

Code of Operation:

Recovery of Debts from Customer Nominated Bank Accounts in receipt of Services Australia income support payments or Department of Veterans Affairs' payments.

1. Purpose of the Code

All parties to the Code recognise that a customer's income support payments are intended to ensure they are able to access basic food and accommodation for themselves and their families. Reducing the amounts available to these customers each fortnight may increase their vulnerability.

The aim of the Code is to safeguard sufficient income in the accounts of customers in receipt of Services Australia income support or DVA payments. Participating Authorised Deposit-Taking Institutions (ADIs – as defined in the Banking Act 1959) agree that they will take this into account when considering the amount they should recover each fortnight for the repayment of a debt.

2. Parties to the Code

This Code has been reviewed and endorsed by the following parties:

- Services Australia
- the Department of Veterans' Affairs (DVA)
- Australian Banking Association (ABA) for member banks
- Australian Finance Industry Association (AFIA)
- Customer Owned Banking Association (COBA) for member credit unions, mutual building societies and mutual banks that are signatories to the Customer Owned Banking Code of Practice.

3. Previous versions superseded

The Code was previously reviewed and endorsed in March 2015. This Code supersedes all previous versions of the Code and will apply from October 2021 to October 2024.

Parties to the Code must ensure that the revised version of the Code is in place and made available to customers and staff within 3 months of endorsement.

4. Application of the Code

This Code is a non-legally binding statement of best practice between the parties outlined at (2) above.

The Code applies to the recovery of debts by the participating ADIs (represented by the ABA, AFIA and COBA) that arise from customers' overdrawn accounts, where no repayment arrangement already exists.

All parties also recognise that not all customers:

- receive their entitlement on a fortnightly schedule
- receive their entitlement to their account via Direct Entry
- receive the statutory maximum amount payable for any Services Australia or DVA payment (for example, due to means testing reductions)
- have 100% of their payments paid into an account with any ADI (for example, due to payment splitting)
- receive 100% of their entitlement (for example, due to Commonwealth debt recovery).

Under this Code, the default position is that a customer should be able to retain at least 90% of their Services Australia or DVA payments in any fortnightly period. However, nothing in this Code prevents either:

- a customer and the ADI discussing and agreeing to an amount of repayment appropriate to the circumstances of the customer
- an ADI determining, after consultation with the customer, that a repayment amount of more than 10% of that customer's payment from Services Australia or DVA is reasonable and appropriate in the customer's circumstances.

A customer can ask their ADI to review the repayment amounts if the customer's circumstances change.

ADIs will determine the most appropriate and effective means of applying the Code to protect customers at risk of financial difficulty or financial hardship. This may be achieved by institutions automating the application of the Code where possible or by applying the Code through alternative channels that enable appropriate customer engagement and support.

A **customer** means a person receiving an income support or DVA payment listed in the Payment Schedule.

A **customer nominated bank account** means the account to which income support or DVA payments are directed for a customer.

An **overdrawn account** is an account that a payment, covered by the Code, is paid into that has a negative account balance.

A **repayment** includes both a payment in full satisfaction of a debt and an instalment payment in respect of a debt.

This Code does not apply where it would conflict with any conditions mutually agreed between a customer and the ADI for the making of a payment by the institution to that customer.

Nothing in this Code stops an ADI from exercising any other right or commencing any action an ADI may take to recover such debt. However, parties who follow the Code support a best practice standard of debt recovery from customers who receive Services Australia income support or DVA payments such as that contained in the Australian Competition Consumer Commission / Australian Securities and Investments Commission collection guideline: for collectors and creditors.

5. Procedure

Step 1

In conducting its debt recovery procedures, the ADI establishes that the customer is a Services Australia or DVA payment recipient receiving a payment covered by the Code. Customers in receipt of a payment covered by the Code, will have the Code applied to all other Services Australia or DVA payments in the same payment period. Payments from Services Australia and DVA will contain identifying code information; this payment code information will be provided to ADIs by Services Australia.

Step 2

Once an ADI has established that the customer is a Services Australia or DVA payment recipient receiving a payment covered by the Code, the ADI should make best endeavours to make the customer aware of the Code. In order to support contact with customers in cases where an account becomes overdrawn, ADIs should consider identifying which of their customers receive income support payments at an early stage.

Once overdrawn, if the ADI does not contact the customer (or their authorised agent), or is unsuccessful after reasonable efforts have been made, the ADI should determine a deduction amount payable that is no more than 10% of the customer's fortnightly payment.

Alternatively, where it is impossible or reasonably impractical to limit the deduction to a maximum of 10% of the customer's fortnightly payment, an ADI may – as a last resort – undertake the following:

- 'freeze' the account. A 'frozen' account must be reinstated as soon as the customer makes contact; or
- deduct the amount owing. Upon subsequent contact with the customer, the ADI will make the customer aware of their entitlement to 90% of their fortnightly payments, and facilitate access to this amount unless the customer and the ADI discuss and agree to a different amount of repayment which is reasonable and appropriate to the circumstances of the customer.

Step 3

The ADI may contact the customer (or vice versa) and negotiate a payment arrangement for any amount agreed between them, subject to the following:

- The ADI will not require repayments that are greater than 10% of the customer's fortnightly income support payment or DVA payment without first establishing that a higher amount is reasonable and appropriate in the customer's circumstances.
- When considering if a repayment amount of greater than 10% of the customer's fortnightly payment is reasonable and appropriate, the ADI may consider factors including:
 - customer needs – taking into account the intent of income support payments to ensure access to essential items
 - any prior deductions from the customer's income support payment or DVA payment (for example Centrepay or Rent Deduction Scheme payments)

- where a debt exceeds the usual payment being credited to the customer's account, the ADI will consider arrangements for future payments as recovery of the debt, and
- any other special circumstances which may affect a customer's ability to repay the debt.

Step 4

Having determined an appropriate amount for repayment, the ADI will ensure that the customer has access to the remainder of each fortnightly payment made to the customer by Services Australia or DVA, until the debt is repaid.

Step 5

The ADI will make a record of arrangements made with the customer in respect of repayment of debts. The record will include details of any:

- disagreement between the customer and the ADI
- advice given to the customer on their rights and further avenues for resolution of the disagreement.

Step 6

A customer, or their authorised agent, will be able to request a copy of the repayment arrangement. The ADI will review the repayment arrangement if the customer's circumstances change.

6. Enquiries and disputes

Customers should contact their ADI if they believe the ADI has failed to act in accordance with this Code. Customers can resolve the matter by following the internal dispute resolution process of the ADI. If the dispute cannot be resolved to the customer's satisfaction by their ADI, they can take their complaint to an external dispute resolution scheme for independent review. That could be, for example, the Australian Financial Complaints Authority of which the ADI is a member.

7. Dissemination and publicity

All parties to the Code will take steps to make customers and staff aware of its provisions. Within 3 months of endorsement, parties to the Code will implement obligations to support public awareness of the Code and to share with all relevant staff of their organisations.

The nature and existence of this Code should be publicised to customers using standard communication mechanisms.

8. Review of the Code

Services Australia and DVA must review this Code every three years. Where changes are required this review can be completed earlier. All parties to this Code will be consulted during the course of any review.

9. Payments relevant to the Code

The Code will apply for those customers receiving Services Australia income support payments and DVA payments as listed in the schedules below.

Payment Schedule for Services Australia

- Age Pension
- Austudy Payment
- Bereavement Allowance*¹
- Carer Payment
- Disability Support Pension
- Farm Household Allowance
- JobSeeker Payment
- Parenting Payment (partnered)
- Parenting Payment (single)
- Partner Allowance*
- Sickness Allowance*
- Special Benefit
- Widow Allowance*
- Youth Allowance/ABSTUDY Living Allowance²

Payment Schedule for DVA

- Income Support Supplement
- Service Pension
- Veteran Payment
- Crisis payment
- Defence Force Income Support Allowance
- Education Entry Payment
- Income Support Supplement
- Periodic Payments of Wholly Dependent Partner's Pension
- Service Pension (Age)
- Service Pension (Invalidity)
- Service Pension (Partner)
- War Widow(er)'s Pension

While not specified, ADIs may consider application of the Code for other Services Australia and DVA payments related to potential customer hardship, for example, the Australian Government Disaster Recovery Payment.

¹ *Bereavement Allowance, Partner Allowance, Sickness Allowance and Widow Allowance are income support payments that continue to be received by customers, but are closed to new claims.

² A regular, means tested payment made to customers under a scheme rather than legislation.