

Motor Finance Wizard: how to make a free complaint to the Credit Ombudsman Service (COSL)

Use this fact sheet if you:

- want to make a free complaint about Motor Finance Wizard to the Credit Ombudsman Service (COSL)

This factsheet should be read along with our related factsheets:

- [Motor Finance Wizard](#);
- [Motor Finance Wizard - Walker v DTGV1 Pty Ltd](#)

The Credit Ombudsman Service is a free dispute resolution service

The [Credit Ombudsman Service](#) (COSL) provides a dispute resolution service for complaints against its members, including Motor Finance Wizard. The service is free of charge to consumers and can be used by a consumer without legal representation.

If you have difficulty making a complaint

If you have any difficulty putting your complaint in writing, don't give up! The Credit Ombudsman Service Limited's Rules say that it will help you prepare your complaint if you have any difficulty in presenting it. Consumer Action Law Centre can also provide advice and assistance. Contact details are below.

Step 1: Make a complaint to Motor Finance Wizard

Generally COSL will only deal with a complaint if you have first tried to resolve the complaint with Motor Finance Wizard.

Write a letter to Motor Finance Wizard explaining why you are unhappy and what you want to resolve the dispute. A simple option is to prepare a Complaint to COSL and send that to Motor Finance Wizard first. Sample letters can be found below.

If you have already made a complaint to Motor Finance Wizard, and it has not been resolved within 45 days, you can make a complaint directly to COSL.

Step 2: See what Motor Finance Wizard says - the power is in your hands

If you don't get what you want after making first contact with Motor Finance Wizard don't be put off. You don't have to accept an offer if you are not happy with it. COSL has the power to investigate, assess and give a recommendation about an appropriate outcome and can make a determination which is binding on Motor Finance Wizard.

We suggest that you persist. It is unlikely that Motor Finance Wizard will offer you what you want in the first instance (or at all).

Step 3: Complain to COSL

Complain to COSL if your dispute is not resolved within 45 days, Motor Finance Wizard does not respond within 45 days or if you are not happy with the response you get from Motor Finance Wizard.

Details of how to complain are available from [COSL's website](#). The sample letter below may help you in making a complaint.

Completing the sample letter

If you use the sample letter below, you will need to set out all of the reasons you are unhappy with Motor Finance Wizard and what you want to resolve the dispute. The sample letter is a guide only and will not necessarily cover all the complaints you

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might have. If you think any of the questions below might apply to you, give details where suggested. It is important that the information you provide is correct and that you delete any questions which are not applicable to you.

Complaining to the regulators and your local MP

If you want to let a regulator know about your dispute with Motor Finance Wizard you can send your complaint to the [Australian Securities and Investments Commission](#) and [Consumer Affairs Victoria](#). You can also write to your local MP to let him or her know about the dispute.

The Australian Securities and Investment Commission (ASIC) does not have a consumer dispute resolution function. It does not conciliate or advocate for individual consumers. The role of these government agencies is to “police” the practices of industry.

A complaint to a regulator will help the regulator monitor industry practices and, if there are a number of similar complaints, it might be used to take enforcement action against the creditor or debt collector.

There are two benefits of complaining to a regulator:

- It can help the regulator take action to stop unfair practices and lead to improved behaviour by debt collectors and creditors in the future;
- If you send a copy of your complaint to the creditor (debt collector) it sometimes encourages them to resolve your complaint.



Consumer Action Law Centre

Telephone: (03) 9629 6300,

or 1300 881 020 for country callers.

Email: advice@consumeraction.org.au

Mon – Fri 10.00 am – 1.00pm

If you are deaf or have a hearing or speech impairment, you can call through the National Relay Service (NRS):

- TTY users can phone 133677 then ask for 1300 881 020
- Speak & Listen (speech-to-speech) users can phone 1300 555 727 then ask for 1300 881 020
- Internet relay users can connect to NRS on www.relayservice.com.au then ask for 1300 881 020



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SAMPLE LETTER 1: COMPLAINT TO MOTOR FINANCE WIZARD

IMPORTANT: Get advice from Consumer Action if you have difficulty presenting your complaint. COSL's Rules say that if you have any difficulty in presenting your complaint, it will also help you. Contact details are above.

[Your name]

[Address]

[SUBURB STATE POSTCODE]

[Date]

Motor Finance Wizard
Suite 10, 10 Cloyne Road
SOUTHPORT
QLD 4215

By fax: (07) 5585 4520

Without prejudice

Dear Sir or Madam

**[Your name] against [Name of company] ("Motor Finance Wizard")
Lease Contract No. [insert number]**

I wish to complain about your conduct and enclose a copy of a letter I intend to send to COSL should our dispute not be resolved within 45 days.

Yours faithfully

[Name]

Encl.

cc: [Australian Securities and Investment Commission]

[Local Member]

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SAMPLE LETTER 2: COMPLAINT TO COSL

IMPORTANT: Get advice from Consumer Action if you have difficulty presenting your complaint. COSL's Rules say that if you have any difficulty in presenting your complaint, it will also help you. Contact details are above.

[Your name]

[Address]

[SUBURB STATE POSTCODE]

[Date]

Credit Ombudsman Service Limited
PO Box A252
SYDNEY SOUTH NSW 1235

LETTER OF COMPLAINT

Dear Sir or Madam

[Your name] against [Name of company] ("Motor Finance Wizard")
Lease Contract No. [insert number]

BACKGROUND

- On [date] I entered an arrangement with Motor Finance Wizard in relation to [insert details of the car: Make, Model, Registration] ("the Contract").
- I have since made repayments totaling [\$XX,XXX.XX].
- I traded in a car [insert details of the car: Make, Model, Registration - if applicable]

CONDUCT OF MOTOR FINANCE WIZARD

I am unhappy with Motor Finance Wizard and I request that the Ombudsman investigate the following questions:

Set out why you are unhappy with Motor Finance Wizard. The following headings and examples are provided as a guide only. Delete anything that doesn't apply to you.

1. Early termination fee: where you have returned the vehicle and Motor Finance Wizard are chasing you for an early termination fee

* Example:

After I returned the car and cancelled the contract, MFW has demanded I pay an early termination fee amounting to [\$X].

I believe the early termination fee is not a genuine estimate of its likely loss and is an arbitrary amount. It amounts to a penalty and is an unfair contract term. I refer

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the Ombudsman to the decision in *Walker v DTGV1* in which it was held that the early termination fee charged by MFW was a penalty and unenforceable and the consumer received a full refund.

2. The contract didn't meet my requirements and objectives (purposes)

* Examples:

1. I wanted to own the car at the end of the contract and the contract gives me no right to do so;
2. I was to pay substantially more under the contract than I would have paid had I had bought the car outright or obtained a car loan. These payments included [\$ _____] fortnightly rental payments, insurance, registration and maintenance of the vehicle.
3. Anything else you required which was not provided under the Contract.

3. Financial difficulty

* Example:

At the time I entered into the agreement, I was unable to afford payments under it because:
[give details of your financial position when you entered into the contract]

4. Misleading or deceptive conduct

* Example:

I was led to believe that I was entering into a loan, not a lease, because [provide details - e.g. did you see an advertisement that led you to believe this? Did the sales representative say something that led you to believe this? [if so, give details - remember, it is critical that you ensure this information is true and correct]

5. Unjust, unfair or unconscionable conduct

* Example:

1. I was in a weaker bargaining position because [e.g. lack of education, income, lack of knowledge of cars, finance etc.]
2. I was not able to understand the documents because [e.g. I wasn't given them, I didn't have time to read them and they are very complex]
3. I was subjected to undue influence or pressure, or unfair tactics because [e.g. I was kept waiting for a long time and then rushed through making decisions]

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4. I could have acquired an equivalent car from another supplier for much less than I had to pay to Motor Finance Wizard [if so, give details]
5. The contract was not subject to negotiation
6. The contract was not in a form that was easy for me to understand
7. I didn't get legal or any other independent advice about the transaction
8. The provisions of the contract were not accurately explained to me. [Explain why you think this.]

6. Defective vehicle

*Example

The car has many problems, including [set out the problems with the car and provide a mechanic's report if you have one]:

I was unable to drive the car for [time]:

I have had to pay [\$X] on repairing the car [provide copies of receipts if you have them].

7. Conduct surrounding repossession

* Example:

I was not provided with any notice before Motor Finance Wizard repossessed the vehicle;

The repossession agent engaged in unfair conduct including [set out the conduct you want to complain about].

Other legal arguments

I also ask the Ombudsman to investigate any other matters relevant to my dispute, including whether:

- the contract contained unfair terms which caused me loss or was not capable of operating without the unfair term;
- Motor Finance Wizard complied with the disclosure requirements of the National Credit Code, if the contract is a credit contract and not a lease.

OUTCOME SOUGHT

*Example 1:

I am seeking:

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- a finding that no debt is owing;
- repayments made under the contract amounting to \$[insert amount] be refunded to me;
- interest;
- any other expenses or loss suffered caused by entering in into the contract, such as payments made to repair the vehicle;
- the value or return of any trade-in vehicle.

*Example 2:

Assessing what I am lawfully entitled to is difficult without legal advice. As I have been unable to obtain legal representation, I will be requesting that the ombudsman investigate this dispute and provide me with an indication of a fair resolution.

To help me in understanding what outcome is fair, please provide me with copies of all relevant documents.

Yours faithfully

[Name]

Encl.

cc: [Australian Securities and Investment Commission]
[Local Member]