



Law Council
OF AUSTRALIA

Legal Practice Section

Centrepay Reform: Discussion Paper

Services Australia

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The Law Council advises governments, courts, and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world. The Law Council was established in 1933, and represents its Constituent Bodies: 16 Australian State and Territory law societies and bar associations, and Law Firms Australia. The Law Council's Constituent Bodies are:

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- New South Wales Bar Association
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- Northern Territory Bar Association
- Law Society Northern Territory
- Bar Association of Queensland
- Queensland Law Society
- South Australian Bar Association
- Law Society of South Australia
- Tasmanian Bar
- Law Society of Tasmania
- The Victorian Bar Incorporated
- Law Institute of Victoria
- Western Australian Bar Association
- Law Society of Western Australia
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The Law Council's website is www.lawcouncil.au.

About the Section

The Legal Practice Section of the Law Council of Australia was established in March 1980, initially as the 'Legal Practice Management Section', with a focus principally on legal practice management issues. In September 1986 the Section's name was changed to the 'General Practice Section', and its focus broadened to include areas of specialist practices including Superannuation, Property Law, and Consumer Law.

On 7 December 2002 the Section's name was again changed, to 'Legal Practice Section', to reflect the Section's focus on a broad range of areas of specialist legal practices, as well as practice management.

The Section's objectives are to:

- Contribute to the development of the legal profession;
- Maintain high standards in the legal profession;
- Offer assistance in the development of legal and management expertise in its members through training, conferences, publications, meetings, and other activities.
- Provide policy advice to the Law Council, and prepare submissions on behalf of the Law Council, in the areas relating to its specialist committees.

Members of the Section Executive are:

- Mr Geoff Provis, Chair
- Dr Leonie Kelleher OAM, Deputy Chair
- Mr Ben Slade, Treasurer
- Ms Maureen Peatman
- Mr Andrew Smyth
- Ms Robyn Glindemann
- Mr Luke Barrett

Acknowledgement

The Legal Practice Section is grateful for the assistance of its Australian Consumer Law Committee in the preparation of this submission.

Introduction

1. The Australian Consumer Law Committee (**ACL**) of the Law Council of Australia's Legal Practice Section welcomes the opportunity to provide a response to the Discussion Paper on Centrepay reform, published by Services Australia in May 2024.
2. As noted in the Discussion Paper, Centrepay is a voluntary and free bill paying service, offered by Services Australia for Centrelink customers. Centrepay currently supports more than 600,000 customers to pay for goods and services across more than 15,000 businesses.¹
3. Members of the ACLC are lawyers with extensive expertise in consumer protection law from a broad range of different practice types, including private practice, the independent bar, legal aid, community law, legal services in remote and regional communities and academia. This response has been primarily informed by ACLC members with frontline experience assisting Centrepay customers in their dealings with suppliers of goods and services that are defined as 'approved providers' under the Centrepay scheme.
4. The ACLC commends Services Australia for undertaking this important review process. Through its contribution to this review, the ACLC seeks to assist Services Australia to meet the needs and expectations of the community, especially those of vulnerable social security recipients, who rely on Centrepay to meet their essential service needs.

Policy intent

Centrepay objective

5. The ACLC considers that the existing *Centrepay Policy and Terms (Policy)*² has the capacity to meet the objective of the service, namely:

*... to assist customers in managing expenses that are consistent with the purpose of welfare payments, and reducing financial risk, by providing a facility to have regular deductions made from their welfare payments.*³

However, the ongoing reticence of Services Australia to enforce the Policy—and ensure compliance by approved providers—has had the opposite effect. Consequently, approved provider business practices remain largely unchecked, and customers remain vulnerable to financial exploitation and harm.

6. The Discussion Paper notes that the Centrepay policy reform process will address several areas, including:
 - safeguards and protections for customers to reduce financial harm;
 - ensuring the right products and services are available through Centrepay;
 - identifying high-risk products, services and business practices that do not align with the intent of the program;

¹ Services Australia, *Centrepay Reform* (Discussion Paper, May 2024), 3.

² Services Australia, *Centrepay Policy and Terms* (Version 3, December 2018)

<<https://www.servicesaustralia.gov.au/centrepay-policy-terms-and-procedural-guide?context=23256>>.

³ Ibid [2.1].

- Centrepay as a tool for customer financial empowerment and self-management;
- requirements and obligations for businesses using Centrepay;
- Centrepay assurance framework; and
- complaint and escalation pathways for customers and third parties.⁴

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

7. The ACLC agrees that the critical areas for reform, outlined above, reflect the evolving needs of Centrepay customers and stakeholders.
8. As the agency with responsibility for assisting some of the most disadvantaged members of Australian society, Services Australia must prioritise customer protection over access to the Centrepay service by approved providers. It is clear from the Policy that Centrepay is intended to empower customers and reduce their financial risk. It is not a tool to be used by approved providers to engage in financial exploitation.
9. The role of Services Australia, therefore, is to ensure that approved providers engage with customers in a lawful and fair manner, in accordance with the Policy. To achieve this, periodic review of the alignment of the Centrepay service with its objectives is essential.
10. Additional consideration should be given to the varying experiences of the Centrepay service by the most vulnerable customers, where different levels of financial harm are suffered by them. Specific regard should be had to those customers whose disadvantage is compounded by, for instance, geographical remoteness, cultural and language barriers, and low levels of financial literacy. By way of illustration, a business practice that is detrimental to a vulnerable customer in a metropolitan area, where markets are more competitive and consumers have more choice, may be devastating to a vulnerable customer in a remote area, where choices may be significantly more limited.

Principles for the review

11. The ACLC considers that consumer protection should be the paramount consideration in any evaluation by Services Australia of the Centrepay service and its framework, especially where accessing Centrepay presents an opportunity for businesses to service vulnerable customers who cannot otherwise afford essential goods and services.
12. Key factors for consideration in any review of the Centrepay service should include the following:
 - (a) **Ensuring the right products and services:** Services Australia should embed continuous review processes to assess the suitability of products and services available through Centrepay. A clear and proactive process should be implemented for promptly assessing and removing goods or services that deviate from the objectives of Centrepay by being inappropriate or harmful.

⁴ Services Australia, *Centrepay Reform* (Discussion Paper, May 2024), 5.

- (b) **Centrepay as a tool for empowerment:** Accessibility principles ought to be at the forefront of Centrepay, especially for marginalised groups. Services Australia should consider and address barriers relating to, for instance, language, culture, age, disability, location, and digital literacy. Customer-centric design principles should be implemented to empower Centrepay customers to manage their finances independently, while safeguarding their interests.
- (c) **Robust Centrepay assurance framework:** Services Australia must satisfy itself that approved providers can demonstrate compliance with the law and the Policy, and act fairly in all the circumstances. While Services Australia may consider the business attestations from approved providers, it should also consider other evidence sourced from those receiving the service. This evidence must include:
- data collected by Services Australia on consumer complaints;
 - data shared by the credit licensee regulator—the Australian Securities and Investments Commission (**ASIC**)—on relevant investigations and enforcement actions; and
 - information gathered through formal and regular engagement with bodies representing consumers in disputes.

Approved providers operating in remote communities should be subjected to particularly careful scrutiny, for the reasons set out above.

- (d) **Best practice complaint handling:** While Services Australia currently has a customer complaint management process,⁵ it should establish a complaints portal with appropriately resourced customer support. To ensure best practice complaint handling, Services Australia should provide meaningful and timely responses to complaints, improve its record-keeping of complaints, and periodically report to the relevant Minister about complaint trends and outcomes in a transparent and public way.
- (e) **Scheduled reviews for continuous improvement:** Services Australia should regularly schedule reviews of Centrepay, to address emerging challenges, and ensure that the service provided continues to align with its objectives. Feedback from customers and their representatives will form an integral part of these reviews, which must properly resourced. The outcomes of any reviews must be made publicly available to ensure that any identified issues can be addressed, and progress monitored.

⁵ Services Australia, *Complaints and feedback* (Web Page, 2024) <<https://www.servicesaustralia.gov.au/complaints-and-feedback?context=64107>>.

Approved goods and services

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

13. The ACLC agrees that the current list of authorised goods and services include what should be available through Centrepay, namely:
- residential accommodation, including rent, board and bond;
 - education and childcare provided by registered providers, and employment-related expenses;
 - low or special interest loans, insurance premiums, deposits paid to savings programmes;
 - costs and expenses associated with medical equipment and services;
 - purchase of basic household items, including food, clothing, and footwear;
 - expenses associated with legal and other professional matters;
 - expenses related to community, social, and recreational participation;
 - on road vehicle expenses, general transportation, and furniture removal and storage; and
 - private, State and Territory government utilities and local council services.⁶

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?

14. Centrepay, as a financial tool, should not inadvertently perpetuate a ‘poverty premium’—the perverse situation where financially disadvantaged individuals pay more for essential goods and services, due to their economic circumstances.
15. As such, the ACLC considers that the spectrum of financial products available through Centrepay should be restricted to only those goods and services that are of value to customers and are unlikely to expose them to financial harm. For example:
- Motor vehicle insurance protects consumers from the unexpected costs of repairs associated with an accident or theft of their vehicle. A vehicle may be the most valued asset in the household for a Centrelink recipient. By contrast, other quasi-insurance products, or junk insurance products (i.e., some consumer credit insurance, accident insurance, and funeral insurance) are low-value and high-cost products, with a documented history of exploiting vulnerable consumers.⁷ These products ought to be excluded from Centrepay.
 - Small amount credit contracts, medium amount credit contracts, and leases under the *National Consumer Credit Protection Act 2009* (Cth) (**Credit Act**) impose very high costs on consumers. As is well known to Services Australia and ASIC, consumer leases charge several times the recommended retail

⁶ Services Australia, *Centrepay Policy and Terms* (Version 3, December 2018) <<https://www.servicesaustralia.gov.au/centrepay-policy-terms-and-procedural-guide?context=23256>> 6 (Table 1).

⁷ See, e.g., Anna Patty, *When living longer means getting no value for funeral insurance*, The Sydney Morning Herald (Online, 26 March 2023) <<https://www.smh.com.au/business/consumer-affairs/when-living-longer-means-getting-no-value-for-funeral-insurance-20230301-p5cooi.html>>; Daniel Ziffer, *Big four banks dragged to court over consumer credit insurance ‘rip-off’*, ABC News (Online, 21 April 2021) <<https://www.abc.net.au/news/2021-04-21/cci-junk-consumer-credit-insurance-rip-off/100080350>>.

price for household goods.⁸ While the Credit Act allows these high costs (in recognition of higher risk of default relating to these kinds of products), when a Centrepay arrangement is available, the risk of default is reduced, yet the credit provider does not reduce the cost of credit. Services Australia should insist that the providers of these products offer fair pricing, or exclude them from Centrepay altogether.

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

16. The ACLC considers that, at a minimum, the following three criteria should be used to consider whether to include or exclude any goods or services:
- (a) **Pricing:** Centrepay should promote equitable pricing. Approved providers should not exploit vulnerable customers by artificially inflating the prices of goods or services. In addition, approved providers should not be able to apply a fee, or additional credit, for customers using Centrepay. Charging a premium (or significantly increasing the actual cost) for the sole reason that a customer pays monthly, rather than annually, and uses Centrepay, is unfair and counterproductive. All customers, regardless of their payment method, deserve equitable access to goods and services at fair and reasonable prices.
 - (b) **Payment method:** Approved providers must be prohibited (or, at a minimum, strongly dissuaded) from engaging in discriminatory pricing practices based on the payment method that is chosen by the customer. The payment framework should explicitly prohibit price discrimination on this basis.
 - (c) **Mobility:** Approved providers in remote areas must be closely scrutinised to ensure that prices remain fair and competitive. This is important, in order to avoid consumer choice being limited to businesses that offer higher prices and more frequently contravene the Australian Consumer Law.

Deduction arrangements

Are the current Centrepay deduction types sufficient and provide the appropriate flexibility to support customers in managing their own finances?

17. While Centrepay can be an effective tool to support individuals to manage their finances, it is important that this service only enables the provision of essential goods and services, and that deduction types are similarly restricted.
18. Should Centrepay be expanded, this will correspond to an increased risk of adverse impacts on customers' financial literacy. The ACLC observes that many customers are not equipped to understand the detail of their Centrepay deductions. The more Centrepay payments that are deducted, the more likely it is that the customer will experience confusion and disempowerment.

⁸ See ASIC, *Money Smart: Consumer leases* (Web Page, 2024) <<https://moneysmart.gov.au/other-ways-to-borrow/consumer-leases>>.

Should there be restrictions on the types of deductions (i.e. ongoing, amounts) that can be established for specific goods and services?

19. ACLC members frequently assist individuals with little to no understanding of their own Centrepay arrangements, including how much money is being deducted, and for what purposes. It is typical that these individuals will have sought advice from a financial counsellor, or a lawyer in the legal assistance sector (such as a Community Legal Centre) to understand why the Centrelink payments received in their bank accounts have reduced.
20. ACLC members observe that, after obtaining a person's Centrepay deduction statement and explaining it to them, it is not uncommon for those individuals to express that they were not aware of the existence of some deductions. There are many reasons why a customer may not be aware of a Centrepay deduction, including (but not limited to) disability, low levels of financial and/or digital literacy, cultural and language barriers, and ever-shifting priorities due to poverty.
21. Additionally, it is not uncommon for customers to learn that they have accrued excessive credits at a business that appears to have been processing Centrepay deductions over a prolonged period of time. In an example from the casework of an ACLC member, an individual in a regional town discovered that a long-forgotten, ongoing Centrepay deduction had resulted in a credit of almost \$2000 at a small food store in another town. This is known as an 'overpayment'.⁹ As set out in the Policy, approved providers are to ensure that overpayments do not arise and, if they do, to take remedial action, including refunding amounts to customers.¹⁰
22. In the above example, upon requesting a refund, the customer was denied, and was repeatedly advised to spend the money in-store, despite not living locally to that town. Fortunately, having received legal assistance, the credit was eventually returned to the customer. However, there is a high likelihood that other individuals in similar situations would not pursue a refund, nor be empowered to seek professional advice.
23. In another example from the casework of an ACLC member, the spouse of a deceased person discovered that they had, during their lifetime, accrued a credit via an ongoing deduction at a local store. The process for this money to be paid to the spouse—as the primary beneficiary of the estate—was lengthy and resource-intensive. From the ACLC's perspective, there appears to be no process in place for Services Australia to assist beneficiaries to identify these assets, or to complete probate, so as to access the assets.
24. The ACLC recommends that, with the exception of deductions for housing and a limited category of services (like utilities), deductions should have end dates and finite amounts, agreed to by the customer at the outset of the arrangement. For the avoidance of doubt, approved providers should be prohibited from making ongoing, indefinite deductions, and should not be able to accumulate surplus funds.
25. The ACLC also suggests that hard copies of statements of deductions should be made available, free of charge, to individuals who are digitally excluded.

⁹ Services Australia, *Centrepay Policy and Terms* (Version 3, December 2018)

<<https://www.servicesaustralia.gov.au/centrepay-policy-terms-and-procedural-guide?context=23256>> 3.

¹⁰ Ibid [9.1)(e)].

Should there be a maximum percentage limit on the amount customers can allocate from their Centrelink payment to their Centrepay deductions? Should this percentage apply to all Centrepay service reasons or to a selection of service reasons?

26. The ACLC notes that, currently, 100 percent of a person's Centrelink payments can be deducted via Centrepay. This is undesirable, and Services Australia should consider instituting a mandatory quarantine of 25 percent of a Centrelink recipient's payment, to ensure it cannot be accessed by approved providers.
27. Relatedly, approved providers should be required to record details of all purchases made. This process would assist all parties, should a complaint or dispute arise, and would also contribute to identifying poor business practices related to Centrepay.

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

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

28. The ACLC is of the view that putting power in the hands of an approved provider (that makes its profits from customers, via their Centrepay deductions) to enter customers into Centrepay deduction arrangements will not facilitate customer empowerment, nor the monitoring of approved providers' conduct.

Customer experience

Access to Centrepay

What types of information should better support customers to understand and manage their own Centrepay arrangements?

29. The ACLC's comments on this matter are limited to:
- ensuring that no customer is left behind due to digital exclusion, whether by reason of socioeconomic status, geographical location, digital illiteracy, or otherwise; and
 - that any process must have accessibility imbedded into the service design.

How can Services Australia, and registered Centrepay businesses, better support customers when things go wrong?

30. The ACLC observes that there is currently an overreliance on access to MyGov, and that this significantly disadvantages customers who are unable to engage with this platform, especially when things go wrong. Alternative accessibility needs to be considered, not limited to physical presence in a service centre or digital access.

Complaints

What improvements could be made to the complaints management process for Centrepay customers?

How can we better advertise and communicate the channels and avenues through which complaints can be made?

31. There should be a clear, transparent and appropriately funded complaints-handling process for Centrepay customers. Complaint data (i.e., frequency, types, and outcomes) should be reported periodically to the responsible Minister and published.
32. While noting that Services Australia has an established customer complaint management process,¹¹ the ACLC recommends that a Centrepay customer complaints portal be created that can accept complaints from individuals and their representatives. Services Australia should provide adequate support to complainants engaging in this process.

Are there any known barriers or perceived issues that are impacting on a customer's ability or willingness to raise concerns with Services Australia in relation to their Centrepay arrangements?

33. In the view of the ACLC, the current complaints process is opaque to most Centrepay customers and their representatives.
34. As the case of *Chief Executive Centrelink v Aboriginal Community Benefit Fund Pty Ltd*¹² demonstrated in 2016, Services Australia has the power to revoke its approval of an approved provider. In that case, the revocation was the result of a policy decision about the kind of product (funeral insurance), but the power could legitimately be used to cancel an arrangement with a business that did not comply with Policy.
35. The ACLC, therefore, recommends that an essential component for effective reform of Centrepay will include transparency about customer complaints, including their outcomes. This will be important to ensure that challenges with the Centrepay scheme are promptly identified, managed and addressed.

Business

Becoming a Centrepay registered business

36. In response to the questions in the Discussion Paper about Centrepay registered businesses, the ACLC considers that:
 - regular auditing (either proactively by Services Australia, or by an independent auditor) of approved providers should occur. These audits should include approved provider attestations, data collected from customer complaints, and data shared by other agencies, such as ASIC and the Australian Financial Complaints Authority; and

¹¹ Services Australia, *Complaints and feedback* (Web Page, 2024) <<https://www.servicesaustralia.gov.au/complaints-and-feedback?context=64107>>.

¹² [2016] FCAFC 153.

- specific guidance should be given to approved providers, outlining the types of conduct that will flag a business for investigation and potential revocation of approval as a Centrepay registered business.

Business models

37. In response to the questions in the Discussion Paper about the business models of Centrepay registered businesses, the ACLC is of the view that:

- approved providers that largely or solely rely on Centrepay deductions for income should be monitored more closely by Services Australia than others, because this business model has a higher likelihood of being a vehicle for financial exploitation, rather than a legitimate budget management tool for customers; and
- any business model that involves the charging of an excessive fee or premium (including high cost of credit, or higher upfront prices) should be excluded, or at least more closely monitored, for the reasons set out above.

Compliance

38. In respect of current compliance processes, complaints, and audit outcomes, the ACLC's comments are limited to the following:

- the eligibility of individual businesses to remain approved providers should be regularly monitored, having regard to the complaints received by customers; and
- Services Australia should publish its enforcement processes, actions and outcomes. One possible way of achieving this could be to create a dedicated web page, such as the Australian Human Rights Commission's Conciliation Register,¹³ and the Australian Competition and Consumer Commission's Infringement Notices Register.¹⁴

Overpayments

39. As discussed earlier in this submission, there is currently no mechanism to prevent ongoing deductions. This is highly undesirable and should be reformed. The ACLC reiterates its recommendation that, with the exception of deductions for housing and a limited category of services (like utilities), deductions should have end dates and finite amounts, agreed to by the customer at the outset of the arrangement.

¹³ Australian Human Rights Commission, *Conciliation Register* (Web Page, 2024) <<https://humanrights.gov.au/complaints/conciliation-register>>.

¹⁴ Australian Competition and Consumer Commission, *Infringement notices register* (Web Page, 2024) <<https://www.accc.gov.au/public-registers/infringement-notices-register>>.

Consultation and engagement

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

40. The ACLC considers that Services Australia should establish a Centrepay-specific consumer advisory board that reports directly to the Minister, with representation from a variety of diverse and historically marginalised groups who routinely interact with the Centrepay service, such as First Nations peoples, culturally and linguistically diverse individuals, and individuals living with disability.
41. The advisory board should be tasked with advising on the review and the implementation of any recommendations arising. The board should also regularly review the Policy, complaints data, and the Centrepay scheme as a whole, to ensure that it remains fit for purpose and is sufficiently meeting the needs of its customers.