

Care Financial Counselling Service

15 August 2007

Barbara Schade
Code Compliance Monitoring Committee
PO Box 14240 MCMC
Melbourne VIC 8001

Dear Ms Schade

RE: CCMC inquiry into bank compliance with clause 29 of the Code of Banking Practice

I am writing in response to your letter dated 2 August 2007 in relation to the above inquiry. Care has set out responses to each of the questions, below:

**1. What is your procedure for making contact with a client's bank?
Please provide a copy of your agent authority form**

Generally our policy is to put any communication with the bank in writing. Some financial counsellors may ring and speak with the bank about the matter first, and then follow up this communication with a written request on behalf of their client.

Most of Care's financial counsellors will initially communicate (by telephone or in writing) with the person noted as the contact on the correspondence provided by the client.




2. Do you need to vary that procedure for different banks?

Although the usual starting point is to contact the person noted as contact on the correspondence provided by the client, there are times that a financial counsellor will communicate directly with the Customer Service Department using the contact details provided by the BFSO. This is particularly likely to be the case if they have previously found a particular bank to be slow to respond to their request (See Q.9 below).

Westpac appear to have a system that makes it very difficult for a financial counsellor to make contact with their hardship team within a reasonable time frame. Financial counsellors are not put through to the hardship team when they request this. Instead they have been told they need to make an appointment to speak with a representative and this can take up to one week. A second phone call can be required even to make this appointment. In one particular instance the financial counsellor was dealing with an impending foreclosure and waiting for one week to speak to someone from the hardship team was clearly inappropriate.

If this occurs, the financial counsellor will usually make immediate and direct contact with the BFSO member in order to resolve the matter more promptly.

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It was also noted by a number of financial counsellors that the bank representatives at Westpac's call centre regularly respond to clients in an inappropriate and unhelpful manner.

The hardship teams at a number of banks seem to be very restricted in the options that they will provide to clients. It is common for client's to be told that there is nothing that they can do to assist them and they must continue with their current arrangement, despite the client explaining that this is not an affordable arrangement. Again financial counsellors will make contact directly with the BFSO member if this has been the experience of the client.

3. Do you have specific contact points within the banks?

The only specific contact points are those for the Customer Relations Department provided by the BFSO. Financial counsellors at Care regularly communicate with these representatives

4. Have any banks refused to accept your agent authority form?

There have been occasions where Westpac and Citibank have required the financial counsellor to also provide 100 points of identification before they would communicate with them about their client. It appeared that these banks were requesting that financial counsellors have third party access to their client's account in order to negotiate on their behalf. This matter was raised with the customer relations sections of the banks, who confirmed that this was their policy. This policy seems to be applied inconsistently.

NAB has requested a financial counsellor's date of birth in order to communicate with them. It was not provided and the matter was raised with the BFSO member.

5. Have you dealt with any banks that have security measures in addition to an agent authority form?

Citibank has requested the secondary cardholder's name. Other banks have also requested additional information about the account such as the credit limit and the card holder's date of birth. If the communication is with an overseas call centre it is not possible to proceed if these requests are not complied with.

6. Do banks ever call to verify details on an authorisation form?

Citibank have called and requested an address and fax number before accepting an authority form.

7. Has any bank suggested that you obtain third party access to a client's account in order to communicate with the bank on your client's behalf?

Westpac have made this request on a number of occasions (See Question 4). Commonwealth bank has similarly made this request.

8. Do banks ever contact your clients directly after you have provided a signed agent authority form?

Contacting clients after an authority form has been provided is quite a common practice amongst all of the banks. A response to a letter sent by a financial counsellor on behalf of a client is often addressed to and sent directly to the client with no copy sent to the financial counsellor.

9. Are there any banks that regularly fail to reply to communications within a reasonable time and/or in a reasonable manner?

Westpac and the ANZ bank are both consistently slow at responding to letters sent by financial counsellors. The ANZ Customer Service Department has also been slow to respond to telephone messages left by financial counsellors in relation to their clients.

The Commonwealth Bank appears to be readily confused between the financial counsellor and the account holder. There have been times when the bank has responded in writing to the financial counsellor assuming that they are the account holder, despite the authority form provided making it clear that they are acting on behalf of another person. The bank has further suggested that the financial counsellor might like to contact a financial counsellor to assist them in dealing with their financial situation.

10. Are there any banks, or areas of banks, with which you have had particular difficulty when representing a client?

It is consistently more difficult to communicate with and negotiate with the mortgage section of a bank.

As discussed in Question 2, it can also be very difficult to communicate effectively with the hardship section of particular banks. There is more likely to be a limited response focusing on a short term payment arrangement. The hardship team does not explain to the customer their rights under the UCCC and hardship applications and Statements of Position are often not provided to the client. These documents are more likely to be provided if a financial counsellor is advocating on behalf of a client.

11. Have you had any particular difficulties with an agent of a bank, such as a solicitor or a collection agency, when representing a client?

Many of the debt collection companies who operate as agents for the banks respond inappropriately in their dealings with clients. Financial counsellors and their clients have had dealings with Shield Mercantile, Credit Corp, Australian Receivable Management Service, ACM and Dunn and Bradstreet. All of these

collection companies have at times been rude and aggressive in their dealings with clients and have applied considerable pressure on clients to make arrangements that are often unsustainable for the client. There have been a number of instances where incorrect or misleading information has been provided to the client particularly in relation to the likely consequences of non adherence to a particular arrangement. For example, threatening that a sheriff will be sent to the debtor's home or that a bankruptcy notice will be sent when there is no judgment on the debt.

Legal firms acting on behalf of banks can be similarly difficult to deal with. Financial counsellors have experienced long delays in receiving responses to their requests. At times financial counsellors have also noted reluctance on behalf of some legal firms to provide information to either the client or their financial counsellor.

12. Are there any specific bank practices or policies that you feel are in breach of the debt collection guidelines?

There are a number of practices that we believe breach the debt collection guidelines. As mentioned in Question 11, agents of banks regularly provide misleading information to clients about the consequences of non payment of a debt.

We have had experience of banks that have sold debts to debt collection companies despite having made an arrangement with the debtor which is being complied with. One of our financial counsellors has recently been negotiating with Bank West over this matter.

Bank representatives, particularly in the hardship section of the bank, do not always explain to a client what rights or options are available to them, under the UCCC, to deal with a particular debt. Generally we have found that the bank's representative is only interested in discussing the next payment rather than negotiating any ongoing sustainable repayment plan. Hardship applications and procedures are often not discussed with the client and pressure is put on them to make an immediate arrangement over the telephone.

13. While the agency issue is the major focus of the inquiry, do you have any suggestions as to how banks could improve compliance with debt collection guidelines or the Code more generally?

The following is a list of suggestions:

- Staff training on issues of customer's and bank's rights and responsibilities in relation to debts. Training should also cover effective communication with customers.
- Closer monitoring and scrutiny of their agent's debt collection practices to ensure that these comply with debt collection guidelines.

- Making access to the financial hardship area of a bank more accessible. This could include listing contact numbers in the telephone book.
- Providing more comprehensive written information for clients, outlining their rights and responsibilities around particular debts.
- Elevating the IDR function of the banks so that it sits above the collections area and is therefore more available to clients who are experiencing difficulty in their negotiations with banks.

Care inc. thanks the Code Compliance Monitoring Committee for the opportunity to provide feedback into this inquiry. Should you require further information I can be contacted on the telephone number above.

Yours Sincerely

Carmel Franklin
Client Service Coordinator