

Financial Counselling

(WA)

FINANCIAL COUNSELLING NEWS



4th

Edition April 2011

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Website:

Please contact us if you have any information you would like to share through the newsletter. We are particularly keen to receive information about any interesting casework. Ed.

1. Financial Counselling Resource Project Update:

Case Work Support meeting

Wednesday 20 April 1-3pm - a few spots left!

Topic: Time Limits

Wednesday 27 April 12.30-2.30pm – a few spots left!

Topic: Time Limits

20th May meeting cancelled as FCRP staff will be attending AFCCRA conference.

Please keep 26th May free as FCRP are in the process of developing a Housing Information day relevant for all F/C, which we hope will include speakers from Keystart, Homes West and Tenancy Advice . This will replace the normal Casework Support and Back to Basics which would normally have taken place on this day.

Resource

0. AFCCRA Conference

0. Are You Experiencing Financial Hardship After Separation?

- **Back to Basics**

Wednesday 27 April 9.30-11.30am

Topic : ‘ The Beginning’, joined by ITSA – a few spots left!

1. Child Support Scheme Changes

2. Getting By, Getting Ahead 2011

3. Code of Banking Practice

4. Website Highlight

5. What’s Hot

Attachments:
Website uploads incl – Australian Consumer Law

Savings Tip:
Found on FCRP’s homepage – “Teach Kids about Money”

- **Teleconference**

Wednesday 4 May 10-11am – Topic: Time Limits – Fully booked.

F/C please put these dates in your diaries.

Rural, Regional and Remote Congress:

I wish to thank and congratulate all the Regional, Rural and Remote financial counsellors and their agencies for making this year’s Financial Counsellors Resource Project’s RRR Congress a great success and a lot of fun. You were a wonderful audience, and speaking to a number of our presenters after their presentation it was obvious that you made a wonderful impression and helped to raise the awareness of the often very complex profession of financial counselling.

2. FCAWA Update:

WELCOME

A welcome is extended to the following new FCAWA Members:

Karen Wright - St Vincent de Paul Society Woodbridge
Martine Docherty - Broome Circle House

· **FCAWA HOTLINE FINANCIAL COUNSELLING SERVICE**

The Association welcomes Merlene Price to the position of Hotline Co-ordinator commencing 4 April 2011.

We extend our best wishes to June Brown, previously with the Hotline, who has recently moved on to a financial counselling position with the City of Stirling.

· **RONA OKELY AWARD**

Congratulations to Iris Watt for being nominated as a finalist, and Linda Saverimutto as the winner of the Rona Okely Award at the recent Consumer Protection Awards. Congratulations are also extended to CCLS and Jungarni-Jutiya Indigenous Corporation as finalists for the Richard Fletcher Award.

Rona Okely Award Finalists

Darryl Yeeda and Vikki Kelly

Linda Saverimutto – Winner

Iris Watt

Richard (Dick) Fletcher Award Finalists

Consumer Credit Legal Service

Jungarni-Jutiya Indigenous Corporation

Western Australian Retirement Complexes Residents Association Inc. (WARCRA) – Winner

Kidsafe WA Award Finalists

City of Stirling - Winner

Parents for Window Blind Safety – John Williamson

The following link provides further information:

http://www.commerce.wa.gov.au/consumerprotection/content/Services/WA_Consumer_Protection_Awards/Western_Australian_Consumer_Pr.html

3. From Ian's Desk



PAYDAY LENDING, PAWNBROKING

AND THE CODE

The National Credit Code, and before it the uniform Consumer Credit Code placed significant controls on businesses lending to consumers. Over the years the Codes have operated, some businesses have looked for ways to operate outside the limitations the Codes imposed.

In its original form the uniform Consumer Credit Code (the old Code) did not apply to credit advanced for a period not exceeding 62 days. This was changed in 2001 so that short-term credit was covered by the old Code unless the interest rate and other charges were below certain limits. This prevented lenders using short-term credit for high-interest lending outside the control of the Code. This type of lending was often described as 'pay-day lending'.

These provisions were carried forward into the new National Credit Code, which has operated since 1 July 2010. The intention of the Code is that it applies to all lending by a business to a consumer if a charge is made for providing the credit. It is vital to note that the way lending is described – for example 'pay day lending' – is not significant in determining whether the lending is covered by the Code. The starting point is this principle: lending by a business to a consumer where a charge is made for providing the credit is covered by the Code. From that general position, there are a number of exceptions.

Short Term Credit

Section 6 (1) of the Code provides the Code does not apply to some short term credit contracts. The Code does not apply if:

- * the credit is for a period not exceeding 62 days, and
- * the maximum amount of credit fees and charges do not exceed 5% of the amount of credit; and
- * the maximum interest charge does not exceed 24% per annum.

Charge Cards

Section 6 (5) provides the Code does not apply to a continuing credit contract where the only charge is \$200 for the first twelve months, irrespective of the amount of the credit, and no more than \$125 for any subsequent twelve month period. This exempts standard American Express and Diner's Club charge cards from the operation of the Code.

Micro Loans

Regulation 52 of the National Consumer Credit Protection Regulations exempts credit not exceeding \$50 from the Code, provided that there is no insurance financed under the contract, and there is no mortgage or guarantee taken by the lender.

If a pay day lender wishes to lend within any of these three exceptions, they are not covered by the Code. However, I understand that pay day lenders ordinarily lend more than \$50, and wish to charge more than 24% interest. If so, they are covered by all the Code provisions. They must have an Australian Credit Licence, and have IDR and EDR in place.

48% Interest Cap

Any lender covered by the Code which operates in Queensland, New South Wales, Victoria or the Australian Capital Territory is also covered by the 48% interest rate ceiling imposed by state or territory law, which operates in addition to the (Commonwealth) National Credit Code (1).

Pawnbroking

The Code does not generally apply to lending by a pawnbroker. The Code defines pawnbroking (s. 6 (9)) as providing credit on the security of pawned or pledged goods. This is limited to pawnbrokers licensed under the Pawnbrokers and Second-hand Dealers Act 1994 (WA), or its interstate equivalents. Although the Code generally does not apply to pawnbroking, the unjust contract provisions of the Code (sections 76 to 81) do apply to pawnbroking. An example of the significance of this is section 76 (2) (I) – the over commitment provision. A contract may be unjust if the lender knew, or could have found out by making reasonable inquiries at the time of entering the contract, that the borrower could not pay in accordance with the terms of the contract, or not without substantial hardship. This is a handy test to apply to pawnbroking contracts involving very disadvantaged borrowers, who may have little chance of complying with the contract.

Notes:

(1) Section 23 of the National Consumer Credit Protection Act 2009 (Commonwealth) allows for the concurrent operation of state law with the Code. Section 32 of the Credit (Commonwealth Powers) Act 2010

(Queensland) prohibits a lender from entering a credit contract if the interest rate is more than 48%. The New South Wales Credit (Commonwealth Powers) Act 2010 has a very similar provision in section 5. Section 39 of the Consumer Credit (Victoria) Act 1995 makes it an offence for a lender to enter a credit contract in which the interest rate is more than 48%, and make unenforceable any such contract or mortgage. The Australian Capital Territory Fair Trading (Australian Consumer Law) Act 1992 section 63 (1) provides that a regulation may prescribe a maximum annual percentage rate for a credit contract to which the Code applies. Regulation 3 (1) of the Fair Trading Regulation 2009 prescribes a maximum annual percentage rate of 48% for all credit contracts to which the Code applies. The Commonwealth legislation does not contain an interest rate cap, however section 78 of the National Credit Code allows a court to review an unconscionable change to the interest rate under a contract, or fees and charges payable under it.

Ian Macdonald

Solicitor

FCRP

March 2011

4. ASIC UPDATE:

NEW REGULAR ADDITION FROM DI HAYES!

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ASIC launches new consumer website – moneysmart.gov.au

ASIC has launched a new personal finance website called MoneySmart – www.moneysmart.gov.au -to help consumers make good financial decisions by providing free, independent and unbiased information, tools and motivation.

MoneySmart includes 26 calculators and tools, some for use on mobile phones, to help people take simple steps to get quick answers to their questions about money. MoneySmart covers not only the basics such as budgeting, saving, credit cards and loans, but also more complicated issues such as superannuation contributions, margin loans and income tax.

MoneySmart replaces the FIDO and Understanding Money sites, combining the best features of both and adding much more.

MoneySmart is a key part of the National Financial Literacy Strategy, which be viewed at www.financialliteracy.gov.au

ASIC will be holding a free information session for Financial Counsellors on using the MoneySmart website, on April 7, from 2.30 -4pm. The session will be at the ASIC office, Level 3, 66 St Georges Terrace, Perth. To register please email Diane Hayes, from the ASIC Credit Outreach Team at diane.hayes@asic.gov.au.

ASIC begins 'shadow shopping' research

ASIC announced it will be examining the quality of financial advice via 'shadow shopping' research in 2011, with a focus on advice provided to people at **retirement**.

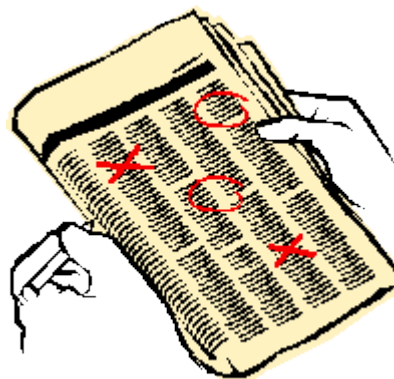
The definition and gradations of 'quality' retirement financial advice will be established by ASIC in consultation with an Expert Reference Group that includes both industry and consumer group representation. This group is currently being assembled by ASIC.

The objective of the shadow shopping exercise is to define good quality advice to give industry guidance and help consumers maximise their retirement savings,.

In addition, the retirement shadow shopping research aims to:

- Improve ASIC's understanding of how consumers and investors view and experience the retirement financial advice process;
- Provide general feedback to the financial advice industry, in particular identifying areas where conduct needs to be improved; and identify areas of suspected misconduct for further action;
- Encourage continued professionalisation of retirement advisers.
- Encourage people to seek financial advice when planning for retirement.

5. Positions Vacant



This is our new standard segment. Should you have any positions vacant that you would like to advertise please contact FCAWA at eo@financialcounsellors.org.au. Advertisements would need to be received by the 3rd week of the month in order to be advertised at the beginning of the following month. Thank you.

6. Emergency Relief Conference 2011

(Source: WACOSS, March edition)

“Renaming and Reframing”. This years 2011 ER Conference is on again ...Hurray registrations open **16th March 2011**..out the box thinking

This years’ ER Conference offers the opportunity to explore the concept of emergency relief and the service that is provided. The conference discussion includes the fundamental issues such as rethinking what we do and how we deliver our services. Just what do we do - when a short term crisis becomes a catalyst that results in long term financial problems which require longer term social support? Sharing new ideas and ways for services to be delivered. The latest on some new services you might want to know about! Priced to support everyone’s attendance, with subsidies provided for regional attendance. www.wacoss.org.au

7. Private Tenancy Support Service – Australian Red Cross

(Source: Shelter WA Update Jan 11)

The Australian Red Cross Private Tenancy Support Service assists people who are in private rentals and are at risk of eviction and homelessness in the North West metropolitan

8. Australia’s First Comprehensive Youth Sector Resource

(Source: Shelter WA Update Jan 11)

The Australian Clearinghouse for Youth Studies (ACYS) has launched a new website, **www.acys.info**, with an integrated information system and state-of-the-art website navigation design.

ACYS director Professor Rob White says the new website will provide users with easy and direct access to useful information relating to key topics and the overall sector.

‘It’s a one-stop-shop packed with resources and information. Anyone working with youth, or in the youth sector, can find what they are looking for on a single website.’

At **www.acys.info** there are close to 50 topics on youth-related issues such as mental health; care and protection; crime and justice; drugs and alcohol; and participation and social inclusion. Under each topic you will find news, research and reports, sector contacts, publications and relevant programs. The research has been done, the contacts found and reports, journals and articles collated – now it’s all just a click away.

The new website also incorporates daily news, listings of announcements, a Hot Topic focus, Twitter feed and improved access for subscribers and anyone wanting to list events on the ACYS events calendar.

Funded by the Australian Government through the Department of Education, Employment and Workplace Relations (DEEWR), ACYS was able to develop the website as a part of a new national youth clearinghouse funding agreement, which was generated after sector consultation.

- Please distribute to colleagues/friends in the youth work sector, and feel free to place information about **www.acys.info** in upcoming newsletters or notices.
- If you have any questions, suggestions or feedback on the website, please feel free to contact us.

For more information contact: Rebecca Livermore, ACYS
marketing/communications officer

Email: Rebecca.livermore@utas.edu.au Phone: (03) 6226 6617 Web:

www.acys.info

9. AFCCRA Conference

2011 Conference

Wednesday 18 May and Thursday 19 May

Jan Pentland Foundation

Dinner on the evening of Thursday 19 May

External Dispute Resolution Forum

Friday 20 May

The functions will be held at the Crowne Plaza, Coogee Beach, Sydney.

Booking information will be coming soon!

The 2010 events were a wild success and we plan on making 2011 just as good. Mark your diaries now and book your tickets for Sydney.

10. Are You Experiencing Financial Hardship After Separation?

(Source: CSA Feb2011 Enews)

Separation is a difficult time for families, emotionally and financially. You might be finding it hard to make ends meet or want your money to work better for you. We can connect you to people who offer financial support and options, which may help you meet your child support responsibilities.

A handy factsheet [Are you experiencing financial hardship after separation?](#) is available to download from the CSA website. It lists a range of support products and services, and has information on emergency relief, counselling services and products that can help you start and stay on track with

budgeting. It also has a list of useful contacts for referral services, government agencies and people who can help such as financial counsellors.

Financial counsellors can provide information, support and assistance with managing financial issues. Their service is free, independent and confidential. To find out more, visit www.afccra.org or call the Australian Financial Counselling and Credit Reform Association on **1800 007 007*** to find a counsellor in your area.

*Call charges may apply.

11. Child Support Scheme Changes

(Source: CSA Enews March 2011)

Child Support Scheme changes for customers in Western Australia who have never been married to the other parent

If you're a CSA customer who has never been married to the other parent and have children who live in Western Australia (WA), there are new laws that may affect you.

The new laws make changes to:

- decisions about parents' percentages of care
- de-facto maintenance orders
- departure prohibition order reducing the minimum assessment when parents are on very low incomes
- Change of Assessments
- deductions from Centrelink and Veterans' Affairs pensions and allowances
- the definition of income for child support purposes
- the circumstances where same sex parents and parents of surrogate children can be assessed when calculating child support.

More information about the recent changes can be found on our [website](#) or call us on **131 272***.

*Call charges may apply.

12. 'Getting By, Getting Ahead' 2011

Ruah's publication "Getting By, Getting Ahead: a guide to concessions and other ways of keeping costs down" 2011 version is now available for free download from their website www.ruah.com.au/page/General.

13. CODE OF BANKING PRACTICE

The Australian Bankers' Association is in the process of the updating the Code of Banking Practice. The Code of Banking Practice is the banking industry's customer charter on best banking practice standards.

[Read the progress reports](#)

[Read the current Code of Banking](#)

14. Website Highlight

Every Financial Counselling News we will highlight a resource found on our website that you may be unaware of that will hopefully prove beneficial for you and your clients.

HOUSING:

For the following 'Housing' resources [click here](#) (then 'Services')

Homeless Helpline



15. What's Hot: _

For ALL of the following 'What's Hot' articles [click here](#).

- **Shock rise in mortgage default cases**
- **Price rises pushing more Aussies below poverty ...**
- **Consumer protection champions awarded**
- **Welfare group slams Centrelink compliance rules**
The National Welfare Rights Network says tough new compliance rules for job seekers are unfair and will not encourage unemployed people to get off welfare
- **Welfare to be linked to healthy kids**
- **New payment rates information**
There are new payment rates and information for Centrelink customers, effective 20 March 2011. To find out more, view the Payment rates and information section

- **Families cut back on food to pay bills**

- **Financial counsellors welcome MoneySmart website**

- **Centrelink told to fix review process**

The Commonwealth Ombudsman has given the welfare payment agency Centrelink a bad report card.

- **Unexpected jump in mortgage arrears**

A major ratings agency says there has been a surprising increase in the number of Australians falling behind on their home loan repayments

- **How to avoid sinking deeper into debt**

- **Learning the hard way**

Anneli Knight looks at how students survive on their meagre finances

- **Choice issues challenge to big banks**

Consumer group Choice challenges the big banks to change their ways, accusing them of "gouging customers" and offering "shoddy services"

- **Centrelink fraud case opens legal minefield**

The High Court has heard arguments about a Centrelink fraud case that could affect dozens of similar cases around the country

- **Banks need to do more for customers in financial hardship**

- Banks set to push the credit card limits
BANKS have launched an attack on legislation that would redraw lending rules for credit cards and restrain them from increasing limits

- **ITSA'S PIR Newsletter: March 2011 - Volume 9, Issue 1**

Inspector-General's Column;a.Changes in responsibilities of National Managers;b.Personal Insolvency Statistics – December 2010 quarter;c.Bankruptcy Legislation Amendment Act (BLAA) 2010;d.Natural Disasters and Bankruptcy;New National Manager in Regulation and Enforcement – Adam Toma;ITSA Policies and Practice website;Regulatory Activity & Trends Summary – six

months to 31 December 2010;Trustee Resigns After Disciplinary Action Commenced for Conflict;Meet the people;Debt Agreement Proposal Lodgement Fee;Profile of Debtors;Meeting Procedures – When Polls Are Taken;ASIC & the National Consumer Credit Regime;Commonwealth Ombudsman – free, fair, impartial;Financial Counselling Update - AFCCRA;How an unsecured creditor went to the front of the queue in a bankruptcy

- **Financial Hardship 7 Feb 2011** How COSL deals with financial hardship complaints

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