



## Communication with residents during foreclosure

**An overview for financial counsellors and caseworkers of how banks communicate with residents that are not their customers, including tenants and family members, during the foreclosure process.**

This document provides an overview of the steps that banks typically follow to assist residents who are experiencing vulnerability and are not customers of the bank (non-customer residents) during the foreclosure process below.

### Getting in contact with the resident

ABA member banks will try to get in touch with residents that are not the bank's customers by letter or property visits. If the initial effort to contact the resident is unsuccessful, the banks will try again.

ABA members take the decision to start foreclosure proceedings very seriously. Foreclosure is an option of last resort for banks and the process is a protracted one that can take between 18 months and two years.

Each case is different and the actions that a bank takes will change depending on the circumstances of the parties involved.



In accordance with jurisdictional legislation and regulations relating to property and tenancies, the timing of the initial communication varies between the States and Territories. For instance, in Western Australia, the non-customer resident must be served with an initial notice—which serves as a warning that they may be evicted in the future—30 days before legal action is started. In Tasmania, a bank must give a non-customer resident 60 days' notice before seeking an eviction writ or warrant from a court.

### **Once contact has been established**

The bank will give the non-customer resident relevant information once contact has been made. This may include information about the collections process and the estimated timeframe in which the resident may need to vacate (usually around three months).

The bank cannot typically disclose further information – such as the total amount owed or any specific support arrangements made with the mortgagee - to the non-customer resident or their caseworker. This is because of privacy and confidentiality requirements.

### **Support for non-customer residents**

Bank policies or practices generally allow for referrals and other forms of support to be provided to non-customer residents who are experiencing vulnerability. In family and domestic violence cases, this could include a referral to specialist family law help and/or financial counselling services, as well as assistance with emergency accommodation or grant funding if required.

Banks may not become aware that a resident is experiencing vulnerability unless they are told by the resident or their caseworker. In some circumstances, banks will only find out about the resident's circumstances well into the litigation process. In these scenarios, the bank may decide to provide more time to work with the non-customer resident regarding the support they require while balancing the needs of the primary customer (noting this may be particularly difficult in relationships where there is hostility between individuals or domestic violence present).

### **If contact is not established**

Banks do not automatically pause foreclosure proceedings until communication is established with the resident. This may be due to the resident being unable to meet the financial arrangements they have in place with the owner, or because the customer will continue to accrue interest charges. In circumstances of family and domestic violence, it may be inappropriate for the bank to automatically pause proceedings as they would need to let the customer know of the reasons for this decision. There may be a risk that this notification could trigger retaliation to the non-customer resident.

Banks can pause foreclosure proceedings in specific circumstances where they consider it is in the interests of all parties; for example, in matters where there may be family court proceedings and there is a hearing coming up. In some cases, the bank could decide to delay in providing a notice to vacate while still progressing judgment proceedings against a customer. This may occur if the non-customer resident has provided the bank with confidence that they will secure alternative housing by a certain date.

