



Coronavirus (Covid-19)

Financial counselling in the
Covid-19 Pandemic



VERSION

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4 APRIL 2020

This guide for financial counsellors sets out the changes in approach you will need to incorporate to provide financial counselling in the current Covid-19 pandemic.



The information in this guide is based on currently available information. The approach of the Government and creditors is likely to change. This guide will be regularly updated to reflect changes. Please check the FCA Toolkit for the latest version. This approach document is general in nature. As always, you should tailor your advice to the circumstances of your client.

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Introduction

How to use this guide

There is no need to read the entire guide. You should read the following sections as an introduction to the changes:

- Section 2: Big changes
- Section 3: What this means for financial counsellors

After reading those sections, it is suggested you just look up the section that is most relevant to your client's problem.

What this guide covers

This guide covers the following areas of financial counselling:

- Credit providers
- Utilities
- Tenancy
- Centrelink
- Superannuation
- Insurance
- Tax
- Bankruptcy

There is an email template form that must be sent to AFSA depending on what support you are providing clients. See Attachment 1.

A guide to write a hardship letter is available at Attachment 2.

Why this is important

The increasing shutdown of businesses, enforced social (physical) distancing and rapidly rising unemployment means that many people will be in financial difficulty. It is unknown how long the shutdown will last. However, it is possible that these measures (or at least some measures) may be in place until a vaccine is tested and rolled out to the community. This means that most financial difficulty will not be short term and is more likely to be medium term (six months or longer).

The lockdown measures will also result in challenges for the financial counselling sector in keeping up with changes to services, regulations and procedures. Changes are happening every day as governments (Commonwealth, State and Territory) respond to protect the community from the impact of the pandemic. This means it will be necessary for you to keep checking information. This resource guide will need to be regularly updated. **Check the FCA Toolkit for the latest version.**

The delivery of financial counselling will also be affected. Many financial counsellors may be now working from home or working from an office, with no face to face appointments offered. Financial counselling will therefore be provided primarily over the phone, by email and/or via video chat. A coronavirus preparedness document that sets out procedures to follow when working in the office or at home is available on the FCA Toolkit.

Finally, the approach set out below will be accompanied by advocacy work from FCA to support the suggested approach. We will be asking creditors to make medium term and reviewable repayment arrangements. Some creditors will be difficult but it is hoped that over time this will transition into an understanding that we all need to support each other and be flexible to get through this.

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Big changes

The Covid-19 pandemic means there will be big changes to every part of society. Many businesses have their employees working at home. Others have already stood down employees, let casuals go or made people redundant. The Commonwealth Government has also enacted legislation for bankruptcy changes and many state governments are implementing, or have implemented, changes to make it more difficult to evict tenants.

Some observations of likely changes include:

- Communication will slow down. Hardship departments are already overwhelmed with requests. This means that it will be difficult to get services on the phone. Many organisations have asked financial counsellors to use email where possible. Even so, emails and letters will have slow responses. Access will be affected. You may need to regularly ask for extensions of time to respond to correspondence.
- Enforcement will slow down or, in some instances, stop.
 - › Hearings in courts have been suspended unless urgent
 - › The processing of statements of claim and summonses will be delayed and may stop
 - › The notice period for Bankruptcy Notices has now been changed from 21 days to six months
 - › Forced bankruptcy cannot proceed for the next six months unless the debt is over \$20,000
- Debt collection calls should also slow due to a reduced workforce and physical distancing
- Repossession of assets—goods, cars and houses—will be difficult with physical distancing and limited access to courts
- It will be difficult (if not increasingly impossible) to sell assets
- Centrelink is, and will continue to be, overwhelmed and there will be delays
- There may be a larger than normal use of payday lenders to bridge the delay in accessing Centrelink entitlements
- Utilities will not disconnect power before 31 July 2020, but there may still be pockets of problems¹
- Renters will be protected from evictions. This was announced on 29 March, 2020, and is for the next six months (and again, it may end up being longer)

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The Australian Energy Regulator has told utilities that they expect there to be no disconnection of any residential or small business customer who may be in financial stress (without their agreement) before 31 July 2020 and potentially beyond

Other problems that will increase financial difficulty for clients will include:

- Serious illness
- Deaths from Covid-19
- Trauma from the pandemic
- A refusal to engage with difficult processes (for example, Centrelink)
- Centrelink payments stopped

Finally, even when the pandemic has been brought under control, there will still be a difficult recovery period.



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What this means for financial counsellors

The impact of the pandemic means that financial counsellors will need to adapt their approach in assisting clients. You will need to advise people specifically on the current circumstances and how to get through. The changes of approach will include:

- Using a trauma informed approach for all clients. Language and manner will be important
- Taking care of yourself so you can effectively help your clients
- Honesty and realism about the pandemic. It is not going to be OK for everyone. Many people will be facing the death of family and friends, grief, poverty, serious health concerns (including mental health) and increasing societal breakdown due to lockdown.
- Being realistic about how long it will take for this situation to resolve (it will be many months and for some people possibly years, before there will be a significant recovery)
- Reassuring people that organisations will show leniency regarding enforcement during this difficult period, but reminding people that enforcement will start up again in the recovery
- Encouraging people to keep in contact with their creditors when they are in default even if responses from creditors are slow
- Encouraging people to continue making affordable payments to rent, utilities and loans even though their income has decreased
- Explaining the effect and repercussions of compounding interest on debts
- Negotiating reductions in interest where possible will be critical for recovery
- Supporting people to self-advocate (covered in more detail below)
- Explaining the effect on retirement funds when getting early access to superannuation

Supporting self-advocacy

Financial counsellors will increasingly be providing advice over the telephone and may have limited capacity to provide casework support. More clients will need to self-advocate. Resources will be provided and be available on the FCA Toolkit as needed.

Financial counsellors already have skills in encouraging self-advocacy but here are some extra tips:

- Reassure clients that telephone advice and support will always be available either from yourself or financial counsellors on the National Debt Helpline. Demand might be high so ask them to be patient.
- The usual tasks involved in giving advice still apply, including collecting details, making file notes, conducting conflict checks and sending out privacy statements.
- Encourage clients to complete one task at a time and to call back if they need support with the next task. Trying to complete multiple tasks can be overwhelming.
- There will be some clients who need assistance with discrete tasks, for example, filling out forms, drafting an email, or lodging a dispute in an external dispute resolution scheme. Be prepared to assist when it is clearly necessary and urgent.

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Credit providers

4.1 Banks

FCA has a document that details the banks' responses to Covid-19. It is available on the FCA Toolkit. Also check the Australian Banking Association website for details.

4.2 Credit reporting

Many clients will ask about the impact of not paying debts on their credit score.

Remember that repayment history information (RHI) is only recorded by **licensed credit providers**, such as banks. RHI is not reported by utilities or telcos.

RHI and Banks

For up to date customers at the time a deferral is granted

- Banks will mark any negotiated deferral as if repayments were continuing to be made. This means that the payment would show as "0" and that the loan was in order. This would have no impact on a person's credit score.

For customers in arrears at the time of the request for a deferral (which is granted)

- Banks will not record any RHI for the period of the payment deferral. After the deferral period, the banks will determine how to record RHI. If other lenders looked at this pattern on the credit report, they would likely interpret that as indicating the person was not paying and was experiencing financial hardship. In other words, this may act as a type of hardship flag.

RHI and other licensed credit providers

For other lenders, such as finance companies, it is unknown how they will approach RHI. It will be necessary to ask and negotiate. Some lenders may not be recording RHI at all.

Recording of defaults (banks, other lenders, utilities, telcos)

Banks and other lenders are unlikely to report defaults during the pandemic. Even if they did send a default notice the strategy should be to make a repayment arrangement which should prevent a default being recorded (as long as the client could stick to the repayment arrangement).

The best strategy is to ask about credit reporting when negotiating repayment arrangements. Ask for agreed repayment arrangements to be marked as paid. Negotiate for defaults not to be listed.

4.3 Finance companies

These companies may be harder to deal with.

- The industry association for the finance industry is the Australian Finance Industry Association (AFIA). There are no announcements as yet but there may be soon.
- If the client could not afford the loan when it was granted, then it must be disputed.

4.4 Payday lenders

There may be a run on payday loans because people who have lost their jobs cannot access Centrelink quickly enough for food and other basic costs. Clients may use desperate behaviours such as using a recent payslip when in fact that income has stopped.

With any payday loans remember that:

- If the client could not afford the loan when it was granted, then it must be disputed
- The payday lenders were on notice that some industry sectors have closed and people from those sectors may be unemployed
- Payday loans are not a priority payment and if the repayments were not affordable cancel the direct debit and cease payments
- Use Consumer Action Law Centre toolkits at <https://consumeraction.org.au/resources-and-toolkits/payday-loans/> to begin disputes and progress to the Australian Financial Complaints Authority.
- Keep FCA/your State association informed if you are seeing increasing numbers of clients affected

4.5 Consumer leases

Consumer leases are difficult as the client often wants to keep the goods. This can be a particular problem where a refrigerator or freezer is an even greater necessity than usual. Repossession of goods will be very difficult in a complete lockdown.

With consumer leases:

- Consider stopping repayments immediately if they are not affordable
- If possible, negotiate to buy the goods with any bonus payments or extra income from Centrelink
- Dispute the lease if it was unaffordable at the outset. If necessary, take the dispute to AFCA

4.6 Home loans

Banks

The major banks have all offered the option for customers to defer payments for up to six months, with a review after three months. Many people will take up this option.

Interest and fees, however, will continue to be charged and at the end of the deferral, the bank will then either increase the term of the loan or payments will need to increase. Therefore, if people can afford to pay something, they should. This will reduce the amount they will need to catch up on and also retains a payment habit.

Other home loan providers

The approaches of other home loan providers vary. You will need to contact them and negotiate an arrangement based on the circumstances of your client.

In summary:

- Encourage clients to keep making payments as a priority even if a six-month deferral has been granted. This maintains a repayment habit and will make it easier to catch up later.
- Compounding interest will be a problem on large loans.
- Do negotiate for interest to be added to the loan and a return to the usual repayments at the end of any term of financial hardship. It is often difficult to make higher payments at the end of any financial hardship.
- Do keep reviewing any hardship arrangements while your client remains in hardship
- Ask for all default fees and default interest to stop. It is always worth asking the question.
- Changing to interest-only may be an option for some people to consider to manage the problem of interest compounding. The client would need to be able to pay the interest-only payments.
- Historically it has been difficult to get a lender to waive interest on a home loan. However, in the pandemic it may make sense to ask for interest to be waived for a period of time if your client is in dire circumstances.
- Selling the home may not be possible in the current pandemic. If a lender is insisting on a sale you will need to manage those expectations (and if necessary, lodge in the Australian Financial Complaints Authority).

4.7 Investment property loans

There will likely be increasing defaults in rent payments, which will affect an owner's ability to repay investment property loans.

- Contact tenants to make repayment arrangements. Some rent is better than no rent.
- Do make repayment arrangements with your lenders.
- Where appropriate, ask for default fees and interest not to be charged.
- Selling the property will be difficult.

4.8 Personal loans and car loans

- It will be difficult for creditors to repossess cars. Some may continue to try.
- Clients should be at home and their car should be on their property, not on the street. The car cannot be repossessed (if the National Credit Act applies and it is a loan) without written permission from the borrower or a court order if it is on residential property. If a client cannot put the car on their residential property see if a friend will keep the car on their residential property for them.
- Negotiate repayment arrangements
- Ask for all default fees and default interest to stop
- If the loan is an unsecured personal loan, it will usually not be a high priority debt

4.9 Credit cards

- Not a high priority debt for payment
- Consider using any extra payment or income to settle the debt by offering a full and final settlement
- Avoid using credit cards to cover expenses because the pandemic is likely to be a medium-term problem
- Do ask for interest to stop

4.10 Debt collectors and debt collection

- Debt collection will not stop in the pandemic
- Debt collectors can still call people to collect debts and make repayment arrangements. Those arrangements will need to be reviewed as needed.
- Debt collectors must still comply with the ASIC/ACCC Debt Collection Guidelines
- Clients should be encouraged to contact the lender and make repayment arrangements they can afford
- Clients should be encouraged to contact the lender to ask for a moratorium if they cannot afford to make any payments
- Debt collectors will find it difficult (if not impossible) to enforce any debt
- Do negotiate for interest to stop to avoid an escalating debt
- This is an opportunity (possibly greater than usual) to settle debts for a reduced amount in full and final settlement

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Utilities

5.1 Energy and water

- Disconnections should not occur, at least until 31 July 2020 and possibly longer. The Australian Energy Regulator has released a Statement of Expectations of energy businesses: Protecting consumers and the energy market during Covid-19.
- Affordable payments should still be made to utilities as a priority
- If disconnection is threatened make a complaint to the relevant State or Territory Energy and Water Ombudsman

5.2 Councils

- Home owners may have difficulty paying rates.
- It is likely that a hold on enforcement will be legislated by State and Territory governments.
- If affordable, clients should pay rates.

5.3 Telecommunications

- In times of physical isolation, telecommunications services will become more essential.
- Telstra has announced it is not charging late fees for bills that become overdue between 19 March 2020 and 30 April 2020. Keep checking for further announcements from Telstra and other telcos.
- Do go to the TIO to avoid disconnection or negotiate a move to prepaid for phones.



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Tenancy

- State and Territory governments have moved to stop evictions for failure to make rental payments
- Rental payments should still be made as a high priority payment
- Payments should be affordable
- Clients should definitely contact the landlord/estate agent to negotiate a repayment arrangement/reduction in rent
- Check for announcements for rent subsidies in your State or Territory



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Centrelink

- Any dealings with Centrelink are likely to be delayed and frustrating given the influx of unemployed people
- Persistence is important. People will need support.
- Some people will now qualify for the new Jobkeeper Allowance if that person and their employer are eligible. The payment is given to the employer, who will then paid the allowance to the employee. If the person qualifies for Jobkeeper Allowance they will no longer be able to get the Jobseeker Allowance.
- Make sure you are aware of and remain up to date with changes to Centrelink in response to the Covid-19 pandemic. See Services Australia for details and updates.



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Superannuation

There may be a rapid increase in people asking about early release of superannuation. This will mainly be because the federal government has announced a program allowing people to get early access to super up to the amount of \$10,000 in financial year 2019-20 and access in the first three months of 2020-21 of up to another \$10,000.

- Withdrawing superannuation early has an enormous detrimental effect on future retirement savings. It should not be accessed except when absolutely necessary
- Other options should be considered where possible
- It is worth considering a discussion about withdrawing superannuation to settle debts where this will considerably increase financial stability
- The access may be necessary and life-saving for some people (for example, family violence and inability to access Centrelink).



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Insurance

If clients are in doubt about whether they are covered, they should check the policy and then get legal advice from the Insurance Law Service on 1300 663 464.

Life Insurance

Many insurance policies have exclusions to cover pandemics.

Travel insurance

Travel insurance and income protection insurance will usually have exclusions for pandemics.

Income Protection

Some clients may have income protection insurance in their superannuation or outside super—it is worth asking. Income protection policies generally do not cover unemployment. The policy may cover time off work if the person has contracted Covid-19.

Consumer Credit Insurance

Consumer credit insurance is often a junk product and has been mis-sold in the past. But in these circumstances some people may still have this insurance with their credit card or personal loan. Again, it is worth asking.



10 Tax

Clients or financial counsellors still need to contact the ATO to negotiate payments deferrals and repayment arrangements. The ATO has not announced any specific measures on the payment of tax by individuals.



11 Bankruptcy

There are major changes to bankruptcy processes. For six months from 25 March 2020:

- The relief that debtors receive by submitting a Declaration of Intention (DOI) to file a Debtors Petition will be extended from 21 days to six months. The DOI form will be renamed the Temporary Debt Protection form. The form, despite the name change, fulfils the same purpose and is still an act of bankruptcy.
- The minimum amount for which creditors can have a Bankruptcy Notice issued against a debtor will increase from \$5,000 to \$20,000
- The time a debtor has to respond to a Bankruptcy Notice will increase from 21 days to six months

AFSA is also moving from a fillable PDF form to a fully online form.



11.1 AFSA's temporary changes for financial counsellors

AFSA has introduced some important temporary changes so that financial counsellors can still support clients through the online bankruptcy process despite current restrictions around physical distancing.

The following process is to be used by financial counsellors who agree to complete the bankruptcy form on behalf of clients who cannot access a paper copy of the form and where the client cannot meet face to face with their financial counsellor.

AFSA will accept Bankruptcy Forms and Temporary Debt Protection/Declaration of Intention (DOI) forms for assessment without the signature of the applicant and without the declaration of an authorised witness who has sighted their identity documents **under the following conditions**.

- The forms must be submitted by a registered financial counsellor from their professional email address to the email address: finc@afsa.gov.au. This is a temporary inbox that has been set up by AFSA specifically due to the Covid-19 restrictions.
- The forms must also include the email template, with the appropriate checkboxes ticked, on the following page at **Attachment 1**.

AFSA has included the following information to explain what financial counsellors are now required to do.

Bankruptcy Form

- The financial counsellor must fill out, in Section N, the 'Declaration of person completing this form on behalf of the applicant' on page 23. This requires an acknowledgement that the information provided came from the applicant and that the financial counsellor has read the prescribed information to the applicant.
There is no need for the financial counsellor to select one of the three reasons for the assistance being rendered.
- The financial counsellor must add their FCA Registration number in the 'Home address' field of Section N instead of including an address.

Temporary Debt Protection

- The financial counsellor must complete the section entitled 'Declaration of person who assisted with completion of form' on page 7.
- The financial counsellor must add their name and FCA Registration number in the 'Full Name and address of the assisting person' field instead of including an address.

Attachment 1- Email to AFSA

Email to be sent to AFSA

In subject line include this information:

**Unsigned application from FC on behalf of an isolated client - <Client Full Name>
<Date of Submission>**

Bankruptcy Form

Please find attached a Bankruptcy Form that I am submitting on behalf of an isolated client.

- I confirm that I have satisfactorily identified the applicant.
- I confirm that I have discussed the form with them and that they have declared that the information is complete and correct.
- I confirm that I have ensured the applicant has read the prescribed information or I have read the prescribed information to them.
- I have completed the declaration in Section N and added my registration number instead of an address in the 'Home address' field.

Temporary Debt Protection

Please find a Temporary Debt Protection Form attached which I am submitting on behalf of an isolated client.

- I confirm that I have satisfactorily identified the applicant.
- I confirm that I have discussed the form with them and that they have declared that the information is complete and correct.
- I confirm that I have ensured the applicant has read the prescribed information or I have read the prescribed information to them.
- I have added my registration number in the 'Full Name and address of the assisting person' field instead of an address.

Regards

Attachment 2 - Hardship Letters

Hardship letters

Suggestions below for hardship letters. The information should be customised as needed.

Checklist of what to ask for in the hardship letter for loans:

- A repayment arrangement that is affordable or moratorium/deferral if it is not
- A review process at the end of any term of agreed hardship. It is unknown when the pandemic will finish.
- All default fees to stop
- Where appropriate, all interest to stop
- Consider negotiating interest free periods or reductions in interest (depending on the loan)
- Ask for the credit report to be marked as paid while the client keeps to the arrangement. If another approach is proposed please ask the creditor for details.
- Assume that there is a stay of all enforcement action. If this changes, ask for notification in writing.
- Ask for the loan to remain with the lender and not be sold to a debt collector.

For possible inclusion in correspondence:

Covid-19 Pandemic

I appreciate that this is a difficult time for everyone. I appreciate the steps you are taking to lessen the burden for your customers.

My client (like many other people) has been directly affected by the Covid-19 Pandemic. My client is now unemployed (or has reduced hours). It is unclear when my client will be able to find employment again. It is likely that employment will be difficult to find until after the pandemic is resolved and more businesses go back into operation.

I expect that this means my client will need to have any repayment arrangements for a set time reviewed. Those arrangements may need to be reviewed a number of times. I expect that the (name of creditor) will be understanding of this need and work with my client on this basis.