



Code of Operation

Recovery of debts from Department of Human Services (Human Services) income support payments or Department of Veterans' Affairs (DVA) Payments.

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Effective date: 1 March 2015

Overdrawn account

If you are receiving an income support payment find out [what to do if your account is overdrawn](#).

Parties to this Code of Operation

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

- the Department of Human Services (Human Services);
- the Department of Veterans' Affairs (DVA);
- Australian Bankers' Association (ABA) for member banks;
- Australian Finance Conference (AFC); and
- 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

Previous versions superseded

This Code, which was first developed as the *Department of Social Security Code of Operation*, supersedes all previous versions of this Code.

Application of this Code of Operation

This Code is a non-legally binding statement of best practice between Human Services, DVA and the representative bodies on behalf of relevant members that are an Authorised Deposit-Taking Institution (ADI) as defined in the *Banking Act 1959*.

This Code applies to the recovery of debts that arise from customers' overdrawn accounts where no repayment arrangement already exists.

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

An **overdrawn account** is as an account that a relevant payment, as listed under the Payment Schedule, is paid into that has a negative account balance.

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 agreed between a customer and the ADI for the making of a payment by the institution to that customer (for example full recovery for an advance payment, or authorised overdraw).

Nothing in this Code prevents an ADI from exercising any other right or commencing any action an ADI may take to recover such debt.

Purpose of this Code of Operation

All parties recognise that the Australian Government provides payments to customers to ensure they are able to provide basic food and accommodation for themselves and their families. The aim of this Code is to ensure that recipients of income support payments and DVA payments have sufficient income to maintain adequate food and shelter. Participating ADIs agree that they will take this into account when considering the amount they should recover each fortnight for the repayment of the debt.

All parties also recognise that not all customers:

1. receive the statutory maximum amount payable for any income support or DVA payment (for example, means testing reductions);
2. have 100 per cent of their payments paid into an account with any ADI (for example, payment splitting); or
3. receive 100 per cent of their entitlement (for example, Commonwealth debt recovery).

Under this Code, the default position is that a customer should be able to retain at least 90 per cent of their income support payment or DVA payments in any fortnightly period.

However, nothing in this Code prevents either:

- a customer and the ADI discussing and agreeing to any amount of repayment appropriate to the circumstances of the customer; or
- an ADI determining, after consultation with the customer, that a repayment amount of more than 10 per cent of that customer's fortnightly payment is reasonable and appropriate in the customer's circumstances.

For clarity, where the ADI is unable to contact the customer about the debt, the maximum repayment amount that may be deducted from the customer's fortnightly payment will be the amount equal to 10 per cent of that fortnightly payment.

A customer is able to request that their ADI reviews the repayment amounts should the customer's circumstances change.

Procedure

1. In conducting its debt recovery procedures, the ADI establishes that the customer is an income support or DVA payment recipient.
2. If the ADI does not contact the customer, or is unsuccessful after reasonable efforts have been made to contact the customer (or their authorised agent), the ADI may determine a deduction amount payable that is no more than 10 per cent of the customer's fortnightly payment. Alternatively, an ADI may 'freeze' the account in cases where reasonable efforts to contact the customer or authorised agent has been unsuccessful. A 'frozen' account must be reinstated as soon as the customer makes contact to arrange for the repayment of the debt.
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:
 - a. The ADI will not require repayments that are greater than 10 per cent 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.
 - b. When considering if a repayment amount of greater than 10 per cent of the customer's fortnightly payment is reasonable and appropriate, the ADI may consider factors including:
 - the customer's needs, taking into account the intent of income support payments to ensure access to essential items, such as basic food and shelter, is maintained for welfare recipients;
 - 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, in accordance with this Code, future payments as recovery of the debt; and
 - any other special circumstances which may impact on a customer's ability to repay the debt.
4. Having determined an appropriate amount for repayment, the ADI will deduct that amount from each fortnightly payment made to the customer by Human Services or DVA, until the debt is repaid.
5. An arrangement between an ADI and a customer in respect of repayment of debts will be recorded by the ADI. The record will also include details of any disagreement between the customer and the ADI and the advice given to the customer on his or her rights and further avenues for resolution of the disagreement.
6. A customer, or their authorised agent, will be able to request a copy of the repayment arrangement, and that the ADI reviews the repayment arrangement should the customer's circumstances change.

Enquiries and disputes

Where a customer believes that their ADI has not complied with this Code, they should first contact the ADI and try to 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 example Financial Ombudsman Service, Credit Ombudsman Service) of which the ADI is a member for independent review.

Dissemination and publicity

All relevant staff of Human Services and DVA and all relevant ADIs are to be made aware of this Code and its provisions.

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

The ADI will ensure that their customers also are given information on this Code.

Review of this Code

This Code must be reviewed every five years by Human Services and DVA, but can be reviewed earlier if necessary when changes are required. All Parties to this Code will be consulted during the course of any review.

Payment Schedule for Human Services

- ABSTUDY, including supplements
- Age Pension
- Australian Government Disaster Recovery Payment
- Australian Victim of Terrorism Overseas Payment
- Austudy
- Bereavement Allowance
- Carer Allowance
- Carer Payment
- Crisis Payment
- Disability Support Pension
- Disaster Recovery Allowance
- Double Orphan Pension
- Education Entry Payment
- Farm Household Allowance
- Income Support Bonus (payment no longer exists)
- Mobility Allowance
- Newstart Allowance
- Parental Leave Pay
- Parenting Payment
- Partner Allowance
- Pension Supplement
- School Kids Bonus
- Seniors Supplement
- Sickness Allowance
- Special Benefit
- Widow Allowance
- Widow B Pension
- Wife Pension
- Youth Allowance

The following payments are also covered by the Code where the customer is also in receipt of one of the above payment types, benefits or allowances:

- Assistance for Isolated Children
- Baby Bonus
- Bereavement Payment
- Carer Adjustment Payment
- Carer Supplement
- Community Development Employment Projects Participant Supplement and Supplementary Benefits
- Child Care Benefit
- Child Care Rebate
- Child Disability Assistance Payment
- Clean Energy Advance

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- Dad and Partner Pay
- Energy Supplement
- Essential Medical Equipment Payment
- Family Tax Benefit - Part A
- Family Tax Benefit - Part B
- Low Income Family Supplement
- Low Income Supplement
- Newborn Upfront Payment and Newborn Supplement
- Pension Bonus Bereavement Payment
- Pension Bonus Scheme
- Pension Bonus Top-Up
- Pension Loans Scheme
- Pensioner Education Supplement
- Pharmaceutical Allowance
- Remote Area Allowance
- Rent Assistance
- Single Income Family Supplement
- Stillborn Baby Payment
- Telephone Allowance
- Utilities Allowance
- Work Bonus
- Youth Disability Supplement

Payment Schedule for DVA

- 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

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