

Customer Owned Banking Code of Practice – interim report consultation

Submission by Legal Aid Queensland

8 June 2026

Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission to the interim report consultation for the Customer Owned Banking Code of Practice (“the Code”).

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997*, LAQ is established for the purpose of “giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way” and is required to give this “legal assistance at a reasonable cost to the community and on an equitable basis throughout the State”. Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ’s services, either directly or consequentially through impacts on the efficient functioning of the justice system.

LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ’s lawyers in the day-to-day application of the law in courts, tribunals, and Ombudsman schemes. LAQ believes that this experience provides its lawyers with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavors to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

LAQ’s Consumer Protection lawyers provide advice to clients as well as other lawyers and financial counsellors throughout Queensland in relation to mortgage stress, insurance, housing repossession, debt, contracts, loans, telecommunications, and unsolicited consumer agreements.

Submission

With respect to the interim report, LAQ makes the following comments.

Section 3: effectiveness of the Code

1. *Whether the draft commitments at paragraph 3.3.4 collectively express the values of customer-owned banking in a customer-focused way.*

LAQ supports the draft commitments set out in paragraph 3.3.4.

LAQ strongly supports Commitment 9 regarding the proper use of digital channels and technology. These commitments are important ones to customers, and LAQ recommends that they should be binding.

2. *Whether the ten themes are the right themes for a Code aimed at this sector.*

LAQ supports the themes and notes that they are relevant for this sector.

3. *Whether the structure as drafted is supported.*

LAQ supports the idea that the Code should make commitments over and above the law.

LAQ does not support a proportionality approach to the commitments which are above the law. In LAQ’s view, this increases the risk that lending to customers who bank with different providers will be treated differently in the same circumstances.

4. *Whether anything is missing.*

In LAQ's view, there is nothing missing from the proposed list.

5. *Whether anything in the proposed list does not belong.*

In LAQ's view, there is nothing in the proposed list that does not belong.

Section 4: experiences of financial hardship

1. *The implications of recognising disaster hardship as a distinct category, including the operational and accounting implications of general payment pauses.*

LAQ has supported customers following disasters for over two decades. LAQ has seen the significant financial impact that disasters have on affected consumers. In LAQ's experience, this effect has a long tail of between 5 and 10 years, depending on the circumstances of the consumer. The effect is also exacerbated for consumers who are affected by multiple disasters.

LAQ strongly supports recognising disaster hardship as a distinct category of financial hardship.

2. *The implications of strengthening the debt waiver commitment at paragraph 141(d), including subscribers' experience with the existing provision, the appropriateness of the proposed presumption, and the accounting, capital, prudential and remediation considerations.*

LAQ supports the strengthened debt waiver commitment in paragraph 141(d) on the basis that it will provide subscribers, community lawyers, and financial counsellors with more certainty about when the debt waivers may reasonably be considered.

3. *The form and operation of examples of assistance in the Code.*

LAQ recommends that this section provide case study examples of the types of assistance that subscribers can provide. This should be a non-exhaustive list.

Section 6: First Nation perspectives on banking

1. *The feasibility of providing access to interpreters in relevant First Nations languages.*

LAQ supports the provision of interpreters in First Nations languages where it is appropriate. LAQ recognises that a suitable interpreter may not always be available but, in LAQ's view, this should not prevent subscribers from attempting to provide one.

2. *The proposal to provide proactive support to customers transferring to low or no-fee accounts, and the design and distribution review of transaction products for subscribers that do not offer such accounts.*

LAQ is strongly of the view that subscribers should provide low-fee or no-fee accounts as a matter of ordinary banking practice. There are segments of the community for whom such accounts are the only suitable bank accounts. Subscribers should proactively contact clients to assist their customers into appropriate accounts.

Section 7: small business banking experiences

1. *The implications of extending hardship-style protections to small business customers, including the operational implications of applying the duty of care in small business lending.*

LAQ supports the extension of hardship style provisions to small business customers.

2. *The implications of removing or amending the co-borrower and guarantor exemptions in paragraphs 99, 120(a) and 121.*

LAQ supports the exemptions provided to small business lending regarding co-borrower and guarantor exemptions being removed. LAQ has seen numerous examples of older people and victims of family and domestic violence and coercive control having adverse outcomes which could be overcome by removing these exemptions.

3. *The inclusion of non-monetary default provisions aligned with clause 87 of the Banking Code.*

LAQ supports aligning these provisions with the Banking Code.

4. *The proposed strengthening of farming customer protections, including alignment with clauses 128 and 129 of the Banking Code on default interest during declared drought and natural disaster events.*

LAQ agrees that, at minimum, the Code should align with clauses 128 and 129 of the Banking Code in relation to default interest.

In relation to farming hardship, LAQ's view is that the Code should include a requirement for a referral to specialist rural financial counsellors as soon as the bank becomes aware that the farmers may be in financial hardship.

In relation to farm debt mediation, LAQ notes that it is a legal requirement for COBA to engage in the process. Therefore, what is currently in the Code is no more than what is required by law. LAQ supports a commitment to best practice in farm debt mediation, including:

- Consistency of approach across all states and territories.
- An informal mediation process be considered before any formal mediation process, that is a prerequisite for lenders to enforce farm mortgages, is initiated.
- Offering farmers face to face mediations (a requirement under Queensland legislation) at a venue convenient to the farmer.
- Fully engaging in good faith negotiations that go beyond simply listening to what the farmer has to say.
- Referring farmers to specialist rural financial counsellors and legal advice before and when lenders issue farm debt mediation notices.
- Considering whether to invite guarantors who are not also borrowers to farm debt mediation (for example, other family members who have mortgaged their own properties to support the farming enterprise).
- Understanding that a lack of communication may be the result of how a farmer operates their business, or connectivity issues.

Section 8: digital banking, technology and service continuity

1. *The operational implications of the proposed AI and automated decision-making provisions.*

LAQ understands that the proposed recommendations are the first Code provisions setting out subscriber obligations around AI and automated decision making. LAQ supports and recommends COBA adopting this provision.

2. *The form of the branch closure protocol.*

LAQ supports the introduction of a similar provision to Clause 9 of the Banking Code.

3. *The Bank@Post risk assessment.*

Bank@Post banking services do not currently provide consumers with equivalent banking services to the services of an ordinary bank. In LAQ’s view, subscribers should commit to dealing with issues including privacy, domestic and family violence, the provision of cash and deposit services, and other basic banking services in the same way though both Bank@Post and the usual banking process.

4. *The merged service continuity standard.*

LAQ strongly supports Recommendations 37 and 38 which commit subscribers to providing service continuity and to provide consumers who have experienced scams and/or debanking with appropriate information regarding their circumstances and what options they have.

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