



Who can call themselves a “financial counsellor”?



Are there restrictions on using the terms “financial counsellor” and “financial counselling”?

The *National Consumer Credit Protection Act 2009* (Cth) at section 160C imposes restrictions on the use of the terms:

- financial counsellor, and
- financial counselling, and
- any other term of similar meaning.

Who does this restriction apply to?

The restriction forms part of the rules about responsible lending conduct and applies to all holders of an Australian Credit licence.

The restriction does not apply to financial counselling agencies who meet the requirements for exemption from holding an Australian Credit Licence. Those requirements can be summarised as:

- no remuneration of any kind is received for the financial counselling
- the financial counsellor is a member (or eligible for membership) of a financial counselling association, and has appropriate training.

What is the purpose of the restriction?

The term “financial counsellor” is one that is recognised by many in the community. Those who work with financial counsellors know that their services are free, confidential and independent. Members of the community approach financial counsellors and place trust in them because of these qualities.

The purpose of the restriction is to ensure Credit Licence holders who are not financial counsellors do not mislead people by representing their services as financial counselling.

What is the effect of the restriction?

A Credit Licence holder who breaches the restriction can be prosecuted and a penalty imposed.

A person who is not a Credit Licence holder who uses the restricted terms cannot be prosecuted under section 160C. However they may still be breaching other provisions of the Australian Consumer Law by making a false, misleading or deceptive claim about their service.