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Submitted via [productivity.govt.nz](http://productivity.govt.nz)

Board and Staff  
Productivity Commission  
Wellington

**RE: A fair chance for all; Breaking the disadvantage cycle; Scoping the Terms of Reference for an inquiry**

FinCap welcomes the opportunity to comment on The Productivity Commission's (**Commission**) A fair chance for all; Breaking the disadvantage cycle; Scoping the Terms of Reference for an inquiry consultation paper (**consultation paper**). In our work to support the 890 financial mentors across Aotearoa we are focused on seeing people, whānau and communities free of hardship. Financial mentors often report that many of the people working with them are facing hardship due to persistent disadvantage or are at risk of facing persistent disadvantage due to various life events that have contributed to their debt.

We strongly support the He Ara Waiora model being used in the inquiry for a holistic understanding of disadvantage. The consideration of access to essential services as an aspect of mana āheinga is particularly important. We recommend that the Commission set terms of reference which ensure it can work towards understanding how to best approach making sure no whānau goes without the goods and services they need for their health, wellbeing and social participation.

We expand on these comments and highlight some other concerns that financial mentors have raised which are relevant to the inquiry in the submission below.

**About FinCap**

FinCap (the National Building Financial Capability Charitable Trust) is a registered charity and the umbrella organisation supporting the 200+ local, free financial mentoring services across Aotearoa. These services support more than 70,000 people in financial hardship annually. We lead the sector in the training and development of financial mentors, the collection and analysis of client data and encourage collaboration between services. We advocate on issues affecting whānau to influence system-level change to reduce the causes of financial hardship.

## Responses to consultation paper questions

### Q1. What are the main dimensions of persistent disadvantage that should be included in the Terms of Reference as areas to be investigated?

#### Unfair business conduct, financial exclusion and poverty premiums

FinCap regularly hears of instances where people or whānau are excluded from essential services or are given no choice but to access essential services that are more expensive<sup>1</sup> or less likely to meet their needs because they are already vulnerable. There are also other types of businesses who actively target those who may be having difficulty paying and whose practices make these situations worse. All of these experiences could compound or put someone on the pathway to facing persistent disadvantage. We have prioritised gaining expertise in identifying these issues at FinCap and consider these should be one of the main areas of investigation in the inquiry.

Every step in a process someone must go through to avoid persistent disadvantage is a chance for that process to fail and compound or trigger persistent disadvantage. We believe a key to better outcomes from business' practices is likely to involve improving systems so that they ensure people have few barriers to engaging with the providers of essential goods and services. In addition to this, people should not necessarily have to actively engage to receive what they need from these businesses, especially in situations where they are facing a multitude of other issues which as a whole are overwhelming.

Many businesses providing essential services on a for-profit basis do provide some great initiatives to assist people facing hardship despite this cohort often being seen as less profitable than others. However, to get consistent fair treatment of this cohort across all businesses, mandating consumer protections through regulatory intervention is often required. This intervention where successful can see all businesses consider how their conduct may lead to any of their customers or potential customers experiencing a wide range of vulnerabilities and then compel those businesses to adjust their conduct appropriately.

For context, a few examples of issues reported by financial mentors include:

- People who go through a no asset procedure form of insolvency and then are denied access to a bank account completely or are only offered a bank account without access to internet banking.
- Whānau with fewer options for housing due to credit history or discrimination who have to, or who reasonably believe they have to, accept substandard housing for exorbitant prices.
- Whānau whose credit history means no provider will offer to supply their home with electricity except on a prepay basis. These whānau then face being automatically disconnected when in financial hardship.
- Where there appears to be no other pathway to access transport, a person being coerced by a car dealer to accept higher interest car finance which includes bundled purchasing of low value, high-cost add-on insurances and costs for installing a device to disable the vehicle whenever payments are missed.
- Debt collectors adding unreasonably high 'debt collection fees' to missed payments and then following this with unfair practices to force repayments at a rate that will make food unaffordable.

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<sup>1</sup> As discussed in this recent academic article: Choe, L. 2021 *Evicting My Childhood: Young people's Survival of Unstable Housing*, New Zealand Population Review, 47, 198-224, p.201. Available at: [https://population.org.nz/app/uploads/2021/08/Choe\\_Evicting\\_My\\_Childhood.pdf](https://population.org.nz/app/uploads/2021/08/Choe_Evicting_My_Childhood.pdf)

The above demonstrate ways in which a lack of effective consumer protections can lead to whānau being ripped off or excluded from receiving what they need. These experiences can put them at risk of persistent disadvantage.

**Recommendation:** The Commission investigate the effectiveness of protections that aim to prevent consumer harm as this harm can compound persistent disadvantage or put a whānau on a trajectory towards persistent disadvantage.

### **Lack of safeguards through justice systems**

FinCap is also concerned that the attachment order process means that unfair debt collection can be entrenched by the courts and continue over decades. The onus is on consumers to unwind attachment orders when they are often already in place and causing substantial hardship. Financial mentors report that there are barriers to engaging with the process to do so.

Information we requested from the Ministry of Justice indicated a steady trend of around 25,000 new attachment orders related to civil debts being placed against people's benefits each year. The courts may order up to 40 per cent of a benefit payment be automatically redirected for these payments.

The above may be one of many instances where justice processes fail to safeguard against the risk of a whānau experiencing persistent disadvantage. We are not experts, but do also hear regular examples from financial mentors of how people leaving prison are at unreasonable risk of facing severe hardship. This inquiry presents an opportunity to better 'connect the dots' and resolve these sorts of issues.

**Recommendation:** The Commission investigate how courts, corrections and justice processes are failing to provide safeguards from experiences that can compound persistent disadvantage or put a whānau on a trajectory towards persistent disadvantage.

## **Q2. Where should the Commission focus its research effort?**

### **Restoring trust to avoid disengagement**

Financial mentoring follows a strengths-based approach where those being assisted are made aware of the options available to them and can opt to be supported on the pathway forward that they choose. Time again we hear that whānau facing hardship not feeling able to trust a process is a barrier to them engaging with systems designed to support those at risk of persistent disadvantage.

Financial mentors often observe that a pathway that could be most promising is avoided on the basis that some people experiencing persistent disadvantage do not trust that institutions with more power than them will deliver an outcome in their interest. For example, many do not go with the option of complaining to a business where that organisation has clearly failed to meet a regulatory requirement to treat them fairly. Similarly, few are comfortable with escalating the complaint to a disputes resolution scheme who might restore a fair balance of power in a dispute. Financial mentors also report that most people and especially those facing severe hardship are very cautious in complaining about non-compliant rental property conditions out of fear around the risk of retaliation from their rental housing provider.

It is also safe to say that many financial mentors are frustrated in relation to 'no-shows' where a person or whānau are unable or choose not to attend an appointment made for a financial mentoring session. We encourage the Commission as an overarching theme to investigate what can be done to prevent experiences that lead to whānau losing trust in aspects of systems that should support them. Any

means of rebuilding trust, engagement and rapport may hold the key to preventing persistent disadvantage.

**Recommendation:** The Commission focus research efforts overall on what can be done to maintain or restore the trust of people facing persistent disadvantage in the organisations that can assist to prevent this experience.

### **Q3. Where should government focus its effort on finding solutions?**

#### **Uncertain funding of support services**

Many financial mentors undertake their work on a voluntary basis but there is a growing cohort of professional financial mentors. Unfortunately, many professionals and volunteers are determined to continue their vital work in their communities but face uncertainty because they are under resourced or where currently adequately resourced do not have certainty of sustainable funding in the future.

This uncertainty looms over their shoulder and limits their ability to stay working as a financial mentor. It contributes to the risk of burn out and leads to inefficiencies where their skills and experience are lost as they make the difficult choice or have no choice but to move on from the work they are passionate about.

Adequate sustainable funding of support services that help people on a pathway away from 'falling through the gaps' is clearly vital to ensuring people have the opportunity to maintain wairua on an ongoing basis.

**Recommendation:** The inquiry work with funders of social services on ways to best provide sustainable funding for support workers.

### **Q4. Is there anything else that you would like to see in the Terms of Reference for this inquiry?**

#### **Other matters widely reported by financial mentors**

FinCap is in regular contact with financial mentors from over 200 services around Aotearoa. The following issues are regularly raised as areas of concern which are relevant for the inquiry:

- **Housing;** in many different areas of Aotearoa financial mentors report that whānau they are assisting are facing unaffordable housing, unsafe housing conditions, barriers to asserting their rights to their housing provider or no access to housing.
- **Kiwisaver hardship withdrawal or insolvency as the only way to move forward;** many people who simply cannot pay their debt have only one choice depending on the situation. One is a Kiwisaver hardship withdrawal which is a stressful process and can put a person at risk of financial instability in later years. The other is an insolvency procedure that may mean they are at risk of being denied a number of essential services for some time due to credit reporting. Investigating people's experiences in going through these choices may reveal underlying issues or ways to further improve the outcomes of these processes so that they do not contribute to persistent disadvantage.
- **Issues with insecure hours or low paid work;** some financial mentoring services note they are seeing more people who are employed but facing hardship than ever before. They cite the emergence of the 'gig economy,' flexible hours and other employer practices where people are underpaid or live under the constant risk of fluctuating income relative to the cost of living as factors making it often unviable to maintain wairua.
- **Issues accessing or providing identification documents;** financial mentors often report those facing severe hardship encountering barriers that make it difficult to access services because

they do not have the identification documents necessary or the processes for submitting documents are impractical. One example is people who can't access a bank account as they leave prison.

- **Increasingly overwhelming complexity of hardship experienced in debt spirals;** while some nationwide figures have shown trends indicating better financial well-being across the whole population following our first alert level 4 in 2020, financial mentors have been sharing that they are seeing people present for assistance with more complex problems. Simultaneous problems with debt and other social issues mean a whānau and those assisting them must spread limited bandwidth and resources across engaging with multiple organisations to restore wairua overall. The siloing of each organisation's response to suit what 'part of the picture' they can see, particularly where they ignore the advice of a support worker with a holistic understanding of what will address underlying issues (such as a financial mentor) is disappointing. So too is the inefficiency reflected in financial mentors and the people they are working with having to regularly wait hours on the phone to government departments and businesses, sometimes with no outcome.

Finally, we recommend that the Commission as part of this inquiry directly engage with people experiencing persistent disadvantage and undertake qualitative analysis of the experiences they choose to share. This will provide a perspective that is real, grounded and a reminder of the reason for the work.

As well as improving the insights for the Commission, doing so would also be a signal to those experiencing or who have experienced persistent hardship that they can trust the inquiry to deliver findings that are in their interests. With this type of engagement, we suggest at minimum two people with these experiences are directly consulted with at any one time as engaging with the inquiry may be less intimidating with support from a peer.

Please contact Jake Lilley, Policy Advisor at FinCap on 027 278 2672 or at [jake@fincap.org.nz](mailto:jake@fincap.org.nz) to clarify any aspect of this submission.

Ngā mihi



Ruth Smithers  
**Chief Executive**  
**FinCap**