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## *National better practice guide for farm debt mediation*

### Summary for farmers

Farm debt mediation (FDM) uses an independent mediator to help you and your lender resolve farm debt issues. In consultation with the agricultural finance sector, the Australian Government has developed a [better practice guide](#) that provides 7 principles for parties involved in FDM activities.

#### Better practice guide FDM principles

##### **Principle 1 – Early engagement between farmers and lenders is encouraged**

Engage with your lender as early as possible when financial difficulty arises. Early engagement will allow you and your lender to discuss longer-term strategies to improve your chances of a better outcome. Before engaging with your lender, seek advice from a rural financial counsellor or other trusted professional on the best approach.

Consider early engagement activities, including:

- contacting your lender about your options when financial difficulty arises or your circumstances have changed
- maintaining proactive communication with your lender (e.g. responding to correspondence in a timely manner and updating contact details if required)
- seeking professional support or advice, for instance from the [Rural Financial Counselling Service](#) (RFCS), accountants, advisors, farm management consultants, solicitors or Legal Aid
- providing your lender and professional advisors with up-to-date financial information about the farm business.

Early engagement will not affect your right to use FDM in the future.

##### **Principle 2 – Farm debt resolution activities should be outcomes-focused**

Activities that attempt to resolve farm debt issues should be constructive and aimed at achieving the best possible outcome. They should also aim to either re-establish or maintain business viability or, if necessary, enable you to exit your operation on terms you have agreed to.

An outcome-focused approach to farm debt resolution may include:

- taking adequate time to prepare and present relevant material to assist the FDM process
- identifying and sharing critical documents ahead of mediation (e.g. cash-flow budgets, valuations and real estate listing appointments)
- being willing to consider all reasonable options for resolving farm debt issues.

### **Principle 3 – Consider support for personal issues, including mental and physical health**

Experiencing financial difficulty can be stressful and may lead to situational distress (a high level of stress arising from temporary circumstances) or mental health issues. We encourage you to seek support and inform your lender of any circumstances that impact your ability to engage effectively.

You can seek support by:

- reaching out to your rural financial counsellor
- requesting a flexible approach to the mediation process to help you participate.

### **Principle 4 – Information about FDM should be clear and accessible**

Be aware of the FDM requirements in your state. Lenders, mediators, state regulators and support services can assist you through the process by providing information that is clear and accessible.

If used, a pre-mediation conference may help you:

- understand the scope of the issues that have to be resolved in mediation
- clarify that all parties are making an informed decision to participate in the mediation
- understand what type of information you must provide for the mediation process
- understand what your participation entails, including costs involved
- clarify any questions that you have.

### **Principle 5 – Farmers should seek appropriate support and independent professional advice**

Appropriate support and advice will improve the efficiency and effectiveness of debt resolution activities. The RFCS bring a holistic, coordinated approach to mediation, which maximises positive outcomes for farmers.

When seeking support you should:

- consider the qualifications, experience and expertise of the advisor (receiving advice from people who are not appropriately qualified may lead to poor outcomes)
- give your support providers and organisations as much detail as possible about your situation so they can understand how to address the issues.

### **Principle 6 – FDM should be conducted on an even playing field**

Parties can work together to ensure an equal setting during mediation. Consider inviting an advisor and/or rural financial counsellor to assist you with the negotiations. In-person mediation is preferred, and you may request that it take place in a location that is convenient to you (such as the nearest regional town centre).

In some cases, FDM may need to be held virtually. Limitations of remote FDM can be eased by:

- attending the virtual meeting at an RFCS regional office with your rural financial counsellor
- asking questions about the use of remote mediation at the pre-mediation conference
- being visible on screen
- identifying yourself at the start and when speaking.

## **Principle 7 – All parties are expected to act in good faith**

All parties are expected to undertake mediations honestly, cooperatively and with sincere intentions to achieve an outcome. The mediator should inform you of your obligation to act in good faith.

Acting in good faith does not prevent a party from withdrawing from the mediation if appropriate, nor does it require that agreement be reached or a particular outcome achieved.

As a guide, a non-exhaustive list of examples of conduct or behaviours generally consistent with acting in good faith include:

- acting reasonably and fairly throughout the mediation process
- disclosing information in a timely manner
- being willing to propose options for resolution and discuss their position in detail
- being faithful to any agreement reached in the mediation.

## **More information**

Learn more about:

- [farm debt mediation in your state](#)
- [Rural Financial Counselling Service](#).

Telephone:

- financial support – Rural Financial Counselling Network on 1300 771 741
- mental health support – Beyond Blue on 1300 22 4636
- crisis support – Lifeline on 13 11 14.

## **Acknowledgement of Country**

We acknowledge the Traditional Custodians of Australia and their continuing connection to land and sea, waters, environment and community. We pay our respects to the Traditional Custodians of the lands we live and work on, their culture, and their Elders past and present.

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