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"Enforcement Issues: Working Towards a Fairer Consumer Credit Market: A Study of the Issues in New Zealand's Consumer Credit Market and Proposals for Reform: Research Paper for a Final Report to the Borrin Foundation" 

Victoria University of Wellington Legal Research Paper No. 4/2021

VICTORIA STACE, Victoria University of Wellington - Faculty of Law

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EMILY CHAN, Victoria University of Wellington

This paper sets out how the law (being the law as at April 2019) relating to high-cost lending, is enforced. It identifies the current problems with enforcement that have been recognised in the policy papers to date, and outlines the reforms proposed in the 10 October 2018 reform package. It provides information on how consumer credit regulation is enforced in Australia and the UK, and makes note of the suggestions around enforcement made by the submitters to the Ministry of Business, Innovation & Employment (MBIE)'s June 2018 Discussion Paper "Review of Consumer Credit Regulation" (the June

2018 Discussion Paper). It makes a series of recommendations as to how to improve enforcement of the Credit Contracts and Consumer Finance Act 2003 (CCCFA) based on the research findings.

"Debt Collection: Working Towards a Fairer Consumer Credit Market: A Study of the Issues in New Zealand's Consumer Credit Market and Proposals for Reform: Research Paper for a Final Report to the Borrin Foundation"

Victoria University of Wellington Legal Research Paper No. 5/2021

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This report sets out the results of research by Victoria University of Wellington on certain key issues around debt collection in the context of lending under consumer credit contracts in New Zealand, as at date of writing (August 2019). The proposed changes to the law (in the October 2018 package of reforms and in the Credit Contracts Legislation Amendment Bill (CCLAB), introduced 11 April 2019) do not address the most concerning aspects of debt collection, which are issues with harassment and the costs of debt collection.

"Debt Collection in New Zealand: Considering the Case for Adoption of Guidelines, Modelled on Australian Debt Collection Guidelines, to Address Poor Conduct by Debt Collectors"

Victoria University of Wellington Legal Research Paper No. 6/2021

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The recovery of unpaid debts can be pursued with firmness, determination and civility. It can do all those things without resorting to bullying, bluff, misrepresentation or stand-over tactics. If it does the first and avoids the second it is unlikely to contravene the law. *ACCC v McCaskey* [2000] FCA 1037, at [51] (French J).

Evidence revealed by the Government's recent consumer credit review suggests there are issues regarding poor debt collector conduct in New Zealand by some collectors. This paper looks at the law in New Zealand that is relevant to debt collection and, drawing on the experience in Australia, considers how that law, and in the particular the prohibition in s 23 of the Fair Trading Act 1986 against harassment and coercion, might be utilised more effectively to improve standards across the industry. In particular, it considers whether the adoption of regulator guidelines, based on the Australian debt collection guidelines, that explain how s 23 is interpreted by the regulator, might be a useful measure to address poor debt collection practices.

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Victoria University of Wellington Legal Research Papers Series primarily contains scholarly papers by members of the **Faculty of Law at Victoria University of Wellington**. Some issues collect a number of papers on a similar theme to form a suite of papers on a single topic. Others issues are general or distribute mainly recent work.

The Student/Alumni Series is a subseries of the Victoria University of Wellington Legal Research Paper Series. The subseries started in 2015 and publishes papers by students and alumni of Victoria University of Wellington, comprising primarily work for honours and postgraduate courses. Papers are collected into thematic or general issues.

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachusetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the Law School has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments.

Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a North American associate professor in rank.

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