

**Code Compliance Monitoring Committee  
Inquiry into Debt Collection Guidelines  
August 2007.**

**Response by AFCCRA (Australian Financial Counselling and Credit Reform Association) :**

**1. What is your procedure for making contact with a client's bank?**

Financial counsellors provide a third party authority (TPA) signed by their client which enables them to act for the client. A copy of the AFCCRA endorsed TPA is attached. This TPA was developed in consultation with banks, some other financial services providers and the BFSO. It would be sent on the financial counselling service's letterhead.

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

Generally 'no'. The TPA provided is accepted by all banks. However, there are occasional instances where the bank requests that their own TPA be used. I have a Westpac authority which was sent to a client after the AFCCRA endorsed TPA on the financial counselling service's letterhead was provided.

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

This varies between financial counsellors. Some have developed relationships with particular bank officers, usually in the bank's hardship team. However, initial contact is usually with the collections team in the bank.

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

No. Occasionally they ask for their own TPA to be used (see 2.) but that is rare.

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

Please note the 'personal identifier' on the AFCCRA endorsed TPA. This was requested by some financial services providers when the TPA was being developed as additional privacy protection for their customers. It's unclear how widespread the use of the personal identifier is. Some financial counsellors report its increased use by banks.

Some banks (eg Citibank) are difficult to deal with when they phone the financial counsellor and then require customer verification details beyond what is reasonable. In particular, requests for mailing address and contact

phone number of clients are generally not provided by financial counsellors, to limit direct access once the financial counsellor is acting for the client. Provision of the agency's address and phone number, the

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financial counsellor's personal identifier, the account number and the client's date of birth are given and should meet identification and privacy requirements.

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

Direct contact and verification is generally as outlined above in 5.

**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?**

A recent instance of such a suggestion from the Commonwealth Bank has been reported. Some financial counsellors have reported an ANZ requirement that the financial counsellor attend the bank with the client to establish a TPA.

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

Unfortunately this is a common and on-going practice despite continuing action from the financial sector over many years. The sector has been supported in this action by the BFSO but while somewhat diminished, the Direct client contact after provision of a TPA and requests NOT to make direct contact with the client, this continues.

A common practice by financial counsellors to deal with this problem is to caution their clients that while the financial counsellor will write to the bank including their signed TPA, the bank may continue to contact them directly. This is despite the clear authorisation of the financial counsellor to act for the client and the request by the client that all contact should be with the financial counsellor.

It is then necessary to phone those banks that continue to contact the client directly and go through what is sometimes a lengthy process of ensuring that direct contact with the client will cease while the TPA is in effect. Often, part of this process is to insist that the financial counsellor's contact phone number replace that of the client, particularly on automatic dialling systems.

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

Financial counsellors report particular difficulties with Citibank. It is also reported by financial counsellors that their written correspondence including TPAs 'disappear into a black hole' within banks. They regularly

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need to fax those letters and TPAs again when contacting or being contacted by banks.

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

Financial counsellors report variable experience with outgoing call centres in banks. This is due to what appears to be the employment of young, inexperienced staff who are not adequately trained. It is likely that there is a high turnover of staff in bank call centres.

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

Financial counsellors often experience frustration when the bank has outsourced debt collection. It is usual to find that the bank has not provided the debt collector with correspondence from the financial counsellor including the TPA, and/or notes of phone contact with the financial counsellor.

A recent example is direct contact to a client from Collection House (CH) which is collecting the debt for ANZ. When queried the CH employee said that the correspondence and TPA provided to ANZ had not been passed on to them. He further stated that ANZ did not do generally pass on this material. A new signed TPA naming CH rather than ANZ was required.

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

See responses to questions 2, 5, 7, 8, 9, 11 and 13.

**14. While the agency issue is the major focus of our inquiry, do you have any suggestions as to how banks (or a particular bank) could improve compliance with the debt collection guidelines, or the Code more generally?**

All the banks should have financial hardship policies and procedures. These policies and procedures should be in the public arena. Ideally, they would be similar to facilitate easy access for financial counsellors and customers.

As part of this process most banks have a Statement of Financial Position form (actual name may differ between banks). It is very frustrating for financial counsellors to have to fill in ALL of these forms in different formats. Attached is a 'statement of financial position' (SFP) where there are multiple creditors. It was an easier process for the financial counsellor to provide this rather than fill out ten SFP. This statement was sent to all creditors, and was updated and sent to them from time to time as part of continuing communication between the financial counsellor and the creditors(s). However, some creditors insisted in their particular form being used.

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Increasingly, banks are reviewing their financial hardship policies and procedures and engaging with the financial counselling sector to do this. AFCCRA encourages a widening of this engagement with the financial counselling sector around financial hardship. Financial hardship processes within utilities providers have been substantially improved by engagement with the financial counselling sector in development, training, monitoring and review.

AFCCRA's response to the inquiry was undertaken in a limited time frame and therefore is based on anecdotal information from a small number of financial counsellors. However, while the consultation was not undertaken more broadly, AFCCRA is confident that the views expressed above represent the experiences of financial counsellors in their day to day casework practice.

In particular, there is on-going frustration with the experience expressed in response to Question 8.

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