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Promoting understanding about banks' financial hardship programs

This industry guideline does not have legal force or prescribe binding obligations on individual banks. While the ABA's industry guidelines are voluntary, they are developed with input from, and agreed support by, member banks. The ABA encourages members to use this industry guideline in their internal processes, procedures and policies.

Purpose of the industry guideline

This industry guideline:

- Explains how Commonwealth consumer protection laws, the Australian Government's Hardship Principles and relevant provisions within the Code of Banking Practice apply to banks' hardship programs.
- Provides practical guidance on what banks could do to meet their obligations under these laws, principles and codes when dealing with customers who may be experiencing financial difficulty.
- Outlines a framework for banks that balances the need for consistent, standardised access to financial hardship assistance with the need for flexibility when responding to customers' unique personal and financial circumstances.
- Promotes best practice across the banking industry.

This industry guideline provides guidance for banks. However, customers and other interested parties may find this industry guideline provides them with useful information about banks' financial hardship programs.

What is financial hardship?

Banks want to help their customers during times of financial difficulty and have adopted policies, programs, practices and support services to do this. Banks recognise that there are different categories of financial difficulty and have different means to help their customers overcome a wide variety of financial difficulties.

For example, banks acknowledge that their customers can experience a permanent change in their circumstances and may face a permanent state of financial difficulty, can find themselves in situations where they have simply missed a payment and need temporary relief, or can be faced with a situation that impacts their ability to meet their repayments or existing financial obligations.

While banks recognise that their customers have unique experiences, not all these situations are defined as "financial hardship". "Financial hardship" is when a customer is willing and has the intention to pay, but is unable to meet their repayments or existing financial obligations, and with formal hardship assistance their financial situation can be restored.

Financial hardship can be due unforeseen circumstances or unexpected events, for example:

- Unexpected changes in income and/or expenditure.
- Changes in employment status (such as losing a job or a reduction in income).
- Significant life events (such as a relationship breakdown or a death in the family).

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- Circumstances of financial abuse where the financial liability arose from a situation of family and domestic violence or financial difficulty being experienced by a person leaving a violent relationship.
- Injury or illness.
- Emergency event or natural disaster.

Responses to categories of financial difficulty

Banks design their financial hardship programs to comply with a range of legal obligations and industry standards that cover the duties and obligations they must meet as credit providers.

Importantly, customers' unique personal and financial circumstances mean that different banks will have different internal processes and procedures and will make different decisions on whether to provide a customer in financial difficulty with assistance and what type of assistance may be offered. Notwithstanding, it is possible to broadly categorise the kinds of financial difficulties customers may face and the general ways that banks can respond.

Diagram 1: Categories of financial difficulty

Late payment assistance

Customer requires help from their bank to overcome a short term payment difficulty.

For example, a customer would like to make their repayment at a later date, or they have accidentally missed a payment and would like the late payment fee waived.

Banks have the discretion to provide relief to their customers, such as offering a payment arrangement or deferral (known as a 'promise to pay' arrangement).

Banks can also agree to refund or waive late payment or default fees.

Formal financial hardship assistance is unlikely to be required in these circumstances.

When restoring a customer's financial situation is possible

Banks' financial hardship arrangements focus on situations where a customer can recover their financial position if appropriate assistance and agreed arrangements are put in place.

Arrangements can be:

Short term

Examples include moving to interest-only or reduced payments for an agreed period of time.

Longer term

Examples include extending the loan's term so repayments are lower for the life of the contract.

Longer-term arrangements would generally require a change to the conditions of the existing credit contract and a new repayment plan.

When restoring a customer's financial situation is unlikely*

Due to a permanent change in their financial situation, the customer's capacity to recover and meet repayments in a reasonable amount of time is unlikely.

Even if the conditions of the existing credit contract were changed, the customer would not be able to satisfy their repayment obligations in the long term or restore their financial position.

It may not be possible or appropriate for the bank to offer payment arrangements under their hardship program. However, even in these circumstances, banks can offer support and advice but the existing contract would generally not continue.

Options may include agreeing on an alternative arrangement, plan or contract; refinancing; selling the property; or pursuing bankruptcy or insolvency arrangements.

During the course of their relationship with their bank, a customer may move in and out and between these situations:

- Repeated requests for late payment assistance may lead to a need for formal hardship assistance.
- If a customer cannot restore their existing financial position, they may sell their assets and refinance with the same bank.

* In certain circumstances a customer may be able and willing to repay even if conditions do change permanently.

Dealing with longer-term hardship is an inherently difficult and challenging issue for the community. The banking industry is committed to working with stakeholders to explore ways it can assist.

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Principles for industry practice

To be available and accessible, banks will:

- Adopt strategies to encourage customers experiencing financial difficulty to contact their bank as soon as possible. Importantly, customers should not have to be in arrears for help to be provided.
- Develop and make available consistent and sound hardship policies and programs that genuinely support their customers in financial hardship.
- Identify hardship assistance and measures that support the widest possible range of customers. Banks will work with customers to identify appropriate solutions if customers indicate they are experiencing financial difficulties, have missed a payment or are in arrears, or are struggling to manage their financial obligations.
- Make customers aware of their hardship policies and programs and ensure information is easily accessible and transparent to customers and other parties (including professional financial counsellors), taking into account the special needs of some customers (including customers with a disability or customers with language and interpreter requirements). For example, banks will ensure a toll-free telephone number is available and publicised, and that information is available at branches, call centres and on their website through a button on the homepage (consistent with the agreed industry standards on website and branch disclosure).
- Respond in a similar way to any expression of financial hardship, regardless of who a customer speaks to at the bank – noting that customers can give verbal and written hardship notices under the law.
- Respond to a hardship notice, requests for hardship assistance and/or information about their hardship policies and programs in a timely, efficient and fair manner without unnecessary delay. Banks will only request information from customers that is reasonably necessary to assess their situation and determine an appropriate response.
- Ensure policies regarding the assessment of a hardship notice involving joint borrowers are clear and appropriate. For example, as a joint account is set up to allow joint borrowers to operate with several and joint liability, banks should not require both borrowers to make a hardship notice, especially in circumstances where there is a relationship breakdown and/or family and domestic violence.
- Ensure policies give consideration to circumstances of financial abuse and family and domestic violence (Refer Industry Guideline: Financial abuse and family and domestic violence policies).
- Ensure policies regarding the assessment of a claim under a consumer credit insurance policy are clear and appropriate.

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To implement robust financial hardship programs and practices, banks will:

- Implement and maintain internal policies, procedures and programs for responding to financial hardship that comply with and reflect the legal rights and obligations of customers.
- Provide dedicated financial hardship staff to work with and support customers. These staff members will be available during normal business hours (Monday to Friday). Banks may also have in place alternative processes for dealing with customers outside business hours.
- Ensure processes for assessing a hardship notice or responding to a request for hardship assistance are transparent and well understood by their customers.
- Provide training to all relevant staff, including frontline employees who deal with customers and specialised staff (such as financial hardship and debt collections teams) who require the knowledge, skills, competencies and information to recognise customers experiencing financial difficulties (consistent with the agreed industry guide on training). In addition to staff training, a scripting process should also be designed to help specialised staff in the collections team or other bank staff refer customers appropriately and as needed to the dedicated financial hardship team.
- Make support materials available to help customers gather and complete the necessary documentation required by the bank to assess a hardship notice, including forms, fact sheets and links to useful resources, such as the ABA's 'DoingItTough'[1] website.
- Deal with a customer's agent or representative, such as a professional financial counsellor, attorney or administrator, and make it as simple as possible to appoint such an agent or representative while recognising the bank's privacy obligations under the law. Where a financial counsellor has been appointed by a customer, the bank should accept the agreed industry standardised forms – Financial Counsellor Statement of Financial Position and the Financial Counsellor Authorisation Form (see Attachments A and B).
- Where possible and appropriate, refer customers to staff members able to discuss alternative arrangements relevant to the customer's circumstances and financial situation, such as internal money management programs or other internal or external support services, such as a professional financial counsellor.
- Where possible and practical, identify strategies for harmonising hardship programs and debt collection practices – recognising that the bank's collections team is an important connection point with customers who may be experiencing financial difficulties.

To make best endeavours to provide arrangements that meet their customers' needs, banks will:

- Identify and put in place suitable and practical arrangements that meet the customer's needs (including their ability to meet ongoing living expenses). In doing so, banks will make decisions within the context of business considerations, including the bank's commercial position.
- Work to adopt standard processes for assessing a hardship notice and confirm the main details of any hardship arrangement with the customer in writing.
- Provide customers in arrears with ongoing assistance and case management. For example, banks should speak regularly to their customers to ensure the hardship

[1] www.doingittough.info

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arrangement remains relevant for their situation, or whether other arrangements may be more appropriate.

- Encourage customers to keep in contact with them, particularly if their personal circumstances or financial situation changes. Banks will listen to customers and create an environment where they feel free from judgement or embarrassment.
- Provide contact details (i.e. a return phone number or a reference number) if they call a customer about their hardship application or arrangement. This will ensure the customer can conveniently return the call.
- Not send default notices and collections activity or recovery action will cease if a hardship arrangement is being actively considered or the customer is complying with the agreed arrangement. Likewise, banks will not assign or sell the debt in these circumstances (except as part of a funding arrangement).
- Have processes in place for managing problems, complaints or disputes. If a customer is not satisfied with the hardship assistance provided or the arrangement entered into, they have the right to lodge a complaint with their bank and with other parties. Information about complaints processes and dispute resolution processes will be made available to customers.
- Where possible and appropriate, make consistent decisions about hardship arrangements. However, banks will need to retain the flexibility to respond to the unique experiences of individual customers.

Hardship arrangements

Hardship arrangements or hardship assistance can vary depending on a number of factors, including:

- The individual customer's personal circumstances, needs and financial situation.
- The type of credit facility (for example, secured or unsecured loan).
- Whether the period of change to the customer's personal or financial circumstances is known.
- Whether there are other factors affecting the customer.
- The bank's commercial position, such as credit risk, consistency of hardship and collections practices, commercial and operational costs, and consideration of reputation and other impacts.

While suitable arrangements will be assessed on a case-by-case basis, Table 1 (below) outlines certain hardship arrangements that a bank may make available as part of their hardship programs. However, banks are not obliged to provide these types of hardship arrangements and maintain the discretion to decide which arrangements to offer based on their customers' circumstances and other considerations.

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Table 1: Examples of hardship arrangements

Hardship arrangement	
Postponed or deferred payments (moratorium)*	Stopping or deferring repayments for a specific period.
Capitalising or capping	Arrears are added to the loan balance and/or the loan term is extended (the loan may not always need to be extended).
Loan restructure (loan extension)	The loan term is extended (out to 'full term' in most cases) to reduce the repayment amount.
Payment holiday	Where the customer is ahead of their repayments, the additional amount may be used to reduce or put on hold current repayments.
Interest-only repayments	Altering the loan to interest-only repayments for a specific period.
Temporary overdrafts or line of credit	Where the customer can meet the terms, this arrangement gives the customer access to additional credit for a shorter term. The customer should not be placed in a situation where assistance would deteriorate their financial situation.
Loan freeze	Depending on the circumstances, the loan can be frozen for a period of time to allow the customer to get their situation under control after a significant disruption (i.e. emergency event or natural disaster). The customer would be in the same position at the end of the period (i.e. interest and fees do not accumulate).
Offering information on different money management and banking arrangements	Depending on the circumstances, banks can provide customers with information about budgeting, reducing non-essential spending, and other banking products and services.
Associated arrangements	
Refinance^	The existing loan is closed and a new loan is established.
Debt consolidation#	Multiple debts or loans are aggregated.
Fee waivers*	No default fees or late fees during the period of the hardship arrangement or while a hardship application is being assessed.
Early access to term deposit accounts	Waiving penalties on early withdrawal of term deposits.

* These arrangements could also be appropriate options for late payment difficulties.

^ In exceptional circumstances, where significant changes to the repayment terms would require a contract variation or a new contract.

Debt assignment and account combination is not allowed during the period of a hardship arrangement, or while an arrangement is being actively considered.

Special circumstances

In special circumstances, banks will streamline arrangements to help customers and their communities during an emergency event or a natural disaster, such as a flood, bushfire, cyclone or earthquake.

Banks recognise that customers may not have access to their homes and/or financial records at these times. In these circumstances, banks may not require customers to complete standard hardship assessment processes, such as providing information or supporting documentation. This ensures customers have the time and headspace to come to terms with their situation without the pressures associated with their debts and financial obligations at these times. Banks will then determine a suitable arrangement when the immediate event has passed and recovery has commenced.

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Banks may also provide information about support services, such as professional financial counsellors, which can offer further assistance during the recovery phase.

Furthermore, banks may offer wider emergency relief packages to provide immediate support for customers, as well as broader assistance to help communities recover. For example, during the event and the immediate aftermath, access to cash and basic banking services may be disrupted. Special arrangements between banks and across the banking industry can be put in place to help support relief efforts and restore services. In these circumstances, banks will work with governments and authorities to make sure banking infrastructure is restored as quickly as possible.

Regulatory framework

There are three key frameworks that govern the way banks respond to customers experiencing financial hardship.

The National Credit Code

The National Consumer Credit Protection Act 2009 (**NCCP Act**) is the law governing consumer credit in Australia and is designed to protect consumers' interests. The NCCP Act includes the National Credit Code as a schedule to the Act.

The National Credit Code applies to credit provided to an individual (or a strata corporation) wholly or predominantly for household, personal or domestic purposes. The Code also applies to credit provided to an individual for purchasing, renovating or improving residential property for investment purposes (including refinancing this credit)[2].

Under the National Credit Code, a customer can give their bank a verbal or written notification of their inability to meet their current or future obligations under their credit contract (a 'hardship notice'). If a customer gives a 'hardship notice', the bank may ask the customer for some information relevant to determining whether the customer is, or will be, unable to meet their obligations under their credit contract and/or how to change the credit contract.

The National Credit Code requires banks to decide whether to change the customer's credit contract within certain time periods, and to provide the customer with a notice of their decision. However, even if the customer is not eligible to change their credit contract under the National Credit Code, the bank may still offer other forms of support and assistance. (These are outlined in Table 1 on page 5).

The Code of Banking Practice

The Code of Banking Practice is the banking industry's customer charter on good banking practice. The Code establishes the banking industry's key commitments and obligations to customers on standards of practice, disclosure, principles of conduct and dispute resolution.

The Code is contractually binding on banks that have adopted it. Clause 28 of the 2013 version of the Code outlines a bank's obligations when an individual or small business customer is experiencing financial difficulties with their credit facility, including:

- Helping customers overcome their financial difficulties with any credit facilities they have.
- Dealing with an authorised financial counsellor or representative at the customer's request.
- Responding promptly to requests for assistance.
- Not combining accounts or assigning debts while the bank is actively considering the customer's financial situation or a hardship arrangement is in place.

[2] Apart from this, the National Credit Code does not apply to credit obtained for commercial or business purposes.

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- Informing customers about the hardship provisions of the National Credit Code and the Code of Banking Practice, if the bank considers they apply to the customer's circumstances.
- If a bank identifies that a customer may be experiencing financial difficulties during the course of their personal dealings with the customer, they may contact the customer and discuss their situation.
- Informing the customer in writing of the bank's decision whether or not to provide assistance and reasons for the decision.
- Confirming in writing the main details of arrangements.

The Code of Banking Practice can be accessed on the ABA's website.

Australian Government's Hardship Principles

In addition to the National Credit Code and the Code of Banking Practice, banks operating in Australia have agreed to adopt the Australian Government's hardship principles: *"A Common approach for assisting borrowers facing financial hardship"*. The hardship principles are designed to ensure credit providers treat individuals fairly and support them. The principles cover temporary assistance options, identifying borrowers in hardship, staff training, and timely and needs-based assistance.

Accessing hardship arrangements

What is the hardship process?

Banks will encourage customers who think they are, or will be, unable to meet their existing financial obligations, to contact them as soon as possible. This will allow banks to work with customers to find a solution and prevent the situation from deteriorating further.

A customer has to tell their bank, verbally or in writing, of their current or future inability to meet their existing financial obligations (a hardship notice as defined under the National Credit Code). Customers do not have to use particular terminology or formally apply for hardship to have their bank take action on their hardship notice. If it is unclear whether a customer is providing a hardship notice, the bank should check with the customer.

Once a customer has given their bank a hardship notice, the bank may require the customer to provide certain information and supporting documentation.

Importantly, banks will only request customers provide information that is reasonably necessary to help the bank understand the customer's personal circumstances and financial situation and determine whether assistance is suitable. For example, the information requested should allow the customer to explain how their personal and financial circumstances have changed and whether they are expected to change and improve in the future.

The type of information and documentation required depends on a number of factors, including the period of time hardship assistance is required, the type of arrangement that may be offered, or whether a third party requires additional information (e.g. a provider of lenders' mortgage insurance).

Typically, the information and documentation that may be required includes:

- Statement of Financial Position – outlining income, expenses, assets and liabilities.
- Evidence of employment (e.g. payslips, employment contract, tax return).
- Evidence of income (e.g. account statements, Centrelink statement, social security payment details).
- Evidence of medical circumstances (e.g. medical certificate from a qualified medical practitioner, proof of assistance via the disability support pension).

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- Other evidence (e.g. separation statement, contract of sale, or consent from joint borrower (where required)).

A bank may not require all this information. Banks recognise that the hardship process should minimise the effort required from customers, and therefore, will strive to minimise the amount of information requested, especially if this information is contained in, or can be derived from, other provided documentation. It is important that banks receive copies of the relevant evidence to appropriately consider the circumstances of their customer.

In some circumstances, a bank may accept alternative evidence of their customer's circumstances. Examples of alternative evidence are set out in the table below.

Customer circumstances	Acceptable evidence	Alternative evidence
Medical Status	Medical certificate Medical reports	Centrelink income statement Evidence of Total Permanent Disability insurance benefit Evidence of Temporary Salary Continuance insurance benefit
Tenancy	Rent receipts	Centrelink income statement
Home ownership	Title deed Mortgage statements	Centrelink income statement
Other assets	Statement of financial position	Centrelink income statement

Understanding the kinds of social security benefits a customer receives can help banks determine what customer information is relevant.

How do banks assess an application for hardship assistance?

Typically, banks will take into account the following criteria when assessing whether, and what kind of, hardship assistance may be appropriate for a customer:

- Reason for the hardship.
- Financial position, including income, expenses and equity position (banks will consider any assets and their value and any liabilities and outstanding debts).
- The customer's ability to meet the commitments under the hardship arrangement and future repayments under the contract.
- The customer's ability to rehabilitate their circumstances (based on whether the hardship assistance will offer genuine relief and whether the customer can restore their financial situation).
- Whether the customer has received hardship assistance in the past and if it improved their financial situation.

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How do banks confirm the hardship arrangement?

If a bank decides to provide hardship assistance, their customer must comply with the repayment terms of any arrangement or agreement.

Under the National Credit Code, banks may be required to provide their customer with a written notice about whether the bank has agreed to change the credit contract in response to a hardship notice in prescribed timeframes.

Under the Code of Banking Practice, banks may also be required to provide their customer with the main details of the hardship arrangement in writing.

Additionally, banks will provide their customer with the main details of an arrangement or agreement put in place to deal with the categories of financial difficulty: (page 2 of this industry guideline, including financial hardship):

- Verbally or in writing if the arrangement or agreement is for a period less than 30 days (a customer can request the notice to be in writing).
- In writing where the arrangement or agreement is for a period of more than 30 days.

Importantly, banks should ensure their customers understand what is required of them, especially when a new arrangement is put in place to assist them through the period of financial hardship. The main details might cover:

- Amount of outstanding debt.
- Key aspects of the arrangement (such as an alternative arrangement or repayment plan).
- Details of whether the arrangement will affect the credit contract or outstanding debt.
- Whether interest is affected and, if so, how interest (existing and accrued) will be managed.
- The duration of the arrangement.
- Whether, and at what point, the arrangement will be reviewed.
- The customer's obligations under the arrangement (so they do not inadvertently default at the end of the arrangement).

What happens if banks do not agree to provide a hardship arrangement?

Under the National Credit Code, banks do not have to change their customer's credit contract. For example, if a customer does not provide a reasonable explanation for why they cannot meet their contractual debt obligations, or if the bank reasonably believes their customer couldn't meet their repayment terms even if the credit contract was changed.

Banks will consider their own commercial interests when determining the appropriateness of a hardship arrangement. For example, typically the arrangement will need to be consistent with their overall hardship, collections, credit risk and compliance policies and rules.

If a bank decides not to provide hardship assistance, under the National Credit Code and Code of Banking Practice it must explain in writing to the customer why it took this decision. Banks may decide not to provide hardship assistance for the following reasons:

- The customer is unable to meet the loan contract's repayment terms (even if the contract was varied or another arrangement was put in place).
- Hardship assistance was previously given to the customer but did not improve their financial situation.

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- The statement of financial position or other supporting documentation demonstrates the customer is unable to service the loan (i.e. repayments would not leave the customer with sufficient money for essential items and living expenses) or improvement is not likely.
- Hardship assistance would be detrimental to the customer, for example, it could put the customer in a negative equity position with their property[3].
- The customer would be unable to meet their financial obligations in the future.

A decision to refuse hardship assistance is not typically straightforward. After a bank has explained why it could not provide hardship assistance, it will refer the customer to the collections team, or if debt collection activity is on hold, it will reactivate normal debt collections processes.[4]

Depending on the circumstances, a bank may exercise its discretion to help customers with an exit strategy or provide other assistance and advice, on a case-by-case basis. While these situations rarely happen to customers, a bank may consider other options or approaches, including:

- Informing the customer about the potential early release of their superannuation[5] (or referring the customer to staff who can discuss their options in more detail).
- Giving customers more time to sell a property.
- Discussing other relevant support measures that might be available (including government programs, such as mortgage assistance schemes).
- Suggesting the customer seek other assistance (including from a professional financial counsellor, financial adviser, legal aid officer or legal practitioner).

It should be noted that Diagram 1: Categories of financial difficulty (page 2 of this industry guideline) explains different scenarios and assistance options in more detail.

If a customer is not satisfied with the response or assistance provided by the bank, customers have the right to make a complaint to their bank or with an external party. Banks are required by both the Code of Banking Practice and the National Credit Code to have an internal complaints handling procedure and hold a membership to an external dispute resolution scheme, such as the Financial Ombudsman Service (**FOS**).

Debt Reduction

Where the customer's capacity to recover and meet repayments in a reasonable amount of time is unlikely, a bank may consider debt reduction in addition to all other standard forms of assistance based on the customer's circumstances. Alternatively, in exceptional circumstances a bank may receive requests under a hardship notice to reduce or waive debts where standard hardship assistance options may not be suitable.

Whether a debt is reduced will be at the discretion of the bank; having regard to the type of debt (e.g. an unsecured loan), the customer's circumstances, and the commercial decisions of the bank.

[3] It may be appropriate for a customer to enter into a temporary position of negative equity. For example, if a property sale is about to occur and/or the period will be short term and the customer can demonstrate that they will recover and have the capacity to repay.
[4] Collections activity will stop when a hardship arrangement is being considered or an arrangement is in place.
[5] Under Clause 28.9 of the Code of Banking Practice (2013), customers have the option of applying for early release of their superannuation benefits when they are in financial difficulty. However, banks do not require customers to repay all or any part of their credit facility from superannuation. The Code obliges banks to refer customers to the Department of Human Services for information on early release of superannuation.

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Scenario: Debt waiver

Chris is a single parent with four children including one child with a significant disability. Chris and the children live in a private rental property. Chris receives NewStart allowance, however, because Chris cares for a disabled child Chris is applying for a Carer's Pension.

Chris owes a debt of $3,200 through a credit card issued by a bank before Chris had children. The limit gradually increased while Chris was supported by the ex-partner (and parent to the children). Chris has no money after basic living expenses to meet the minimum repayments on Chris's credit card. Chris is also periodically in arrears for rent and energy bills, which can lead to threats of eviction and disconnection. Chris has previously received energy relief grants from the Government and financial aid from charities.

Chris is a client of a support agency. The agency is concerned about Chris's ability and capacity to care for Chris and the children given the level of financial stress Chris is under. Employment in the near future is unlikely.

Chris, with the assistance of the support agency, contacts the bank that issued Chris the credit card and advises that Chris cannot meet the minimum repayments ongoing. The bank interprets this as a hardship notice and transfers Chris to their hardship assistance team.

The bank considers various options for Chris, including deferring payments for a specific period, but determines that due to Chris's extenuating circumstances, Chris is unlikely to be able to meet the minimum payments in a reasonable amount of time. The bank waives Chris's credit card debt and cancels the credit card.

Banks will request customers provide information that is reasonably necessary to help the bank understand the customer's personal circumstances and financial situation and determine whether a debt waiver is suitable.

Implementing a hardship program

Managing the hardship process

Banks face a number of legal, regulatory and business requirements that influence how they implement their hardship programs. While banks may have different business models and business unit structures, it is important for their basic approaches and practices to reflect industry practice. While banks must meet their minimum legal and contractual obligations (under the National Credit Code and Code of Banking Practice), this industry guideline also contains additional good practice for banks in responding to customers who may be experiencing financial difficulties.

Training relevant bank staff to help customers who may be experiencing financial hardship

Given the broad-ranging requirements that influence how hardship assistance is provided, banks need to implement and maintain internal policies and procedures that ensure their staff can effectively and efficiently help customers. While the emphasis will be on training specialised staff in their financial hardship and debt collections teams, it is important for banks to raise the level of awareness about financial hardship across their organisations for all relevant staff, including frontline employees.

Banks' training programs should focus on equipping staff with the appropriate knowledge, skills, competencies and information to help customers who may be experiencing financial hardship.[6] The training content should be consistent with the agreed industry guide on training, including general information about financial hardship, specific information about the bank's hardship program, and relevant contact details for the bank's dedicated financial hardship team. Furthermore, additional training should be provided to specific staff that is appropriate to their roles and refreshed regularly. For example, frontline employees should be trained to be alert to referring customers to the bank's dedicated financial hardship team (as needed), be provided with tips on identifying customers who may benefit from hardship assistance and scripting for referrals.

[6] Under Clause 28.11 of the Code of Banking Practice (2013), banks will take reasonable steps to ensure relevant staff are trained on the hardship provisions of the Code and the National Credit Code.

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Training for specialised staff in financial hardship and debt collections teams should be more detailed than that provided to frontline employees, and include content that will equip these staff with the skills to help customers who may be experiencing financial difficulty. Specialised staff should have a full understanding of how financial hardship might occur for their customer, the particulars underpinning their customer's personal circumstances and financial situation (i.e. details of government assistance or other payments), and therefore, the arrangements or options suitable in the circumstances. Training areas and competencies appropriate for specialised staff in the financial hardship and debt collections teams are contained in the agreed industry guide on training.

Additionally, it may be appropriate for specialised staff to receive case management training and customer service competencies. Specifically, specialised staff should be trained to be alert to the special needs of some customers, including customers with a disability, language or interpreter requirements, or special cultural needs. Dealing with customers with special needs is an inherently difficult and challenging issue for banks. The industry is committed to working with community organisations, which may provide bank staff with additional training to manage customers' special needs.

If bank staff become aware that a customer might require specialised assistance for problems beyond or unrelated to financial matters, staff may suggest customers seek an appropriate professional for additional support services (such as a medical or legal practitioner or a professional financial counsellor). It should be noted that it might not be appropriate for bank staff to personally intervene in their customers' personal circumstances. Accordingly, bank staff should always engage with customers in a sensitive and professional manner and ensure their interactions and referrals are commensurate with internal policies and procedures.

Confidentiality and protecting customer information

Banks must adhere to their general duty of confidentiality and comply with any relevant privacy legislation, including duties under the *Privacy Act 1988*.

Customers should have access to information about their bank's personal data practices without unreasonable effort, including its privacy policy, financial hardship policy and information about consumer rights and responsibilities. Banks should also only collect information from a customer that is relevant and necessary for the bank to assess the customer's personal circumstances and financial situation and request for hardship assistance.

Identifying customers in hardship

Banks want to know as early as possible if their customers are experiencing financial difficulties so they can try to help them get back on track.

Typically, banks only become aware that a customer is experiencing financial hardship when the customer is already in arrears. It is generally when collections activity, recovery action or other outbound calls are made that the customer and the bank will talk about the customer's situation.

Banks recognise that collections activity and outbound calls are important ways of identifying whether a customer would benefit from a referral to the dedicated financial hardship team. It is important for banks to ensure that the debt collections team is appropriately supported and encouraged to refer customers to the financial hardship team (as needed).

However, banks should also recognise that customers may be reluctant to seek assistance due to a number of factors, including shame, embarrassment, denial, guilt or fear. Customers may also be concerned about the impact on their credit history, enforcement action being taken, the loss of their credit facility, or the sale of their home. Likewise, a bank approaching a customer unnecessarily or inappropriately can be embarrassing for the customer and cause difficulty in the bank-customer relationship.

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Banks acknowledge that it is important to support customers who may be experiencing financial difficulties or displaying signs of financial hardship so that appropriate resources and advice can be offered early. For example, banks may train relevant frontline employees or other bank staff to recognise the signs of financial distress or implement system changes to create an alert.[7] Ultimately, customers are best placed to know whether they are struggling financially and banks may look to implement further changes to encourage and make it easier for customers to contact them early.

Banks recognise that financial counsellors are also important in identifying whether a customer is unable to meet their existing financial obligations and is in financial hardship. It is important for banks to ensure that the financial hardship team is easily accessible to professional financial counsellors, including providing a dedicated contact number or email address, standardised forms, support materials and explanatory statements, etc.

Potential indicators or signs of when a customer may be in financial difficulty

There are common or typical signs of financial distress that could alert a bank to ask a customer if they need support. These signs might include a customer:

- Consistently making the minimum repayment or late and partial payments.
- Being in arrears with a loan.
- Not responding to repeated outbound calls, overdue notices or other bank communications.
- With evidence of injury or illness.
- Learning of a change in employment circumstances.

While these factors may not always be signs that a customer is experiencing financial difficulties, it may be helpful for these prompts or observations to be included in training programs for staff, or be included in scripting so bank staff can determine whether it is appropriate to refer a customer to the dedicated financial hardship team.

Where the bank makes an outbound call, the bank should explain to customers why they have been contacted, provide appropriate information about financial hardship, and explain the types of hardship arrangements that may be available to help the customer.

If the customer declines hardship assistance, the bank should keep a record that contact was made and details of the conversation with the customer. With the customer's consent, the bank should consider proactively contacting the customer again in an agreed time period to make sure assistance is still not required.

Banks should have in place processes to deal with customers who have:

- Been identified by bank staff as experiencing financial difficulties.
- Contacted the bank about an upcoming period of financial difficulty.
- Notified the bank of a change in their personal or financial circumstances.

For example, if a customer is aware that they will be receiving medical treatment and will not receive enough leave pay or income from insurance to cover their financial obligations, the bank should consider how this can be managed in advance. For instance, the bank might encourage the customer to pay more now so they can create a repayment buffer, or agree to a new repayment plan in the future. Importantly, customers should not have to be in arrears to receive assistance.

[7] Under Clause 28.4 of the Code of Banking Practice (2013), if banks identify that a customer may be experiencing financial difficulties, they may contact the customer and discuss their situation. The Code allows banks to identify customers within the course of their personal dealings with the customer.

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Understanding hardship, default and collections

If a hardship arrangement is being actively considered or a hardship arrangement is in place, banks will not send default notices and will stop collections activity or recovery actions. Likewise, banks will not assign or sell the debt while they are actively considering the customer's circumstances or an arrangement is in place.[8]

However, under the National Credit Code, if a customer is unable to comply with the hardship arrangement, a bank may exercise its right to issue a default notice and reactivate collections processes.

If this happens, the customer will receive information about their rights after default, including:

- How to seek postponement of enforcement proceedings.
- How to ask their bank if it will reconsider its assessment of default and or put in place a suitable alternative arrangement.
- How to seek a review of the decision.

If after 30 days the default has not been remedied or a new arrangement has not been agreed, the bank can take enforcement action against the customer. In this instance, if the customer's financial situation has deteriorated, the bank and the customer will likely have to consider alternative actions (such as those considered *in Diagram 1: Categories of financial difficulty* on page 2 of this industry guideline).

If a permanent alternative arrangement is established, a bank might sell or assign the debt or part of the debt. In this instance, the bank should confirm the arrangement in-writing before selling or assigning the debt.

Promoting awareness of hardship assistance

How do banks ensure their customers know about hardship assistance?

The banking industry and banks should promote financial hardship assistance. All customers should have easy access across different banking channels to relevant banking information, marketing materials and information on financial hardship programs and practices.

Banks acknowledge it is important that customers have access to information about their hardship programs and practices, especially via their websites.[9] Information available on a bank website should meet the following minimum standard:

- Basic facts about financial hardship, including legal obligations and associated provisions, as well as an explanation about the bank's approach to financial hardship (including financial hardship processes, policies, procedures and systems).
- The availability of financial hardship assistance and other support services and products, including how to get hardship assistance, toll-free telephone number for the dedicated financial hardship team, application forms, agreed industry standardised forms, instructions on how to make a hardship notice or request hardship assistance, information about supporting documentation and other strategies that may help customers in financial distress.
- Professional financial counselling services, including a national contact number and other relevant information.

[8] A bank will only assign the debt in these circumstances as part of a funding arrangement e.g. securitisation or the issue of covered bonds. A bank might send a default notice if a hardship arrangement is not agreed to or is not maintained. It might also sell or assign the debt if there is a permanent alternative arrangement.
[9] Under Clause 28.10 of the Code of Banking Practice (2013), banks will make information about processes for dealing with customers in financial difficulty available on their website.

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- Emergency support following natural disaster events, including information about relief packages, assistance packages and special recovery support for affected communities, and contact numbers for a specialised financial hardship team dealing with customers impacted by the disaster (if applicable).

Banks should ensure information on their websites is suitable, prominent, easily identifiable, and accessible (consistent with the agreed industry standard on website disclosure). For example, banks will provide a button on their homepage which links directly to information about the bank's financial hardship program and hardship assistance. The button will be permanently on the homepage. Banks will also provide a FAQs section with information about the types of arrangements that may be available, the hardship process (including assessment of a hardship notice), and what happens when an application is accepted or declined.

Banks acknowledge it is important that customers also have access to information about their hardship programs and practices via other banking channels. Banks will:

- Make information presented on the website available in hard copy upon request.
- Provide branch displays (consistent with the agreed industry standard on branch disclosure[10]).
- Provide a brochure consistent with the agreed industry standard, including information to raise awareness about the availability of hardship assistance and details about the bank's dedicated financial hardship team.
- Promote the availability of information about financial hardship and money management, including providing links to the ABA's 'DoingItTough' website[11], the financial counselling Australia's website, including its "Debt Self-Help" tool[12], and ASIC's Moneysmart website[13].

In determining when and how to make this information available, banks should identify relevant branches and other locations as well as other factors (i.e. prominence, times, etc).

To ensure customers can talk to staff members who can help them, banks will make the dedicated financial hardship team available during normal business hours (Monday to Friday). At other times, banks may make other bank staff available to deal with customer queries or alternative processes. For example, some branches may be open outside normal business hours, or call centre staff could direct customers to the bank's website where a hardship notice can be made online, or a message/call back service could refer the query to the dedicated financial hardship team for response during business hours.

Depending on their business model, banks could also consider providing financial counsellors acting on behalf of a customer a contact number or email address for the financial hardship team (i.e. a direct line rather than the toll-free general number).

Banks can also provide information packages to government agencies, regulators, financial counsellors and other community organisation representatives for distribution to their customers, clients, and constituents.

[10] For example, industry posters, TV presentations, counter cards
[11] www.doingittough.info
[12] www.financialcounsellingaustralia.org.au/Home and www.debtselfhelp.org.au
[13] www.moneysmart.gov.au

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Complaints processes

How can customers complain?

If a customer is not satisfied with the hardship assistance provided or the arrangement entered into, they have the right to lodge a complaint with their bank and then subsequently with other parties.

Under the Code of Banking Practice and the National Credit Code, a bank must have a complaints handling procedure in place. Banks should encourage their customer to discuss their concerns with them and focus on resolving complaints internally without the need for external dispute resolution.

However, if a bank does not, or cannot, resolve the complaint to the customer's satisfaction, the bank must inform the customer that they have a right to take their dispute with the bank to FOS. If a customer alleges that a bank breached the Code of Banking Practice, they can take the matter to the Code Compliance Monitoring Committee (CCMC).

External dispute resolution – Financial Ombudsman Service (FOS)

FOS is an independent complaints scheme that is free for bank customers. It provides an accessible way of resolving disputes without having to go to court. If a customer agrees with the FOS's decision, the decision is binding on the bank. Importantly, FOS will not deal with a dispute unless the customer has gone through the bank's internal dispute resolution process first.

Code Compliance Monitoring Committee (CCMC)

Banks that have adopted the Code of Banking Practice are subject to the oversight of the CCMC.

If a customer believes a bank has breached the Code, including Clause 28 (which is concerned with financial difficulty), they have the right to allege a breach of the Code to the CCMC.

If the matter is to be investigated, it may be referred to the bank for its response. The CCMC makes the final decision on whether the Code was breached. If the CCMC establishes that a bank has breached its obligations under the Code, it may ask the bank to take remedial action, or give undertakings as to its future conduct. If an undertaking is subsequently breached, the CCMC may also publish details about the breach on its website and/or in its annual report.

The CCMC cannot determine claims of financial loss; such claims should be referred to FOS.

Attachment A – Financial Counsellor Authorisation Form

Attachment B – Financial Counsellor Statement of Financial Position

Document updated: November 2016

Version 3.0

FINANCIAL COUNSELLOR AUTHORISATION FORM

CUSTOMER DETAILS

Customer 1

Full name:

Address:

Date of Birth:

Customer 2 (if applicable)

Full name:

Address:

Date of Birth:

ACCOUNT DETAILS

Option 1 Information on individual accounts (check box and complete table) ☐

Account type	Account number	Financial Institution/Creditor/Service Provider

Please attach an additional sheet if more room for account details is required.

OR Option 2 All accounts (check box) ☐

An account number is required to link all accounts (please enter here):

OR Option 3 No account details (exceptional circumstances – check box) ☐

AUTHORITY

I/we authorise

Counselling agency's name **("Authorised Agent")**:

Counselling agency's address:

(*Reference*: Name of financial counsellor)

or any other financial counsellor at the Authorised Agent **to act as my/our agent to:**

- Seek and exchange personal information (including information related to credit, financial affairs or sensitive information) about me and my accounts from the Financial Institution/Creditor/Service Provider;
- Negotiate with the Financial Institution/Creditor/Service Provider and enter into arrangements that are binding on me/us related to the account/s; and
- Act on my behalf until this authority is revoked.

I/we understand that:

- Standard account notification (including account statements and other prescribed notices) can still be sent to me/us by the Financial Institution/Creditor/Service Provider;
- If an agreement is made, my/our written consent may be required;
- The Financial Institution/Creditor/Service Provider will rely on the information provided;
- The Financial Institution/ Creditor/Service Provider will rely on the declaration and privacy consent previously provided by me/us to the Financial Institution;
- The Financial Institution/ Creditor/Service Provider will communicate with my/our appointed representative via telephone, letter, email or other forms of communication as agreed and which may be required;
- The Financial Institution/ Creditor/Service Provider will deal with my/our appointed representative until the authority is revoked.

Signed: **Customer 1** Date:

Signed: **Customer 2 (if applicable)** Date:

Signed: **Authorised Agent** Date:

Financial Counsellor Registration number:

Financial Counsellor preferred contact number and email:

In completing this form, you consent to the Financial Institution/Creditor/Service Provider collecting your personal information so that we, and they, can help with your financial difficulty or other issues. If the information is not complete or accurate this may affect the ability of the Financial Institution/Creditor/Service Provider to assist you in this regard.

The Privacy Policy of the Financial Institution/Creditor/Service Provider tells you what they do with the personal information that you have provided. It also tells you how to access and correct that information and how complaints can be made about a breach by them of the Australian Privacy Principles, Part IIIA of the Privacy Act or the Credit Reporting Privacy Code. Privacy Policies will be available on the websites of the Financial Institution/Creditor/Service Provider.

STATEMENT OF FINANCIAL POSITION

CLIENT DETAILS

	Borrower 1	Borrower 2
Name		
Address		
Phone		
Dependants (specify ages)		
Date of Birth		
Current Employment		

Household income - weekly/ fortnightly/monthly (circle)	Borrower 1	Borrower 2	
After Tax Salary	$	$	
Centrelink *(before any deductions)*	$	$	
Family Tax Benefit	$	$	
Child Support	$	$	
Rental Income or Board	$	$	
Other Income (specify)	$	$	
Total per Borrower	$	$	
Total Household Income			$

LIVING EXPENSES - WEEKLY/ FORTNIGHTLY/QUARTERLY/MONTHLY/ANNUALLY (CIRCLE)

Residential *(Note: Include mortgage costs in the debts section)*		
Housing Costs (rent, rates, body corporate etc)	$	
Home/Contents insurance	$	
Utilities (electricity, gas, water)	$	
Communication (phone, internet, Pay TV)	$	
Repairs and Maintenance	$	
Other	$	
Total Residential Expenses		$
Transport		
Motor Vehicle Costs	$	
Public Transport/Taxis etc	$	
Other	$	
Total Transport Expenses		$

Education and Children		
Children	$	
Self education	$	
Other	$	
Total Education and Children Expenses		$
Personal and Family		
Food and clothing	$	
Health (inc medical, optical, dental, insurance)	$	
Family and Personal (inc grooming, entertainment)	$	
Personal insurance	$	
Pets	$	
Other (inc sports, hobbies, subscriptions)	$	
Total Personal/Family Expenses		$
TOTAL LIVING EXPENSES (residential + transport + eduation and children + personal/family)		$

DEBTS

Complete as many boxes as possible

Loans Secured by Property	Balance Owed	Payment Frequency	Contract Payment	Current Payment	Proposed Payment	Proposed Term
		weekly/fortnightly/ monthly (circle)	weekly/fortnightly/ monthly (circle)	weekly/fortnightly/ monthly (circle)	weekly/fortnightly/ monthly (circle)	
Address of Property:						
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Loans Secured by Other Assets	**Balance Owed**	**Payment Frequency**	**Contract Payment**	**Current Payment**	**Proposed Payment**	**Proposed Term**
Details of security						
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Unsecured Loans/Overdrafts	**Balance Owed**	**Payment Frequency**	**Contract Payment**	**Current Payment**	**Proposed Payment**	**Proposed Term**
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Credit/Store Cards or Layby	**Balance Owed**	**Payment Frequency**	**Contract Payment**	**Current Payment**	**Proposed Payment**	**Proposed Term**
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Utilities/Telco Debts	**Balance Owed**	**Payment Frequency**	**Agreed Payment**	**Current Payment**	**Proposed Payment**	**Proposed Term**
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Lease/Rental Contracts	**Balance Owed**	**Payment Frequency**	**Contract Payment**	**Current Payment**	**Proposed Payment**	**Proposed Term**
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Owed to:	$		$	$	$	
Other payment obligations	**Balance Owed**		**Contract Payment**	**Current Payment**	**Proposed Payment**	**Proposed Term**
Centrelink	$		$	$	$	
Student loans	$		$	$	$	
Fines	$		$	$	$	
Other	$		$	$	$	
TOTAL DEBTS	$					

ASSETS

Property	Details	Estimated Value
Residential		$
Investment		$
Other Assets	**Details**	**Estimated Value**
Motor vehicle (make/model/year)		$
Motor vehicle (make/model/year)		$
Investments		$
Savings		$
Superannuation		$
Household Furniture		$
Tools of trade		$
Other		$
TOTAL ASSETS		$

SUMMARY

Summary of financial position		
Total Income	$	
Total Living Expenses	$	
Total Income Less Total Living Expenses (before repayments)		$
Less Current Repayments Being Made	$	
Current Surplus/Deficit		$
Proposed Payments	$	
Adjusted Surplus/Deficit		$

FINANCIAL COUNSELLOR AUTHORISATION FORM | EXPLANATION

The Financial Counsellor Authorisation Form was developed by the Australian Bankers' Association and Financial Counselling Australia. The intent is to streamline interactions between banks operating in Australia and financial counsellors acting on behalf of bank customers. The use of the form has now been expanded to other industries, including some utilites, telcos and debt collectors.

Purpose of the authority

The purpose of the Financial Counsellor Authorisation Form is to have an agreed acceptable authority a financial counsellor can send to a financial instituion/creditor/service provider.

The authorisations include:

- Access to personal information of the customer; and
- Ability to enter into arrangements (including repayment arrangements, alteration of a contract, and settlement of disputes) on behalf of the customer.

It is important that all parties – the financial institution/creditor/service provider, the financial counselling agency (the authorised agent), and the customer(s) (the client(s)) are clear as to their rights and obligations.

Using the authority

A client may give a financial counselling agency the authority to act on their behalf. In this instance, the financial institution/creditor/service provider will deal with the relevant financial counsellor, and will generally not contact their customer in relation to the matters subject to the authority. The financial institution/creditor/service supplier may continue to provide some written correspondence (e.g. account statements) to their customer directly and may require the consent of their customer, and any guarantors, to enter into any arrangements.

It is essential that the financial counselling agency/financial counsellor ensures the following three things:

1. All correspondence includes a registration number so the identity of the financial counsellor can be verified (by contacting the financial counselling agency if necessary);
2. If the financial counsellor ceases to assist the client, the counsellor will notify the financial institution/creditor/service provider; and
3. If the financial counsellor assisting the client changes, the counsellor or the financial counselling agency will notify the financial institution/creditor/service provider.

It is expected that a financial counsellor will explain the authority to their client. The authority may require additional information to be added to ensure that all parties are clear as to the instructions of the authority, including if there are any limitations to the authority. If there are limitations these should be specified in an attachment to the Financial Counsellor Authorisation Form.

It is also expected that a financial counsellor will inform their client that the information provided to the financial institution must be true and correct and the arrangements that may be entered into on their behalf by a financial counsellor are binding on them.

The authority will only relate to the accounts as detailed on the form. Groups of companies may permit the use of a single form for all related businesses. However, generally a separate form will need to be completed for different companies.

Wherever possible, the account numbers or other identifying information should be specified in the form. If an account number is not available, the counsellor should select option 3 (noting this will only be in exceptional circumstances, for example, an emergency event or natural disaster where information cannot be obtained). If option 3 is used, the financial counsellor will ensure all customer details are completed.

The authority may permit the financial counsellor to use unencrypted email to exchange information about the client's account(s).

Importantly, the authority will not permit the financial counsellor to transact on the client's account(s).

Revoking the authority

An authority can be revoked at the discretion of the financial counsellor or the financial counselling agency.

A financial counsellor may revoke the authority for any reason, including because the matter has been resolved, the counsellor has decided to cease to act on behalf of the client, the client has not responded within a reasonable period of time, or the client puts in place another authority.

It is essential that the financial counsellor or the financial counselling agency ensures that the authority is revoked by notifying the financial institution/creditor/service provider in writing.

A financial institution/creditor/service provider can contact the customer if the financial counsellor is not contactable for a reasonable period of time. A reasonable period of time would be appropriate to the situation.

Other information

A financial counsellor should contact their State or Territory financial counselling association or FCA if they require further information about the use and revocation of the authority.

It is noted:

- The Code of Banking Practice sets out the banking industry's commitments and obligations to customers on standards of practice, disclosure and principles of conduct for their banking services. For more information please see the ABA website[1].
- The Telecommunications Consumer Protections Code is designed to ensure good service and fair outcomes for all telco customers.
- The Financial Counselling Code of Ethical Practice sets out the ethical values which guide financial counselling and provides guidance about appropriate behaviour in a number of ethical situations commonly experienced by financial counsellors[2].

1 http://www.bankers.asn.au/Industry-Standards/ABAs-Code-of-Banking-Practice

2 http://www.financialcounsellingaustralia.org.au/Corporate/Financial-Counselling/Policies