



FINANCIAL SERVICES FEDERATION

# RESPONSIBLE DEBT COLLECTION CODE

## What is the purpose of this Code?

This Code describes the way in which responsible debt collectors go beyond what is required of them by law to treat all consumer debtors (borrowers) they deal with fairly and ethically. Members of the Financial Services Federation (the FSF) that carry out debt collection have signed up to adhere to this Code. Members understand that if they do not adhere to this code, it could result in termination of their membership of the FSF, which promotes ethical and responsible lending practices.

## Debt Collection in New Zealand

The way debt collection is carried out in New Zealand must be in line with relevant law, including:

- › The Credit Contracts and Consumer Finance Act 2003 (the CCCFA)
- › The regulations that support that Act and the guidance in the Responsible Lending Code (the RLC), including requirements concerning disclosure.
- › The way in which credit defaults are recorded against a customer's name must be in line with the requirements of the Credit Reporting Privacy Code (the CRPC).

### 1. When does this code apply?

The Code applies only to the way in which responsible debt collectors will treat debtors when seeking to recover a debt owed under a credit contract. Debt collection can be carried out by debt collection agencies and by staff employed by a lender. Debt collection agencies who specialise in debt collection may collect debt owed to other types of businesses such as telcos, utilities companies etc. It is expected that such agencies that are members of the FSF will carry out all consumer debt collection activity in line with the requirements of this Code.

### 2. How debtors can expect to be treated when dealing with a responsible debt collector:

FSF members understand that having problem debt can be worrying for the debtor. This means responsible debt collectors will:

- › Always treat debtors fairly and with respect.
- › Never engage in the use of physical force, undue harassment, coercion, trespass, misleading, deceptive conduct or unconscionable conduct.
- › Be reasonable in their dealings with debtors wherever possible, including recognising debtors who are in vulnerable circumstances or hardship.
- › Only contact a debtor for a reasonable purpose (unless the debtor has specifically requested contact from the debt collector for any other purpose).

### A reasonable purpose includes:

- Making a demand or arrangements for payment
- Finding out why an agreed repayment plan has not
- Reviewing a repayment plan after an agreed period of time or at reasonable intervals.
- Inspecting or recovering goods that are part of the security for the loan (if they have the right to do so).
- Ensuring that the debtor understands the potential

### 3. If contact with the debtor is necessary, responsible debt collectors will, unless debtors agree to more contact or contact outside of these times:

- › Only contact the debtor where there is a purpose to do so.
- › Limit this to phone contact or text messages between the hours of 6.00am to 9pm on Mondays to Sundays. Contact can also be by email or other electronic means which can be sent outside of the above timeframes.
- › Make no more than a maximum of six actual contacts per week in respect to each debt held by the debtor. Responding to contact from the debtor is in addition to this.
- › If the responsible debt collector is unable to contact the debtor, they will limit the number of contact attempts to 6 per day in respect to each debt held by the debtor.
- › Only make face to face contact with debtors between 6.00 am – 9.00 pm on weekdays and Saturdays. Face to face contact should not be made with the debtor on Sundays or Public Holidays. Contact may be made outside of these timeframes if the debtor has specifically agreed that this is acceptable to them.
- › Cease contact in a particular manner at the request of the debtor, for example not making phone calls when the debtor has requested contact by email or post.

A limited exception to provide for contact outside of the standard hours above is allowable only where reasonable efforts to make contact with the debtor have been undertaken over a reasonable period of time without success.

#### 4. Responsible debt collectors will NOT:

Engage in misleading or deceptive conduct. This includes:

- Sending communications that look like Court documents when they are not.
  - Threatening any action that they are not legally permitted to take, or do not have instructions or authority to take.
  - Requesting that the debtor prove that they are not liable for the debt, as this onus is on the debt collector. However, it is reasonable to request some assistance from the debtor in resolving the matter where the debtor holds documents such as a statutory declaration for example, that the debt collector does not.
  - Trying to persuade a bankrupt person that they should or must pay an unsecured debt.
  - Implying that unsecured basic household items can be seized.
  - Stating that failure to pay a debt is a criminal matter and jail is possible, unless the debt is as a result of fraud or another offence.
- Engage in unconscionable conduct which includes taking advantage of a debtor's vulnerability, disability, or other hardship.
- Engage in the use of threatening behaviour, physical force, undue harassment or coercion including making excessive contact with a debtor.

#### 5. Responsible debt collectors will work with a debtor's financial mentor or other authorised representative

If the debtor prefers, responsible debt collectors will work with a financial mentor or an authorised representative appointed by the debtor to do so on their behalf, provided that the debtor has provided an appropriate privacy authorisation or a power of attorney.

Once the responsible debt collector has been informed that the debtor has an authorised representative acting for them, the debt collector should not contact the debtor again directly. However, if the authorised representative tells the responsible debt collector that they do not have instructions from the debtor about the debt, the debt collector may contact the debtor directly.

The debt collector may also contact the debtor directly to obtain the debtor's authorisation with respect to the debt that the authorised representative cannot provide, to ensure that the debtor is being kept fully informed of their position with respect to the debt and where the debt collector has a legal obligation to contact the debtor directly.

The responsible debt collector can also contact the debtor again directly if the authorised representative fails to respond to the responsible debt collector within a reasonable time to ensure that the debtor is being kept informed of discussions between the authorised representative and the responsible debt collector and that the debtor has all the information they need to make informed decisions. The responsible debt collector can also contact the debtor directly if they have reasonable grounds to suspect that the authorised representative is not acting in the debtor's best interests.

#### 6. Making a complaint against a debt collector:

In the first instance, complaints about debt collection activity should be made directly to the debt collection agency or the lender. All responsible debt collectors and lenders will have an internal complaints process to properly and fairly handle any complaints about the way in which a staff member has behaved towards a debtor.

If the debtor or their authorised representative feel that the complaint is not handled appropriately through the company's internal complaints process, or if the complaint is not resolved to their satisfaction, debtors or their authorised representative can take the complaint to an external and independent disputes resolution service if the debt collector or the lender belongs to one.

If the debt collecting organisation or the lender belongs to such a resolution service, they must disclose to the debtor which one they belong to, and that the service is provided at no cost to the debtor.

These are the services operating in New Zealand:



**Banking Ombudsman Scheme**

**Banking Ombudsman Scheme**

0800 805 950 | [help@bankomb.org.nz](mailto:help@bankomb.org.nz)  
[www.bankomb.org.nz](http://www.bankomb.org.nz)



**Insurance & Financial Services Ombudsman Scheme (IFSO)**

0800 888 202 | [info@ifso.org.nz](mailto:info@ifso.org.nz)  
[www.ifso.nz](http://www.ifso.nz)



FINANCIAL SERVICES COMPLAINTS LTD

**Financial Services Complaints Ltd (FSCL)**

0800 347 257 | [info@fscl.org.nz](mailto:info@fscl.org.nz)  
[www.fscl.org.nz](http://www.fscl.org.nz)



**Financial Dispute Resolution Service (FDR)**

0508 337 337 | [enquiries@fdrs.org.nz](mailto:enquiries@fdrs.org.nz)  
[www.fdrs.org.nz](http://www.fdrs.org.nz)

#### Talk to a financial mentor

Sometimes it's hard to step back from your own finances and see the big picture. When you feel like this, it's important to talk to someone independent – not another lender. MoneyTalks is a free and confidential financial helpline that can connect you with financial mentors and other community services.



[www.moneytalks.co.nz](http://www.moneytalks.co.nz)

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