

Accomplish

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Code Compliance Committee:

- Dr Sue-Anne Wallace,
Chairperson
- Anita Schut,
Industry Representative
- Carolyn Bond,
Consumer Representative

Welcome to Carolyn Bond

Farewell to Professor Gail Pearson.

Preparation of 2015-16 work plan and budget

Consumer advocate luncheon with Committee

News from the Committee

The Customer Owned Banking Code Compliance Committee is pleased to welcome Ms Carolyn Bond as its new consumer representative. Carolyn was appointed by the Consumers' Federation of Australia and began her Committee term on 1 March 2015.

Carolyn has significant experience representing consumers in banking and credit services, most notably as Co-CEO of the Consumer Action Law Centre between 2006 and 2013. She has also held numerous directorships and is currently Director of both the Legal Services Board, and Energy and Water Ombudsman Victoria. The Committee looks forward to working with Carolyn in this important role.

The Committee has farewelled its former consumer representative, Professor Gail Pearson, whose term expired on 26 February. The Committee thanks Professor Pearson for her valuable contribution as an inaugural member of the Committee.

Annual Work Plan and Budget 2015-16

The Committee is preparing its annual work plan and budget for 2015-16 in consultation with the Customer Owned Banking Association (COBA), consumer advocates and Code subscribers. In particular, the Committee is keen to understand the challenges faced by the customer owned banking institutions in the next 18 months so it can align the Committee's compliance activities to emerging risks.

As part of its strategic planning for the 2015-16 work plan and budget, the Committee invited consumer advocates to a luncheon in Sydney on 25 February to discuss any issues arising from their experiences in dealing with credit unions, mutual banks and mutual building societies. We gained insights into their expectations of the Committee's role in the customer

Review of Committee's operations

Next Committee meeting: 27 May in Melbourne

Code training day for financial counsellors in Adelaide

Attendance of CIO Conference and ASIC forum

Compliance with Section 24 of the Code

Consultation of 30 Institutions and 52 financial counsellors

owned banking industry and its future engagement with consumer advocates and discussed future industry opportunities and challenges.

The Secretariat undertook two strategic planning days at the start of the year to evaluate and improve its processes and procedures for delivering Code compliance monitoring and reporting activities to the Committee.

The next Committee meeting will be held in Melbourne on 27 May 2015. If there are any matters you wish to raise with the Committee, please contact Daniela Kirchlinde on 03 9613 7368 or dkirchlinde@codecompliance.org.au.

Engaging with stakeholders

The Secretariat will present at a Code training day for financial counsellors and community legal advisers in Adelaide on 23 March 2015, in conjunction with the Code Compliance Monitoring Committee, Telecommunications Industry Ombudsman, Energy and Water Ombudsman SA and Credit and Investments Ombudsman.

Dr June Smith will attend the Credit and Investments Ombudsman (CIO) Conference and ASIC's annual forum in March 2015 to address Code issues with stakeholders.

Own Motion Inquiry: 'Financial Difficulty'

The Committee recently conducted an inquiry into whether Institutions were meeting their financial difficulty obligations under Section 24 of the Code.

The inquiry comprised:

- a review of financial difficulty information on participating Institutions' websites
- a scenario-based survey of 30 Institutions, and
- a survey of 52 financial counsellors and community lawyers to understand their experiences of financial difficulty services provided by Institutions.

The Committee has provided its key observations to COBA. Its report on key findings has now been published on its website www.cobccc.org.au.

The Committee encourages the industry to consider the report and its guidance on good industry practice for compliance with the Code's financial difficulty obligations.

Key findings

Full report available at <http://www.cobccc.org.au/uploads/2015/01/COBCC-C-OMI-Financial-Difficulty-Report-final-5Dec2014.pdf>

Recommendations

Accessibility of information

Prompt and pro-active service

The Report's key findings

Overall, the Committee found participating Institutions were genuinely willing to work with their customers to assist them when in financial difficulty.

There was, however, broad interpretation and inconsistent application of Code obligations across those Institutions surveyed which may create a spectrum of conduct and behaviour, if this result is indicative of broader practice.

80% of financial counsellors experience a standard solution to their clients and 30% of financial counsellors have experienced an Institution list a default on their customer's credit file and/or sell a debt whilst a financial hardship request was being considered.

Please refer to the full report for details of the key findings.

Recommendations

The Committee encourages each Code subscriber to consider the recommendations made in the report as detailed below:

Accessibility of financial difficulty information on Institutions' websites

- R1** Institutions should consider providing information about financial difficulty assistance on their websites.
- R2** Institutions should consider developing a financial difficulty information fact sheet, which includes what happens if the Institution does not agree to the customer's request for financial difficulty assistance.
- R3** Institutions should consider placing links to financial counselling and similar services in local areas on their websites.
- R4** Access to complaints resolution information, which includes the timeframe in which a customer may bring a complaint to an external dispute resolution scheme, is considered good industry practice.
- R5** Online financial difficulty application forms and online tools, such as budget spreadsheets and calculators, may assist customers facing financial difficulty to engage proactively with their Institution.

Dealing with requests for financial difficulty assistance promptly and proactively

- R6** Institutions that employ a range of mechanisms to proactively identify and engage with customers in financial difficulty are better placed to offer assistance at an earlier stage. This will have benefits for both the customer and the Institution.

Dealing with requests for financial difficulty 'promptly'

- R7** While there is no Code obligation for specialised teams to handle financial difficulty matters, Institutions should be aware of the real and perceived conflicts that can sometimes arise between positive obligations to work with customers in establishing individual tailored repayment arrangements and the interests of the Institution in recovering outstanding debts.
- R8** Inconsistencies in the timeliness and responsiveness to financial difficulty matters seem to lead to a poorer customer experience. The customer experience results suggest that there may still be some work to do in these areas.

Types of financial difficulty assistance available

- R9** The Committee encourages Institutions to approach some repayment strategies with caution. We refer all Institutions to the ASIC/ACCC Debt Collection Guidelines for further guidance. The objective is to take a flexible approach and work towards a meaningful and sustainable repayment arrangement that makes reasonable allowances for a customer's individual circumstances, ongoing living expenses and basic comfort.¹ Suggestions or strategies that could humiliate or offend should be avoided.
- R10** It is also unacceptable to pressure a customer to borrow from family and friends to pay out a debt or to access their superannuation early.²
- R11** The survey results indicate that participating Institutions are genuinely willing to work with their customers to assist them with their financial difficulties. There does appear, however, to be broad interpretation and application of the obligation in Part D, section 24.1 and 24.2 of the Code, by different Institutions. This is coupled with some inconsistency between the documented processes and procedures outlined to us and how they are applied in practice. This seems to have resulted in an inconsistent overall experience of consumer advocates in dealing with Institutions about financial difficulty matters.
- R12** Institutions that engage in tailored and flexible repayment arrangements based on a customer's individual circumstances seem better placed to meet their legal and Code obligations. This might also ensure a more consistent and tailored experience for customers and consumer advocates when negotiating repayment arrangements.

¹ ASIC/ACCC Debt Collection guidelines: For Collectors and Creditors, July 2014

² ASIC/ACCC Regulatory Guideline 96 of page 29.

Debt collection

Procedures regarding listing and external sale of debt

- R13** The Committee recommends that all Institutions ensure that default listing and external sale of a debt does not occur while financial hardship is being considered, in accordance with the Code obligations and section 14(c) of the ASIC/ACCC Debt Collection Guidelines.
- R14** Institutions have an obligation to record instances of non-compliance with the Code. The Committee notes that self-reported breaches of section 24.2.6 and 24.2.7 in the Annual Compliance Statements have historically been low. The Committee encourages Institutions to review their monitoring and reporting frameworks in relation to these obligations as well.
- R15** There may be a gap between procedure and practice that needs to be addressed. The experience of consumer advocates is that procedures may not always be followed and applied by Institutions' staff.

Training

Training

- R16** Training is crucial to ensuring that staff are aware of their financial difficulty obligations under the Code and how they should be applied in practice. Training should also ensure that staff understand the importance of customers experiencing financial difficulty receiving fair and appropriate assistance.

The Committee has also published a fact sheet for consumers outlining what they can expect from their credit union, mutual bank or mutual building society when they are in financial difficulty.

Own Motion Inquiry: 'Translation of the Code'

Accessibility of the Code in remote Indigenous communities

We are collating background information about the Code's accessibility in remote Indigenous communities to assess opportunities for Committee engagement.

The final report will provide an overview of how Code Subscribers deal with remote Indigenous customers and the outcome of our discussions with Financial Counselling Australia (FCA).

The purpose of the report is to help the Committee to determine future activities in this area, particularly in assessing compliance with Key Promise 2 of the Code.

14 Code Subscribers to participate in 2014 compliance verification program

Online portal for data submission of 2014 Annual Compliance Statement

Email:
info@codecompliance.org.au

Phone: 1300 78 08 08

Address:
PO Box 14240
Melbourne Vic 8001

Website:
www.cobccc.org.au

2014 Compliance verification

Following the 2014 ACS program, 14 Code Subscribers (Institutions) have been chosen to participate in the 2014 ACS verification program to:

- discuss any specific non-compliance issues that were reported in the 2014 ACS
- assist the Committee to understand how Institutions manage and monitor their compliance with the Code, and
- share examples of good industry practice.

The verification teleconferences will be held with Institutions between February and April 2015. We will publish a summary and analysis of the discussions once the program is completed.

2015 Annual Compliance Statement

We will finalise our online portal in the coming months to assist Code Subscribers with their data submission for the Annual Compliance Statement (ACS) 2014-2015.

The online portal was developed following feedback from Code subscribers and having reviewed the efficiency of our data handling, analysis processes and reporting function.

The new application provides an integrated system to collect, store and analyse data submitted by Code subscribers, including a full customisation to meet the specific needs of monitoring activities for each Code subscriber and the provision of both qualitative and quantitative data.

It does meet the relevant security standards and the data protection requirements of both the Privacy Act and internal data storage protocols of Code subscribers.

Contact us

If you have a general enquiry or want to provide feedback –
You can write to, call or email us using the details to the left.

If you have a media enquiry –
All media enquiries should be referred to Dr June Smith, General Manager, Code Compliance and Monitoring, at:
jsmith@codecompliance.org.au.

Copies of the Code and information about the Code are available on [our website](#) and the Customer Owned Banking Association ([COBA](#)) website.