

Financial hardship

Complaints we receive involving financial hardship include claims that a provider:

- has not made its financial hardship policy easy to access, or actively pointed it out to consumers in appropriate circumstances
- has not assessed a consumer's eligibility for financial hardship on request, or when aware that the consumer could be experiencing financial hardship
- has refused to negotiate a reasonable payment arrangement
- will not renegotiate an existing payment arrangement after the consumer's financial circumstances have changed.

In this position statement, **financial hardship** means a situation when a consumer is willing to pay a debt but does not currently have the financial capacity to do so according to their contractual obligations. Financial hardship can be a short or long term situation.

Credit management means the process by which a provider:

- helps its consumers to manage their spend on telecommunications services
- manages any credit risk to the provider, and
- collects outstanding charges from its consumers and former consumers.

This position statement applies only if the consumer accepts liability for the debt causing the financial hardship. If the consumer disputes the debt, other position statements may be relevant instead, for example Pre-sale information or conduct, or Charges.

Laws, codes, and guidelines

The following laws, codes, and guidelines are relevant to financial hardship.

- Privacy (Credit Reporting) Code 2014 (Version 1.2)
- Telecommunications Consumer Protections (TCP)

Code 2015

- Responding to consumers in financial hardship: Principles and practices for telecommunications providers 2014

This position statement provides broad guidance on the law, good industry practice, and what the TIO may consider to be fair and reasonable in general circumstances. It is not a full statement of the law or good industry practice. The TIO considers each matter brought to it on its own particular merits.

POSITION STATEMENT

Financial hardship

Our approach

When we deal with complaints involving financial hardship we consider the law, good industry practice, and fairness in all the circumstances.

The law

The Credit Reporting Code states that a provider must not disclose an overdue payment in relation to consumer credit to a credit reporting body as default information if the individual has made a hardship request, and either:

- the provider is in the process of deciding the individual's hardship request, including if the provider is waiting upon information from the individual for the purposes of making that decision, or
- if the provider decides to refuse the individual's hardship request – until at least 14 days after the provider has notified the individual of this decision.

This rule does not apply if the hardship request is made on a basis that the provider reasonably believes is materially the same as the basis on which a previous hardship request was made, and the previous hardship request was made during the previous four months.

Good industry practice

Chapters 5, 6 and 8 of the Telecommunications Consumer Protections Code include the following rules for dealing with financial hardship.

A provider must have information available about its processes to help consumers who are having trouble paying their bills.

A provider must have a financial hardship policy and make sure it is easy for consumers to find and access. The policy must be readily accessible on the provider's website. The provider must also provide:

- relevant contact details of staff with whom the consumer may discuss the financial hardship policy
- where the consumer can find contact details of

community financial counsellors or consumer advocates who deal with financial difficulty matters.

A provider must tell a consumer about its financial hardship policy:

- at the time of, or before, issuing the first bill
- when issuing a reminder notice
- when notifying the consumer about restriction, suspension, or disconnection of the consumer's service
- when sending a disconnection notice.

See our position statement Restricting or disconnecting a service for credit management reasons for more information about how a provider can restrict or disconnect a service.

A provider must give a summary to a consumer of how the provider's financial hardship policy can help them:

- on request
- when the consumer indicates to the provider they are experiencing financial hardship
- if the provider considers the consumer may be eligible for the policy.

Where possible a provider must provide flexible repayment options to meet a consumer's individual circumstances. A provider must review financial hardship arrangements if the consumer notifies the provider that their circumstances have changed.

A provider must suspend credit management action while an arrangement under a financial hardship policy is being discussed or is in place, unless:

- the consumer agrees otherwise
- the consumer breaches the arrangement, or
- the provider decides it is reasonable to do so given the circumstances, for example to prevent a further increase in the debt owed,

and the provider is unable to contact the consumer using reasonable steps. A provider must not sell a

This position statement provides broad guidance on the law, good industry practice, and what the TIO may consider to be fair and reasonable in general circumstances. It is not a full statement of the law or good industry practice. The TIO considers each matter brought to it on its own particular merits.

POSITION STATEMENT

Financial hardship

debt during a financial hardship arrangement. See our position statement [Collecting overdue charges](#) for more information about suspending credit management.

A provider must help a consumer experiencing hardship to formulate, lodge, and progress a complaint. See our position statement [Customer service and complaint handling](#) for more information about making complaints to providers.

Guidelines

The industry document [Responding to consumers in financial hardship: Principles and practices for telecommunications providers](#) gives guidance to providers about good principles and practices for dealing with customers in financial hardship, which apply and build upon the service standards required by the [Telecommunications Consumer Protections Code](#). The overall purpose of the document is to enable customers who are experiencing financial hardship to stay connected to essential telecommunications services while assisting them to meet their financial obligations.

We encourage providers to adopt and apply the principles set out in the document.

TIO view

We encourage consumers to repay amounts they consider affordable while their financial hardship assessment is in progress.

A provider should make a financial hardship arrangement with the intention of helping the consumer pay their bills. For example, a provider should not apply late payment fees when a financial hardship arrangement is being discussed or is in place.

A provider should attempt, wherever possible, to offer the consumer basic access to their telecommunications service congruent with the consumer's ability to pay, while a hardship arrangement is being discussed or in place. This may involve reconnecting a disconnected service. A consumer should generally not be charged for this

reconnection. What is basic access will depend on the consumer's circumstances. For example, it will not be appropriate for a service to be supplied that the consumer cannot afford, and could make the situation of hardship worse.

During a financial hardship arrangement a provider should keep a consumer informed of their obligations under the arrangement.

The [TIO Terms of Reference](#) state that we can make a temporary ruling about a provider's credit management action while we are handling a complaint. The provider must comply with this temporary ruling. For example, we can make a temporary ruling telling the provider to reconnect a service, remove a default listing of the consumer or not pursue a debt.

Dealing with a dispute

To assess a complaint involving financial hardship we may ask for information or documents from the consumer and provider. This may include asking:

- What are the consumer's financial circumstances?
- What other debts and commitments does the consumer have?
- What has been the consumer's payment history?
- Did the consumer ask for a financial hardship arrangement, or provide information that was an indicator of financial hardship?
- How did the provider assess the consumer's circumstances, and what financial hardship arrangement and access to services was offered?
- When a financial hardship arrangement was in place, did the consumer meet the arrangement, and if not what actions were taken?

This position statement provides broad guidance on the law, good industry practice, and what the TIO may consider to be fair and reasonable in general circumstances. It is not a full statement of the law or good industry practice. The TIO considers each matter brought to it on its own particular merits.

POSITION STATEMENT

Financial hardship

Outcomes

When, in our view, a provider did not appropriately:

- identify from available information that a consumer is in financial hardship
- offer a financial hardship arrangement and access to services based on the consumer's circumstances
- review the suitability of a financial hardship arrangement, or
- suspend credit management while a financial hardship arrangement was in place or being discussed,

outcomes may include:

- providing a copy of the financial hardship policy
- assessing the consumer as eligible for a financial hardship arrangement
- arranging an appropriate financial hardship arrangement, which may include extended repayment options and minimising further charges
- waiving some or all of the debt as part of an appropriate financial hardship arrangement
- reconnecting the service if previously disconnected, with or without restrictions
- if technically possible, restricting the consumer's service to prevent the consumer incurring charges they cannot afford, or
- suspending credit management, including dealing with a debt that has been sold or assigned to a third party, and waiving late payment fees.

Effective date: 11 March 2016

This position statement provides broad guidance on the law, good industry practice, and what the TIO may consider to be fair and reasonable in general circumstances. It is not a full statement of the law or good industry practice. The TIO considers each matter brought to it on its own particular merits.