



ELDER ABUSE CONFERENCE

20 February 2018

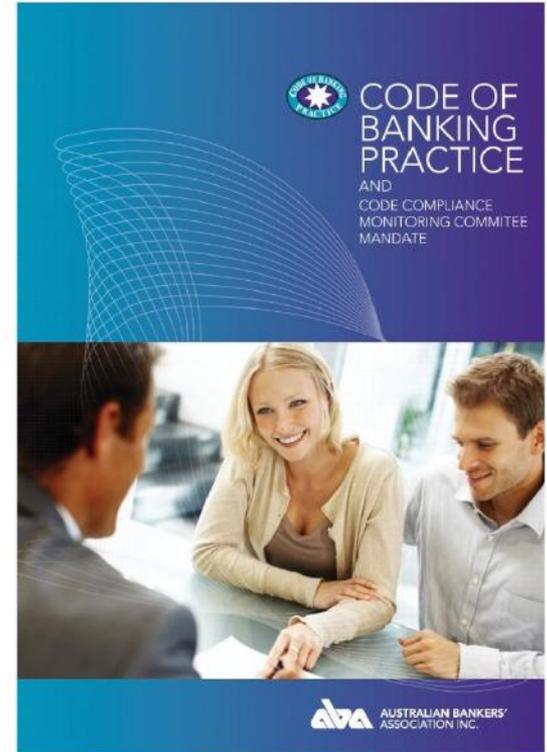
PRESENTER: SALLY DAVIS, CEO
Banking Code Compliance Monitoring Committee

THE CODE OF BANKING PRACTICE



- The Code of Banking Practice (the Code) is a voluntary Code of practice.
- It is developed and owned by the Australian Banker's Association.
- 14 banking groups covering 19 banks currently subscribe to the Code.
- The big 4 plus regional and international.
- 93.5% of the retail banking industry.
- Covers individual and small business customers and potential customers.
- **A New Code is expected to be published later this year.**

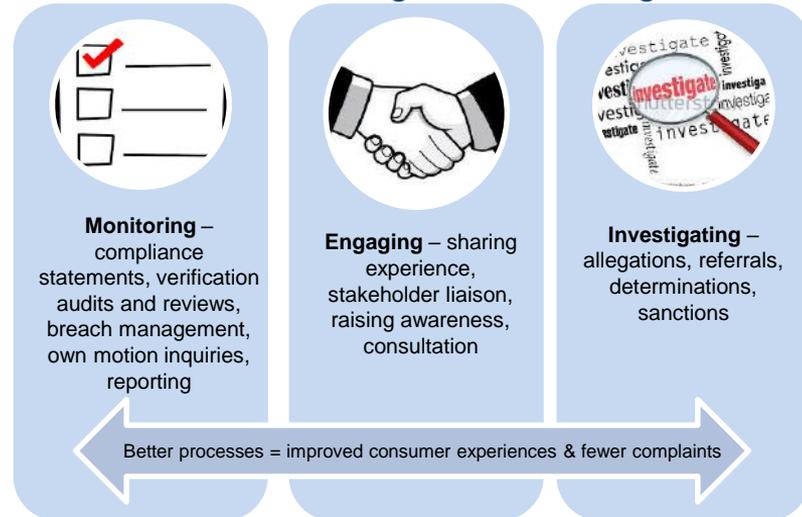
For a copy of the Code see the ABA website www.bankers.asn.au



The Banking Code Compliance Monitoring Committee (CCMC) independently monitors banks' compliance with the Code of Banking Practice.

The Banking Code Compliance Monitoring Committee undertakes a range of monitoring activities:

- The Annual Compliance Statement
- Targeted Own Motion Inquiries
- Special Reports.
- Individual investigations.





Key Code clauses:

- **21 – Direct Debits** – under the Code, banks must promptly process your request to cancel a direct debit.
- **27 – Provision of Credit** – using the care and skill of a prudent and diligent banker when selecting and applying the credit assessment method and forming an opinion on your capacity to repay the loan.
- **28 – Financial Difficulty** – working with you to overcome financial difficulty.
- **29 – Joint Debtors** – not accepting you as a co-debtor if the bank knows you will not receive a benefit.
- **31 – Guarantees** – taking steps to ensure guarantors are given appropriate time and documentation to make an informed decision.

Guarantees

The Code provides meaningful and unique protections for consumers, including:

1. give notice to the prospective guarantor:
 - a. to seek independent legal and financial advice on the effect of the Guarantee;
 - b. that they can request information about the transaction;
 - c. that there are financial risks involved;
 - d. that they have the right to seek to limit their liability;
 - e. that they can request additional information about the facility they are being asked to Guarantee; and
 - f. that they can refuse to enter into the Guarantee.
2. place the prospective guarantor in an informed position about the borrower's financial position by providing supporting documents;
3. ensure there is sufficient opportunity for the prospective guarantor to give proper consideration to documents prior to signing; and
4. ensure that the prospective guarantor has an opportunity to act without undue influence by the borrower at the time of signing.



In 2013 the CCMC recommended:

The CCMC encourages banks to consider the vulnerability of a prospective guarantor. Banks which have effective processes to identify classes of prospective guarantors and take additional steps to ensure they receive information about their rights and responsibilities and the financial position of the borrower, are better placed to comply with their Code obligations.

In 2014 the CCMC provided guidance to banks:

Information about guarantees is more likely to be effective and meet good industry practice when:

- a. it is easy to read and accessible to both bank staff and consumers
- b. it clearly describes the rights and responsibilities of potential guarantors under the Code, and
- c. notices about rights, responsibilities and risks under the guarantee are prominent and clearly brought to the guarantor or potential guarantor's attention.



Since 2013 banks have reported that:

1. Banks introduced guarantor information into the induction training, with a specific guarantor case study.
2. As an additional measure the bank implemented a recommendation relating to 'best practice', whereby a Guarantees brochure was produced to provide customers with a specific information on Guarantees.

A recent review:

- Self-reported breaches have increased steadily from 29 in 2014/15 to 44 in 2016/17.
- Banks have reported 3 significant breaches of the Code, in each instance the bank has failed to meet the pre-contractual notice requirements.



Financial Difficulty

Under the Code, banks must:

- a. Work with an authorised representative if the customer requests that they do.
- b. Properly assess a request for financial difficulty assistance.
- c. Provide you with details of the arrangement in writing.
- d. Not require you to apply for an early release of superannuation.
- e. Making information about process for working with financial difficulty available on their website.



In 2015 the CCMC recommended:

1. Banks should ensure that frontline staff are trained to identify common causes of financial difficulty from conversations with customers as early as possible.
2. Banks should have staff who are trained to work with customers who are experiencing particularly sensitive circumstances.
3. Banks should be flexible in their requirements for information to support a request for financial difficulty assistance.



What are banks telling us?

- After a decline in financial difficulty applications in 2015/16, applications are again on the rise with 303,635 made in the 2016/17 financial year.
- Banks' self-reported breaches of the Code remain steady with 219 breaches reported in 2014/15 compared to 207 reported in 2016/17.



Direct Debits

Banks must take and promptly process your:

- a. Request to cancel a direct debit.
- b. Complaint that a direct debit was unauthorised or otherwise irregular.

Banks must not direct or suggest that you should first raise any such request or complaint with the service provider.



A 2017 study undertaken by the CCMC found that each month, across Australia, the banking industry processes more than 50 million direct debit transactions.

A mystery shopping exercise conducted by the CCMC during this study found that banks provided incorrect or non-compliant information in 54% of interactions.

Branch staff were more likely to provide non-compliant information than their call centre counterparts.



The CCMC recommended that:

1. Banks should provide customers with clear, simple guidance of their right to cancel a direct debit.
2. Banks should explore and implement ways to allow customers to cancel direct debits through their existing online banking services.
3. Banks should ensure that front line staff are appropriately trained in the requirements of the Code.
4. Banks, with the ABA's support, should continue to work with card schemes to develop functionality that allows customers to cancel recurring card payments via their bank, free of charge.



Robust compliance of the Code can prevent instances of financial abuse against elderly customers.

Concerns that a bank is not meeting its' obligations under the Code can be directed to the CCMC directly at info@codecompliance.org.au or by contacting Donna Stevens, Compliance Manager on 1800 367 287.