



*Serving the needs of older people*

## SUBMISSION

from: Age Concern New Zealand  
He Manaakitanga Kaumātua Aotearoa

to: Ministry of Business, Innovation and Employment

on: Responsible Lending Code

August 2014

**Age Concern** is committed to promoting wellbeing, rights, respect and dignity for older people. Through a national office and a nationwide network of 35 Age Concerns, we provide services, information and support to older people in response to local needs. We are active and vocal on issues affecting older people, taking every opportunity to work towards our vision of an inclusive society where older people live valued lives.

This submission has been developed in consultation with Age Concerns.

Age Concern New Zealand supports the move to better protect consumers against unscrupulous and irresponsible lenders. Our comments on the Responsible Lending Code Discussion Document (July 2014) follow.

## **1.0 Consumer protection for older people**

Age Concern New Zealand believes that all possible efforts should be made to ensure maximum protection for consumers entering into credit contracts. Our concern in particular, is with older people, for several reasons:

- Age Concerns tell us of older people trapped in a spiral of ever-increasing debt: older people with multiple loans owing to different loan companies; older people who have been lent money despite clearly being unable to service the debt.
- Many older people receive little or no income other than New Zealand Superannuation. This makes them particularly vulnerable to hardship, especially if their health costs are high and/or they are faced with unexpected one-off expenses like a house repair, a trip to the dentist, a new pair of glasses, or an airfare to get to a tangi. These are the kinds of expenses that can result in older people falling prey to loan sharks.
- Some older people suffer from physical and mental disabilities which may impair their ability to handle their financial affairs.
- Information relating to loans can be complex and confusing for anyone, regardless of age. However, as people get older, their understanding of issues (whether complex or not) can diminish further. Therefore, it is essential that all information, verbal, printed, or otherwise, in adverts, disclosure statements, contractual documents and any other material is presented in a clear, factual way and time is taken to ensure that the potential borrower has a full understanding of all aspects of the loan.
- Some older people are vulnerable to abuse and neglect, especially financial abuse. Elder abuse can include coercing an older person to take out a loan.

## **2.0 Responsible lending**

The Responsible Lending Code (the “Code”) needs to clearly define the meaning of the words “reasonable”, “reasonably” and “unreasonable” where they appear in the Credit Contracts and Consumer Finance Amendment Act 2014 (the “Act”). Any ambiguity may result in the need for judicial interpretation, which is likely to end up in costly and time-consuming litigation that will stand in the way of the consumer protection intended by the Act.

### **3.0 Disclosure and advertising**

- 3.1 We wish to emphasise the importance of the use of plain English in all advertising material and contractual documents. It should not be assumed that clients are familiar with jargon and technical terms. Acronyms should not be used, unless they are clearly explained. Font size is important in all documents: a minimum of 12 point is recommended in order for all information to be legible.
- 3.2 Any advertisement that contains spoken word (e.g. radio, television or internet commercials) must be clearly audible to ensure those who have any hearing loss can clearly hear disclosure statements. Similarly, the Code should recommend that “small print” disclosure statements often shown briefly at the bottom of television commercials should be in a font size legible on the smallest television screens.
- 3.3 The Code must state that advertising needs to contain the annual percentage rate of interest and whether it is fixed or variable, in order to ensure that the potential borrower can clearly understand how much interest will be paid on any loan.

### **4.0 Transparency**

For an older person, borrowing money from a third-tier lender has the potential to be stressful and confusing. It is essential that the Code encourages the lender to be transparent at all times. We feel that the Code should recommend that the lender informs the borrower of how much they must repay in total and over what time period, prior to the loan contract being signed.

### **5.0 Understanding of any consequences arising from a failure to make payments when due**

The Code must state that prior to signing any contract, the lender must clearly inform the borrower of any principal consequences arising from a failure to make payments when due. This is particularly important for older people who may not have the capacity to fully understand the commitment they are about to make.

### **6.0 Guarantors**

Older people may be asked to act as guarantor for a loan on behalf of a family member. It is essential that the Code provides that lenders fully advise prospective guarantors of all their obligations and are informed that:

- They may become liable instead of, or as well as, the borrower;
- They should seek independent legal or, if required, other professional advice before giving any guarantee;

- They may request that the amount of their liability under the guarantee be limited;
- Any interest owed and costs incurred in any recovery process may be claimed against them.

## **7.0 Fees**

To avoid any possible confusion for an older person, we feel the Code should state that fees associated with any loan must be clearly explained both verbally and within the written contract.

Thank you for this opportunity to comment. We welcome any questions you may have about our recommendations.



Robyn Scott  
Chief Executive  
**Age Concern New Zealand**