular, we found the simple guidance on price gouging and resellers, event cancellations and refunds, and COVID-19 scams useful to share with people calling our service.¹⁸

We also welcome the new, free dispute resolution service for tenants and landlords, known as the Residential Tenancies Dispute Resolution Scheme (RTDRS). Tenants' advocates have suggested a number of improvements to the RTDRS which would increase its effectiveness and ensure it meets minimum standards for a fair dispute resolution process. Bearing in mind the need for these improvements to the service, we consider that there is scope to expand that service (or a similar external dispute resolution service) to resolve other common consumer disputes cheaply, quickly and fairly. For example, we have advocated for many years for specialist ombudsman schemes to resolve retirement housing disputes and car disputes.¹⁹ The COVID-19 emergency will likely have exacerbated the impact of these disputes, for example, for those consumers unable to use their 'lemon' car to travel to and from permitted work, relying instead on public transportation where it is more difficult to socially distance. We know that resolving these disputes in court or at the Victorian Civil and Administrative Complaints Tribunal is too costly, complex and time consuming for many, which often leads to disputes remaining unresolved.²⁰

Recommendation 7: The Victorian Government consider expanding external dispute resolution services to resolve other common consumer disputes.

Further responses required

Debt management firms and predatory lenders

When the Government starts to roll back current measures to assist people such as JobKeeper and the increased JobSeeker payments, there is concern that there will be an increase in predatory lending practices by payday lenders, pawn brokers and consumer lease providers to Victorians struggling to make ends meet.

Cash Converters, one of Australia's biggest payday lenders and pawn brokers, in a recent ASX update worryingly suggested that government support measures were being used to repay payday loans, and had reduced demand for new loans but that it anticipated 'both lending volumes and our loan books will return' in the 2022 financial year.²¹ Consumer Action is deeply concerned that even though payday loan volumes have reportedly decreased during this time, we can expect to see that trend reverse as government stimulus measures are rolled back. As households are stretched thin, people might also turn to poorly regulated pawn brokers which charge significant fees to avoid having sentimental items sold once pawned.

We are also concerned about people turning to unregulated 'debt vultures' for debt advice, which often charge high fees and offer poor quality advice on dealing with problem debt. These debt vultures, also known as debt management firms, may unfortunately prey on Victorians' vulnerability and financial situation coming out of COVID-19 and may exacerbate people's financial hardship. These are operators that often charge an upfront fee to consumers, proposing to help them negotiate with lenders, repair their credit file, restructure debts, or arrange

¹⁸ <https://www.consumer.vic.gov.au/resources-and-tools/advice-in-a-disaster/coronavirus-covid19-and-your-rights/restricted-areas>

¹⁹ For example, see: <https://consumeraction.org.au/parliamentary-inquiry-retirement-housing-sector-2/> and <https://consumeraction.org.au/fix-car-one-year-wait-proper-dispute-resolution-cars/>.

²⁰ See Cameron Ralph Navigator, Review of Tenants' and Consumers' Experience of Victorian Civil and Administrative Tribunal: Research Report, July 2016: <https://consumeraction.org.au/review-tenants-consumers-experience-victorian-civil-administrative-tribunal/>.

²¹ See: Cash Converters, ASX Release – Business Update, 1 July 2020, <https://www.asx.com.au/asxpdf/20200701/pdf/44k3wxdm07kh39.pdf>

repayment plans. Some lodge caveats against the family home to secure their fees, even when services have not been provided or did not help to resolve the financial hardship or debt problems.²²

The Australian Securities and Investments Commission's report into the debt management industry in 2016 found that:²³

- fees and costs were opaque;
- fees were often high and heavily front loaded;
- some sales techniques created high pressures sales environments;
- little information was provided about important risks;
- some firms had a poor understanding of the relevant law and the consequences of particular strategies; and
- these firms rarely referred consumers in financial hardship to free, alternative sources of help.

A 2018 Senate Economics Committee inquiry concluded debt management firms rarely improve a customer's financial position, and it recommended the Federal Government implement a regulatory framework for debt management firms, including a licensing regime.

Since these two reports, we have seen no further action in terms of regulating these debt vultures. We urge the Victorian Government to move towards its own regulatory framework for these firms, to ensure that Victorians do not fall victim to poor quality and expensive debt advice when facing financial hardship.

Recommendation 8: The Victorian Government consider additional consumer protections for people impacted by predatory lending and debt management practices.

Please contact Samantha Rudolph at **Consumer Action Law Centre** on (03) 9670 5088 or at samantha@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely,

CONSUMER ACTION LAW CENTRE



Katherine Temple | Director Policy & Campaigns

²² See: <https://consumeraction.org.au/victorian-couple-sues-debt-management-firm-j-daniels-associates-and-nationwide-debt-collection-over-family-home/>

²³ <https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-465-paying-to-get-out-of-debt-or-clear-your-record-the-promise-of-debt-management-firms/>

APPENDIX A – Summary of recommendations

Recommendation 1: The Victorian Government introduce a public moratorium on energy disconnections until further notice.

Recommendation 2: The ESC continue prioritising monitoring and enforcement of the Payment Difficult Framework.

Recommendation 3: The ESC consider additional safeguards in relation to external debt collection practices and the sale of debts and explore the possibility of debt waivers in appropriate circumstances.

Recommendation 4: The Victorian Government increase energy concessions, particularly via the Utility Relief Grant scheme, and ensure applications for concessions are accessible and processed promptly.

Recommendation 5: The Victorian Government continue or increase financial support measures, and ensure applications are straightforward and payments are made promptly to ensure maximum take up.

Recommendation 6: The Federal Government commit to a permanent increase to Centrelink benefits to avoid leaving people in poverty and having difficulty accessing essential services.

Recommendation 7: The Victorian Government consider expanding external dispute resolution services to resolve other common consumer disputes.

Recommendation 8: The Victorian Government consider additional consumer protections for people impacted by predatory lending and debt management practices.

APPENDIX B – Case Studies

Peter's story

Peter (name changed) is in his seventies and called our National Debt Helpline service in March 2020 regarding a payment plan with their energy retailer.

Peter told us that he has been unemployed for the past few weeks and that he had missed one payment to his energy retailer due to having no funds. Peter told us that he was paying \$70 a week. He told us that he would prefer to be paying \$50 a week as this is what he can afford. Peter told us that his energy retailers was telling him he must agree to a direct debit of \$150 per week.

Peter told us that he is now working as a casual earning approximately \$800 per week. He told us that he has a mortgage with Bendigo Bank which is approx. \$50,000 owing and is paying \$300 a fortnight. He said his property is currently worth approx. \$300,000, and that all payments are up to date.

Peter told us that at the time he was speaking to his energy retailer, he told them that he was unemployed and had no income. He said that they did not offer him an application for a Utility Relief Grant (URG). Peter said he has been with his retailer for approximately six months. He said he thought it was a 'good deal' but that the bills have 'skyrocketed.' He said that the outstanding amount of his energy bill is approximately \$3,000.

Peter told us that he has been 'rung up about 8 times a day' from his retailer. He said he 'feels bullied' and cannot sleep. We provided Peter with information about URGs, the Victorian Energy Compare website and details for the Energy and Water Ombudsman Victoria.

Carmen's story

Carmen (name changed) called the National Debt Helpline in July 2020, regarding her electricity and gas bills.

Carmen told us that she was paying approximately \$175 a fortnight on her gas bill, and approximately \$60 a fortnight on her electricity bills prior to the COVID-19 restrictions in Victoria. Carmen told us that she has since had to put these payments on hold due to COVID-19.

Carmen told us that she is probably over \$1,000 in arrears for her gas. She also stated that her electricity is up to date, but that this also could be due to having solar. Carmen also told us about her water bill, which is approximately \$1,000 overdue.

Prior to COVID-19, she said that she had multiple jobs, but at the moment only has one part-time job and that will finish in two weeks. She told us that she will apply for Centrelink payments.

Carmen told us that she will apply for a Utility Relief Grant (URG) for her gas bill. Our financial counsellor told Carmen that she is also able to make an URG application for her water bill. At the moment, Carmen said that her mortgage payments have been deferred. Carmen also told us that she has asked for her deferral payment to be extended due to her current circumstances.

John's story

John (name changed) is an Aboriginal man from Victoria. John told us he is currently homeless. John also told us that he has mental health issues and was distressed when he called.

John contacted the National Debt Helpline in April 2020, seeking assistance with harassment from a payday lender. John told us he was being harassed after cancelling direct debits recently.

John said he is being pursued by Money3 for an outstanding loan of \$590. John said that he has other old debts but that he's not being contacted by those creditors. We believe that John needs additional advocacy and support, so referred him to a local financial counselling agency for assistance. John told us he is applying for the Disability Support Pension.

