



Submission

AFIA Online Small Business Lenders Code of Practice

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About the Small Business Debt Helpline

The Small Business Debt Helpline (the Helpline) is a national service providing financial counselling support to small businesses. Originally established as the Small Business Bushfire Financial Counselling Support Line in March 2020, the Helpline supports any small business owner experiencing financial difficulty. Their businesses may have been affected by disasters such as fires, floods, Covid or economic factors affecting supply chains and consumer behaviour. Small business owners can also be impacted by factors closer to home such as relationship breakdowns or personal illness and accidents.

The Helpline provides assistance to small business with 100 or less employees, consistent with the AFCA definition of a small business. However, our experience is that more than 90% of callers operate microbusinesses of 5 employees or less and close to 60% have no employees.

In addition to supporting small business owners directly, the Helpline provides training and information to other financial counselling agencies and secondary consultations to generalist financial counsellors all over Australia whose clients operate a small business.

The Helpline is managed by Financial Counselling Australia, the peak body for financial counsellors in Australia.

About Financial Counselling

Financial counsellors provide information and advice to people experiencing financial difficulty. Working in community organisations, their services are free, independent and confidential. Specialist small business financial counsellors have specific knowledge about issues affecting small businesses experiencing financial hardship.

About this submission

Since inception to 31 July 2022 the Helpline has provided 3,172 cases of assistance to 2,926 businesses. The most common reason people contact the Helpline is they are seeking help with managing their debts. Other reasons include disputes, access to grants/loans and concerns about business viability. The most common debts seen by the Helpline are business loans, equipment loans or lease, commercial or retail leases and ATO debts.

The experience of the Helpline is that small businesses are people and families. They can be in vulnerable circumstance and facing financial hardships similar to those of individual consumers.

In the experience of the Helpline when small business owners are struggling to keep their dream alive the lure of a cash injection frequently outweighs the ability to pause and assess the terms of any credit and implications for their future financial position. We frequently hear the words 'I was desperate' and see clients with multiple debt exposures.

The Helpline supports small business owners who have funding arrangements with lenders who are signatories of the AFIA Online Small Business Lenders Code of Practice (the Code) and lenders who are members of AFIA but not signatories to the Code.

We also assist small business clients who have debts covered by other relevant codes such as the Banking Code of Practice and the Customer Owned Banking Code of Practice and we refer to these in this submission.

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1 GENERAL COMMENTS ON THE CODE

1.1 The Code needs to be substantially strengthened

Unlike consumer lending, which is regulated by the National Credit Law,¹ there are relatively few protections for small businesses when they borrow money. We therefore support AFIA's development of the Online Small Business Lenders Code of Practice (the Code). The Code sets out a number of standards that go some way to addressing the substantial imbalance in bargaining power between small businesses and their lenders. Some of the important aspects in the Code are:

- AFCA membership requirement
- consideration of financial hardship
- recognition of people in vulnerable circumstances
- the concept of dealing with matters fairly

However, the substance of many of the obligations imposed on Code signatories are vague and/or subject to whatever policy a particular signatory might have, which effectively makes the requirement meaningless. The oversight mechanisms for the Code are also weak and largely ineffective. So while having the Code is better than not having one, it needs to be significantly strengthened for it to have any real impact.

The layout of the draft Code improves on the format of the existing Code by aiding ease of readability and understanding. However, simplifying the Code should not be at the cost of setting clearly defined standards.

We note that the Code currently has seven signatories. Notwithstanding our comments above that the Code needs to be significantly strengthened, we would still encourage other lenders to subscribe. The community would expect that any small business lender should at least have put their mind to the topics covered in the Code, such as how they will treat customers in hardship. The fact that coverage is not universal is an indictment on the way in which some online lenders operate.

1.2 AFCA membership

The requirement for signatories to be members of the Australian Financial Complaints Authority (AFCA) is the key strength of the Code. AFCA membership provides an accessible and

¹ National Consumer Credit Protection Act 2009 (which includes the National Credit Code) and the National Consumer Credit Protection Regulations 2010.

fair way to enforce the Code. It also establishes a consistent method for escalation of IDR complaints.

2 CODE GOVERNANCE

Recommendations

- **The Code Compliance Committee membership be expanded to include a small business representative.**
- **The Code allow customers to report alleged breaches of the Code to the Code Compliance Committee, without having to access both IDR and EDR first.**
- **The Code not provide for customers to take individual complaints to the Code Compliance Committee for resolution after consideration by AFCA.**
- **AFIA require members to advise customers of their right to escalate complaints to the relevant external dispute resolution body: AFCA for signatories to the Code, or ASBFEO for other members.**
- **The Code put in place mechanisms for proactive rather than reactive monitoring of the Code. This would include making it clear that the CCC will (not may) undertake enquiries to ensure signatories meet minimum standards and will (not may) require signatories to lodge annual compliance attestations.**
- **Signatories to the Code be referred to as Code Signatories rather than as Code Compliant Members.**
- **A review of the public accessibility of the Code, the Code governance documents and website framework around the Code with respect to current and correct information and functioning links.**
- **A review of the governance framework documents around the Code for unnecessarily repeated information and clauses that appear incongruent.**

2.1 Code monitoring and oversight

The value of a self-regulatory code is in large part influenced by the effectiveness of its monitoring and oversight, and what happens when the Code is breached. A Code Compliance Committee is established by the AFIA Board. It consists of three independent members appointed by the Board. Independence is defined as within the previous 12 months of not being a Board member or an employee or officer of Code Compliant Member.

At a minimum the Code Compliance Committee (CCC) membership should include a small business customer representative in addition to lender representation. The inclusion of a small

business representative is critical to improve the degree of independence of the Committee and elevate the experiences and perspectives of small business customers.

2.2 Code breaches and complaints

The CCC Terms of Reference (TOR) provide for alleged breaches to be investigated. However, the Code as currently drafted only provides for alleged breaches to be reported in instances where a complaint is unable to be resolved through IDR and EDR. The Code provides that those complaints can be reported to the CCC, which can then make a range of recommendations to resolve the complaint (23.4).

If a complaint is resolved at either IDR or EDR, it means that the CCC may not be made aware of non-compliance with the Code by a Code Signatory, and potentially of systemic breaches. The role of the CCC is therefore very limited. If a lender believes it has breached the Code when considering a complaint, then it is incentivized to resolve the matter through IDR and EDR rather than the matter being referred to the CCC. This may be a good outcome for the individual complainant, but does not address the (often) systemic issues leading to the breach in the first place. While AFCA has a process which can identify systemic breaches and investigate them separately, reliance on AFCA to do this essentially makes the CCC role on investigating breaches redundant.

The interaction between AFCA and the CCC on possible Code breaches also needs clarification.

A complaint is also not the same as an alleged breach of the Code. It is confusing to mix up the two processes: complaint resolution and investigation of a breach of the Code.

There are also AFIA members who do not subscribe to the Code and are therefore not members of AFCA. Complaints in these instances may be taken to the Australian Small Business and Family Enterprise Ombudsman, although the ASBFEO does not have powers to determine complaints. Complaints may also be lodged with Small Business Commissioners for dispute resolution, but participation is not mandatory.

AFCA has traditionally taken the view that 'good industry practice' should apply across industries, regardless of whether a financial firm is a signatory to a Code. For example, even if a bank or a customer-owned bank was not a signatory to the relevant industry code but because of licensing requirements was a member of AFCA, AFCA would consider these Codes as reflecting good industry practice for all in the industry.

Financial counsellors would expect that all members of AFIA should follow 'good industry practice' regardless of whether they are signatories to the AFIA Code. AFIA has a key role to play to embed good industry practices (particularly relating to disclosure, hardship, vulnerability and fairness) by all AFIA members when dealing with complaints.

We encourage AFIA to require members who do not subscribe to the Code to embed good industry practices in their policies and procedures, and advise customers of avenues for dispute resolution if IDR is unsuccessful.

2.3 Code compliance monitoring

Monitoring of the Code is largely reactive and in response to complaints or breaches. Further the drafting of CCC TOR clause 9.1 does not require the CCC to undertake the activities in 9.1 (c) and 9.1 (d).

9.1 (c) may conduct enquiries on its own initiative and conduct audits of any Code Compliant Member provided that any such audit is limited to an issue related to an issue which relates to a complaint being investigated by the CCC or a specific issue which the CCC believes is of sufficient concern to warrant investigations, and

9.1 (d) may request each Code Compliant Member to lodge an annual attestation on its compliance....

We consider that the TOR needs to be revised to make it clear that the CCC *will* undertake enquiries and *requires* at least annual compliance attestations.

In addition, the CCC should undertake regular proactive reviews of Code compliance. This is consistent with good practice by other code compliance bodies, such as that set up to monitor the Banking Code of Practice.

2.4 Signatories as ‘Code Compliance Members’

We note that AFIA refers to Code signatories as Code Compliant Members. We consider this confusing and potentially misleading. It conveys that all signatories are compliant with the Code solely by virtue of being a signatory, when that may not be the case.

2.5 Accessibility of the Code requirements to customers

Consideration must be given to the environment the Code exists in and how easily the customer is able to access the Code and related documents.

During the process of preparing this submission we found links broken in documents², a membership application form where the complaint form for customers reporting a breach of

² Link the [By Laws](#) that is not functional:

<https://static1.squarespace.com/static/598589963e00bec843be0ea1/t/5b39cab2758d4623ef5797d7/1530514143713/Code+o+f+Lending+Practice+-+AFIA+Online+Small+Buisness+Lenders.pdf>

the code to AFIA should be found³, and other difficulties accessing documents and finding information.

We accept that the governance documents and code documents are available on the website (and presumably the complaint form will be available when the content is fixed), but it is an accessibility issue if customers are required to navigate through too many pages to find the documents they are looking for. We suggest important documents such as the Code and other governance documents should be no more than one or two clicks away.

It is also necessary to regularly check to make sure the information on the AFIA website is current, that the documents and links to the documents are active, and that the links inside the documents themselves are functional.

2.5 Incongruence between governing documents

The CCC TOR section 10 and AFIA By Laws section 8.2-8.18 are almost identical; there seems to be no need to have both documents contain the same information.

In addition to the above, there is disagreement between the CCC TOR and the By Laws. The By Laws require a Code Compliant Member to submit an annual attestation (6.5) that they are Code compliant. However, the CCC TOR 9.1 (c) says ‘the CC **may**... request each Code Complaint Member to lodge an annual attestation’.

Notwithstanding our comments on pro-active monitoring of code compliance in 2.3, we consider the annual attestation must be mandatory.

³ The ‘+Complaint’ accordion menu towards the bottom of this page is a membership application form where a complaints form should have been found: <https://afia.asn.au/AFIA-Online-Small-Business-Lenders-Code-of-Lending-Practice-New-2022>

3 ACCESSIBILITY IN LENDING

Recommendations

- **Accessibility needs to be a key principle in the Code.**
- **The Code specify minimum accessibility standards for communication, documents and processes.**
- **Code signatories be required to advise customers of the existence of the Code and provide a link to download a copy.**

3.1 Accessibility in Code requirements

In public-facing industries such as lending, creditors will be dealing with the general public who bring with them varied levels of aptitude in understanding contracts, finance and lending processes. This is just as true for people in their capacity as small business owners seeking business finance, as in their capacity as individuals seeking personal finance.

Many people have barriers to access and additional challenges. Broadly speaking:

- 1 in 5 Australians suffer from mental illness in any given year⁴
- 1 in 9 Australians live with a disability⁵.
- 44% of adults read only to a year 10 level or below⁶
- 45% of adults have extremely low financial literacy⁷
- More than 800,000 Australians self-identify as not speaking English well⁸

On the Helpline, we hear from many small business operators in the above situations. A third of all callers suffer from mental health issues or a level of high distress, callers

⁴ 'Mental illness statistics' - *Better Health Channel*, Department of Health, State Government of Victoria, <https://www.betterhealth.vic.gov.au/health/servicesandsupport/mental-illness-statistics>, (accessed 4 Aug 2022)

⁵ 'Disability, Ageing and Carers, Australia: Summary of Findings', *Australian Bureau of Statistics*, <https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release> (accessed 4 Aug 2022)

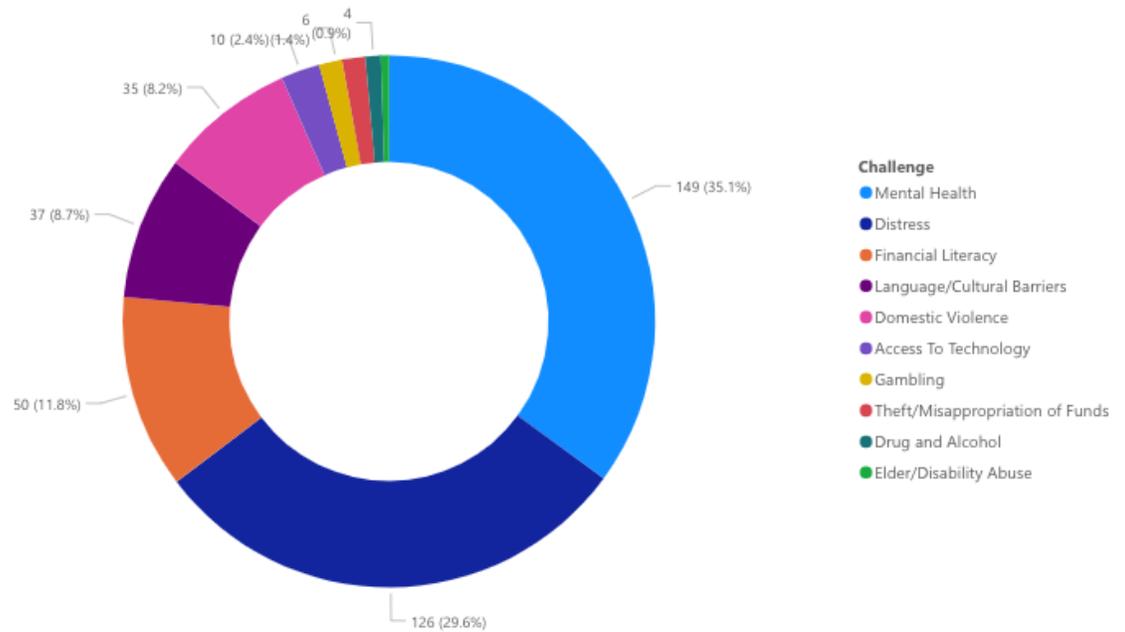
⁶ 'Style Manual' *Australian Government Style Manual*, <https://www.stylemanual.gov.au/accessible-and-inclusive-content/literacy-and-access> (accessed 4 Aug 2022)

⁷ A Preston, 'Financial Literacy in Australia: Insights from the HILDA Report', *UWA Business School, The University of Western Australia*, 2020, https://research-repository.uwa.edu.au/files/73668586/Financial_Literacy_in_Australia.pdf (accessed 4 Aug 2022)

⁸ 'Australia: 2016 Census Community Profiles', *Australian Bureau of Statistics*, <https://www.abs.gov.au/census/find-census-data/community-profiles/2016/0> (accessed 4 Aug 2022)

are affected by family violence, addictions, a low level of financial literacy or are experiencing other access difficulties that make them vulnerable.

Challenges facing small businesses between 1 January and 30 June 2022 (n=425)



People in these situations bring with them additional challenges in obtaining credit, understanding credit, and engaging with processes relating to accounts (the lending process, the complaints process, etc).

Given the prevalence of additional accessibility needs within the lending space, accessibility should be a key consideration in the Code. For comparison, it is a Key Promise within the Customer Owner Bank Code of Practice and a Guiding Principle in the Banking Code of Practice.

We are pleased to see a reference to accessibility in the Code:

11.2 We will provide an accessible and responsive service.

11.3 We will take extra care if you have a vulnerability or are experiencing hardship, albeit that we may become aware of your circumstances only if you tell us about them or it is otherwise reasonable for us to become aware of it.

However, in addition to making accessibility a Key Commitment, there needs to be minimum requirements to:

- Use plain English in all documents and communications.
- Make all processes (such as lending, refinancing and complaints processes) as smooth and uncomplicated as possible.

3.2 Accessibility of the Code

The effectiveness of the Code is in large part dependent on customers being aware of the Code, notwithstanding its quite general obligations. Currently there is no requirement for Code signatories to provide customers with information that they are a signatory to the Code, their rights under the Code or a copy of the Code. Rather the requirement is a loose one of we 'will promote the Code' and have it available on signatories' websites.

It is also difficult for a customer to find which lenders are members of AFIA. The 'membership directory' link on the website directs to associate members not full members. Also, the listing of full members does not identify who is a Code signatory.

4 APPROPRIATE LENDING

Recommendations

The Code be expanded to include the requirement: To exercise the care and skill of a diligent and prudent lender in lending decisions.

The Smart Box key information disclosure tool be amended to clearly display:

- the customer's name,
- the guarantor's name (if applicable),
- details of any security,
- details of penalty interest and default/late fees
- and that for Code Signatories this tool display the details of AFCA as the EDR for unresolved complaints.

4.1 Appropriate lending

In our experience, small business operators applying for business loans are unlikely to have the same knowledge and understanding of the terms of the credit contract as the creditor provider. Nor are small business operators commonly able to negotiate on equal terms with their lenders. As is commonly the case in consumer lending, contracts are generally provided in standard form on a take-it-or-leave-it basis. We propose an addition to section 15 of the Code to address such asymmetries in order to reduce the risk of credit default due to borrowers entering into unaffordable credit contracts.

Section 15 currently requires subscribers to consider a small business borrower's financial circumstances by only lending where they believe there is the capacity to repay (based on information provided by the business and other information the lender has about the business) and to have credit assessment procedures and criteria. These obligations need to be strengthened by the insertion of the following clauses into clause 15:

Clause 15.4 We will exercise the care and skill of a diligent and prudent lender in making our lending decisions.

This clause replicates the wording of clause 49 of the Banking Code of Practice which governs the credit operations of a large number of business lenders in Australia. Including this wording would adopt accepted industry-standard lending practices that have been well-established for many years.

4.2 Key information disclosure format

The Code specifies in 14.2 that interest rates, fees and charges will be disclosed in an accessible format. The [AFIA Smart Box](#) fulfils many of these accessibility requirements, however consideration could also be given to including the following recommendations regarding the Smart Box disclosure document:

Name of borrower(s)

We propose that the Smart Box disclosure document state the name of all persons or entities liable under the contract as borrowers. While this may appear obvious, in the context of small business lending it is not uncommon for the borrower to be unclear about whether they or their corporation are the debtor under the credit contract. We do not believe there is precedent for such a matter to be mandated in any Australian lending disclosure regime because the confusion between corporate and personal responsibility is not going to arise in the consumer lending market (in which disclosure regimes predominantly operate) but there is an argument for including it in the small business context.

Name(s) of guarantor(s)

We propose that the Smart Box disclosure document states the name of all persons or entities liable under the contract as guarantors. Notwithstanding that the Smart Box is designed to disclose material facts to a borrower, not a guarantor, and in practice it is not uncommon for the guarantor to be the same person who controls the borrowing entity under a small business loan. As stated above, it is not uncommon for small business owners to lack clarity about the distinctions between personal and corporate liability and guarantees are one of the most common mechanisms for imposing personal liability for the debts of a business. Precedent for such a matter to be disclosed to a borrower in a preliminary document may be found in sections 16 and 17(13) of the *National Credit Code*, and the importance of disclosure of guarantee details is also the subject of detailed consideration in Chapter 26 of the *ABA Banking Code of Practice*.

Details of Securities

We propose that the Smart Box disclosure document state whether or not any security is to be taken in favour of the lender and, if so, the property over which it is taken (to the extent that it is ascertainable). If the security is an all property security, or a future property security, that fact ought to be clearly disclosed. Precedent for such pre-contractual disclosure may be found, again, in sections 16 and 17(13) of the *National Credit Code*.

Penalty Interest and default/late fees

There is competition between lenders on interest rates and origination fees, however a key difference may apply to default costs. Of course no one signing up to a loan expects to incur such costs but they can be substantial, particularly when they capitalise with ongoing default. In the experience of the Helpline, many borrowers have not been aware of or understood the default costs of their loan. We propose the Smart Box disclosure document include:

If you are in default of the loan repayment the following may apply:

- *Penalty interest at % per xxx period (duration applicable) (equivalent to xx% pa)*
- *Default/late fees of \$ per period*

Membership of AFCA

Given that membership of AFCA and access to that body's dispute resolution forum can have such significant implications for borrowers in the event of a dispute with a lender, we propose that the Smart Box disclosure document simply state Yes or No whether the lender is a member of AFCA.

5 FINANCIAL HARDSHIP AND COMPLAINT HANDLING

Recommendations

The provisions for financial hardship be expanded to include:

- A requirement for Code signatories to promote the existence of a financial hardship process broadly and to specifically advise customers of this right at loan origination.
- Timeframes for responding to a request for hardship (21 days).
- Prohibiting debt collection activity when a hardship request is being considered and when a hardship arrangement is in place.
- Publication on the AFIA website of a list of hardship contact numbers for Code signatories.
- That the Code specify a minimum standard of hardship practices that each signatory must provide for in their internal policies.
- That the Code provide a list of standard hardship solutions that may be sought in applicable situations with signatories.

5.1 Strengthening the provisions

Responding adequately to small businesses experiencing financial hardship is fundamental to the effectiveness of the Code. The Code provisions however in this area are vague and do not set clear obligations. For example, the Code at 20.3(b) merely requires the subscriber to respond “promptly” to a request for financial hardship.

The Code is deficient in not addressing practical matters such as:

- promoting the existence of access to financial hardship processes,
- explaining how a borrower can access financial hardship processes,
- the timeframes for responding to a request for financial hardship,
- How to escalate to EDR and/or the CCC when these measures are not met.

5.2 Promoting the existence of financial hardship processes

Promotion of the existence of a financial hardship process should occur at a minimum at loan origination and when there are changes to loan/credit limits. There should also be a page on the AFIA website listing hardship contact details for Code signatories. Being able to speak to someone about financial hardship is vital so there is no risk of a customer accidentally missing out on assistance available to them if they are in hardship.

Signatories should have dedicated teams to assist with hardship complaints and ensure adequate resourcing to minimise instances where calls for hardship assistance are diverted to other teams.

In contrast, in consumer credit there has been a concerted drive to make hardship assistance more visible to consumers with point of contact information. This increases customer awareness of hardship assistance available to them and makes it easier to proactively contact the creditor if they are experiencing difficulty.

5.3 Consistent timeframes for resolution

This timeframe should be within 21 days, which reflects the AFCA timeframe for consideration of financial difficulty complaints and ASIC Regulatory Guide 271.

5.4 Debt collection activity in hardship

The Code is silent on debt collection activity. The Code needs to be strengthened by the inclusion of clauses that commit to:

- pausing debt collection activity while considering a request for financial hardship,
- not taking debt collection action against clients in hardship arrangements who are adhering to them (including listing a payment default against the business or guarantor),
- not on-selling a debt to a debt buyer during an active hardship arrangement.

5.5 Define hardship policy requirements

The Code provides for signatories to have their own policies in relation to hardship. This means there is no consistency about how a subscriber will respond to a request for financial hardship.

*20.2 If you tell us that you are experiencing difficulty in meeting your financial obligations to us, we will work with you in good faith **and in accordance with our policies** to assist you to meet your ongoing financial obligations to us. We will treat you fairly, respectfully and consider your specific circumstances. We may also initiate contact to discuss your financial situation.*

The words ‘in accordance with our policies’ means there will be variability in how different signatories respond to hardship. At a minimum, AFIA should establish in the Code a minimum set of requirements to underpin all signatories’ policies. Such set requirements should include standard timeframes for responding to hardship relief requests, and for providing an answer to hardship relief requests, examples of where a creditor might provide more significant relief (for example, to a business affected by natural disasters), single-point access (eg, a specific number

and email address through which to speak with a hardship representative directly), and a commitment to never charging or penalizing customers for hardship assistance.

5.6 Standard hardship solutions

Including examples of potential hardship solutions will assist customers to understand what may be available in appropriate circumstances.

Some typical solutions include:

- Interest only payments for a period of time,
- Deferral of payments and capitalization of arrears,
- Extending the term of a loan to lower the repayments.

The Banking Code of Practice has a full-page document to this effect and a document such as this should be considered for the inclusion in the Code.

6 DEBT COLLECTION PROCESSES

Recommendation

- **The Code contain minimum standards for debt collection.**

The Code does not cover debt collection, and this is a clear omission.

Considerations for a minimum standard in debt collection need to include:

1. Agreeing to adhere to the ASIC/ACCC Debt Collection Guidelines ,
2. That attempts to contact the customer through all appropriate contact channels will be made to remedy any default prior to any other debt collection activity,
3. That customers should have the opportunity to remedy their account prior to debt collection activity,
4. That a customer should not be encouraged to use superannuation to pay a default,
5. That a customer should not be encouraged to ask family and friends to pay a default,
6. That actions such as forced liquidation, forced bankruptcy, and seizure and sale are actions of last resort after a number of other attempts to remedy the default have been made over a period of reasonable time,
7. That a customer will be advised when their debt is sold and details (including contact details) of the buyer will be supplied.

7 PROTECTIONS FOR GUARANTORS

Recommendation

- A section clearly outlining the protections for guarantors who are not a party to the business having benefit of the loan be added.
- The Code specify that exhaustive collection activity must be taken against the borrower before any action is taken against the guarantor.

There is a glaring deficiency in the current code because there are no clauses that concern guarantors, and it is common for company directors to be asked to guarantee the debts of the company. In our experience, people many not even be aware/understand they have signed a guarantee of this nature and could become personally liable for a debt. Further the Helpline sees people with no benefit from or control of a business become guarantors of business loans.

7.1 General terms for guarantors

Other similar Codes allow for additional protections for guarantors who are not sole directors. Typically, this is the provision of a warning document with information about the risks of providing a guarantee. We have experience with guarantors who are not related entities to the business losing their family homes or needing to declare themselves personally bankrupt due to the failure of the business. Given that these parties are often relatives, and given that family relationships often contain some imbalances in power making financial violence more likely, we consider additional protections necessary and recommend the following:

1. *We will not accept a guarantee from you until the third day after you have been given copies of the loan information, relevant security contacts (if applicable), any financial statements and credit reports (if accessed) of the borrower & any other information we deem appropriate to provide.*
2. *(1) Will not apply if:*
 - a. *you are a guarantor who is the sole director of the corporate borrower; or*
 - b. *you receive independent legal advice and provide evidence to confirm this.*
3. *Where you are not a party to the business requesting the loan, we will speak with you separately to confirm your understanding of the guarantee, and your free and voluntary consent to providing the guarantee.*

7.2 Enforcement and debt collection where there are guarantors

We have seen examples of guarantors being collected against prior to exhaustive collection activity been taken against the borrowers. It may be tempting for a creditor to seek repayment from a guarantor where a borrower is not cooperating or contactable and the guarantor is,

especially where they may also have more accessible funds and assets. However, this must be disallowed as there is a necessary hierarchy of collection that must be allowed to take place to protect the interests of the guarantor.

1. No collection activity will be taken against any guarantors prior to exhaustive collection against the borrower, including seizing and realizing any security for the loan and assets owned by the borrower.
2. (1) will not apply where we have made reasonable attempts to locate the borrower but have been unsuccessful or where the borrower has entered into external administration or is subject to a formal personal insolvency appointment.