

What can I do if I am having difficulty paying my loan or lease payments?

by Consumer Action - Friday, March 18, 2016

<https://help.consumeraction.org.au/what-can-i-do-if-i-am-having-difficulty-paying-my-loan-or-lease-payments/>

Key points:

if you cannot pay your loan or lease because you are in financial difficulty (hardship) you may have the right to have your payments reduced, or changed in some other way.

this information is intended for Victorian consumers who have entered into a loan or lease that was for a personal, domestic or household (not business or investment purposes) purpose.

Your right to apply for financial hardship assistance

There are a number of laws that give you the right to apply for hardship assistance. How these laws apply to your circumstances will differ slightly based on things like when you entered into the contract, how much your loan was for, what Code of Practice your lender belongs to and what your contract says. In most cases, you don't need to worry about what the law says. In most cases, following the four common steps set-out below should get you what you need:

Step 1: Assess what changes you need to your contract

It is important that you work out what changes to the repayments will help you deal with your hardship but also ensure the loan or lease gets paid out. Interest will continue to grow under the loan or lease. A free financial counsellor can assist you to work out your options. Contact the National Debt Helpline on 1800 007 007.

You may have other legal rights which may be more appropriate for you. Such as:

- Any rights you have in relation to payment of the loan under an insurance policy;
- A reduction to the loan on the basis that you were 'overcommitted'.

An entitlement to a temporary or permanent disability payment or other compensation for an injury or unfair dismissal A financial counsellor will be able to assist you in obtaining legal advice if it appears you have other rights. You must act quickly as time limits apply.

Step 2: Contact your credit provider

Informing your lender or lessor

If you don't think you can meet your repayments under your loan or lease **you have the right** to inform the lender or lessor of your difficulties. It is best to notify the lender or lessor in writing so that you can keep a copy of your notification and produce it as evidence if necessary. See our template letter for credit [here](#) and for consumer leases [here](#).

The lender or lessor must then respond to this information and work with you to assist you in overcoming your repayment difficulties by, for example, changing the repayments in some way, stopping the repayments for a period of time or changing your obligations under the contract in a way that will assist you to repay the loan.

Step 3: Give your credit provider further information if they request it

It is important that you respond to any request by the credit provider for more information quickly as time limits apply. If you are having difficulty understanding what the lender or lessor want or how you should reply, get help. Call the National Debt Helpline on 1800 007 007.

Step 4: Make a free complaint to the [Australian Financial Complaints Authority](#) (AFCA)

If the lender or lessor:

- refuses to assist you;
- offers to change your repayments in a way that will not assist you in repaying the loan or lease; or
- fails to respond to your request within 21 days,

you have the right to lodge a complaint with a free, independent external dispute resolution (EDR) scheme which will investigate your complaint and can order the lender or lessor to change your repayments in a way that will allow you to repay the loan or lease. The EDR scheme which your lender or lessor must be a member of is the [Australian Financial Complaints Authority](#) (AFCA).

You also have the right to apply to a court for a hardship variation. This is complex and you would need to get legal advice before doing so to avoid unnecessary costs.

More information & trouble shooting tips

For more information about applying for hardship, go to:

www.moneysmart.gov.au

www.afca.org.au

If you have a loans or leases for a small business or investment purpose, you may still have rights to get

your repayments changed on the basis of hardship. For more information go to the websites referred to above.

Warning: This fact sheet is for information only and should not be relied upon as legal advice. This information applies only in Victoria, Australia and was updated on 6 June 2017.

Image from [GotCredit](#).

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