



Buy Now Pay Later Options Paper Consultation

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About UnitingCare Australia

UnitingCare Australia is the national body for the Uniting Church's community services network and is an agency of the Assembly of the Uniting Church in Australia.

We give voice to the Uniting Church's commitment to social justice through advocacy and by strengthening community service provision.

We are the largest network of social service providers in Australia, supporting 1.4 million people every year across urban, rural, and remote communities.

We focus on articulating and meeting the needs of people at all stages of life and those that are most vulnerable.

Recommendations

- 1. Buy Now Pay Later products should be regulated in full alignment with the Credit Act.**
- 2. Consideration should be given to the responsibilities of merchants offering Buy Now Pay Later Products.**
- 3. A self-exclusion procedure should be available to consumers, with compulsory adherence by providers.**

The social harm of Buy Not Pay Later is enormous

Financial counsellors in the UnitingCare Australia network have supported thousands of Australians whose wellbeing has been materially, and often irreparably, damaged by BNPL. That social harm is unfolding at an increasing rate and is best exhibited through the four case studies outlined over the page.

One key theme is that the inappropriate accessibility of BNPL makes it a safe harbor for coercive control including domestic and family violence, and elder abuse. Regular financial product supports for consumers are absent, creating a risk to the most vulnerable that is not tolerated elsewhere. This includes scenarios where consumer requests for self-exclusion are ignored.

BNPL dispute resolution and hardship processes are unfit for purpose causing greater anguish among consumers and draining limited resources amongst financial counsellors.

Buy Now Pay Later products are credit, and they are expensive

On any functional definition, including the Australian Securities and Investments Commission Act 2001, BNPL products are credit. While BNPL presented as credit-light in its developing stages, it now walks and talks like traditional credit in all substantive senses:

- BNPL providers issue virtual cards through a mobile app that allow:
 - multiple uses,
 - up to a set limit,
 - use of standard electronic funds transfer at point-of-sale devices.
- BNPL provides significant lines of credit, one example being Zip Money's \$50,000 offering.

BNPL merchant fees are significantly higher than other electronic payments – Visa and MasterCard charge less than a per cent while Afterpay charges almost 4 per cent. Competition and contractual requirements preclude businesses from levying a surcharge on BNPL products. As a result, the added cost is either borne by the business or passed onto the consumer. Fees for smaller merchants are even higher. So small businesses and their customer base are further disadvantaged.

Like cases should be treated alike. In so far as credit regulation should be restructured, it should be restructured across all substantive credit products rather than by technical evasion.

Buy Now Pay Later products are poorly understood and opaque

Australian's understanding of credit regulation has been developed in the context of extant credit regulation. This includes common presumptions and beliefs that:

- being approved for a credit product signifies you have been assessed as being suited for that product,
- in personal hardship, dispute resolution processes will be robust and well managed,
- reasonable fee restrictions will be in place.

BNPL products are regularly advertised to and utilised by consumers with an incorrect understanding of the product. Because many consumers don't think of BNPL as debt, financial counsellors from the UnitingCare Australia network will often engage with clients who fail to disclose BNPL products and only mention their mortgage or credit cards or utilities as debts.

Multiple accounts, potentially across a range of providers, make it unnecessarily difficult to keep track of your financial obligation. Additionally, products are often targeted toward individuals at potentially greater risk of harm including lower wealth people, people from culturally and linguistically diverse backgrounds, and first nations people.

Buy Now Pay Later harmfully incentivises its own prioritisation

It is common practice to increase the credit limit on a BNPL account after a period of timely payment. This means that, if prioritised, BNPL products are often the largest credit opportunity for the least well off. It is also common practice to shut down accounts after one missed payment, as Nick Molnar of Afterpay testified to the Senate Standing Committee on Economics:

Be late one payment, we suspend your account, and you can't buy anything else through Afterpay until you've come good.

Paired together, these practices offer the consumer access to more money in the short term if they maintain their BNPL debt ahead of other obligations. But so strong an incentive profile for consumers to ignore other financial obligations can, and often does, create greater long-term harm.

Additional support is required for those under greatest financial stress

In 2018, 40 per cent of BNPL consumers had incomes of under \$40,000. The number of low-income consumers has grown and will grow over time. BNPL increasingly facilitates spending on household necessities like groceries, medicines, and utilities. More needs to be done to provide the least financially well-off Australians with sufficient income and access to income smoothing facilities across periods of peak financial stress.

Real Life Suffering

Maria is a single 31-year-old on DSP and living with mental illness. Maria is described by her financial counsellor as highly intuitive, digitally savvy, and somewhat isolated. Maria is aware that she resorts to buying things when she has mental health episodes. Recently she had over 40 items on BNPL arrangements for the purchase of groceries, uber eats, takeaways, electronic items, clothing, and household items. Maria finds it hard to manage repayments and as a result was incurring late fees on the accounts. She established a budget and with the support of a financial counsellor was able to obtain debt relief from two BNPL providers.

Following on from these successes Maria reverted back to making purchases with other BNPL providers, generating new debt over \$4,000.

Julia has long standing mental illness and relies on a small income protection payment and Disability Support Pension. At times her mental health deteriorates, and she is more vulnerable to making impulsive decisions, including purchases. During a period of particularly poor health and financial difficulty Julia signed up for a BNPL product which allowed her to use an app on her phone like a tap and go card.

Despite only asking for a small amount of credit, the BNPL provider approved a much higher amount and due to financial distress and poor health she ended up using all of the credit. She was not then able to repay as per the schedule and was charged fees, this caused distress, so she used her small amount of savings to repay the amount owing. She asked the BNPL provider to cancel the account so she would not end up in the same situation again, they refused.

The next time her health deteriorated she spent the full amount again, this time she had no savings and so she successfully applied to get money out of her superannuation account to pay it off. Again, the BNPL provider refused to cancel the account. Once again in a period of chaos she spent the full amount of credit and this time reached out to a financial counsellor for a payment arrangement and to cancel the BNPL account, as they would not even respond to her emails. Eventually, after taking the matter to AFCA, the debt was waived, and the account cancelled.

Julia said the BNPL provider made the credit appear affordable, but it wasn't, and she found it difficult to keep track of what she had spent. If they had checked her circumstances, she would not have been granted this credit, she believes she would still have her small amount of savings and would not have dipped into her small amount of superannuation.

Monica presented to a financial counsellor to gain support in negotiating with BNPL lenders as she was unable to meet payments. She presented with debts from five creditors all with amounts less than \$500. The loans had been taken out in succession of each other.

The financial counsellor attempted to contact and negotiate with creditors but the BNPL lenders did not respond to repeated attempts at contact by the financial counsellor. This resulted in much more time being spent chasing creditors to gain an outcome for the client. This has been a common experience when trying to contact BNPL lenders on behalf of a client to seek a timely resolution on debts. Despite attempts by a financial counsellor to contact providers and request that all communication be deferred to the financial counsellor, the providers continued to ignore the request and to contact the client directly instead.

The continued direct contact with the client adversely affected their mental health and their faith and confidence in the financial counsellor to support them to resolve their debt with BNPL providers. Fortunately in this instance, the client obtained employment and was able to pay off their debts.

Emily is a single mum with three young children. The family live in private rental which is in arrears and the local housing service is currently working on clearing the arrears for them. The family has been in the house just on 12 months after the father kicked them out of family home following the birth of the youngest child just over 12 months ago. The mother experienced family violence in this relationship, including financial abuse and coercive control. Emily reports feeling safe now that she is in her own home and has no ongoing contact with the father and perpetrator of the violence. The father makes no financial contribution to the household or to the children's everyday expenses.

In addition to rental arrears, other household essentials including gas, water and electricity are also in arrears with payment plans that don't cover current usage. The Utilities Relief Grant has been fully utilised within the last 6 months.

Fortunately Emily does not have credit cards or personal loans debt. However, she does use BNPL. Emily informed the financial counsellor that she has bought items for the kids during the Black Friday Sales. In the process, she was not asked for any information about her income, expenses or ability to pay the BNPL amount.

She was able to take on 11 BNPL arrangements with one provider totalling around \$1200. She reports that the amount she is required to pay is \$400 per fortnight. A household budget has been completed with the assistance of her financial counsellor and this repayment is clearly not affordable within her income and budget. It will only be able to be paid by letting other expenses go, e.g. food or utilities or even rent. A payment plan was discussed with the financial counsellor as an option, but the client did not want to enter this type of arrangement as it would jeopardise future access to BNPL arrangements. The financial counsellor will continue to work with client over coming months to support the resolution to these issues.