

## Debt negotiation or Personal budgeting companies

This fact sheet is for information only. You should get professional advice about your personal situation.

### **Main ideas**

- There are things you can do to help manage debt yourself, at no cost.
- Financial counsellors can help. Their services are free.
- Think twice about using a debt negotiation company. You could end up worse off.
- Think twice about using a personal budgeting company. You could end up worse off.

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- See a financial counsellor
- Set up a budget and schedule your payments
- Ask for a payment plan or reduced lump sum
- Ask for a better deal

### **What you can do if you have signed up with a debt negotiation or personal budgeting service**

## **Debt negotiation service**

Debt negotiation is when a debtor and creditor(s) agree to settle a debt in a way that benefits both parties. Sometimes a creditor may accept a lower amount if they get it quickly as a lump sum. Sometimes it may be a payment plan. Or maybe a combination of both (reducing some of the debt, and a payment plan for the rest). In rare cases, a company could waive (release you) or wipe out a debt entirely but they generally only do this if it is clear you won't ever be able to repay the debt and you have no assets.

You can negotiate with creditors yourself, or with help such as a free financial counsellor.

There are also private debt negotiation companies that market themselves as professional debt negotiators. For a fee, they help people to apply for repayment arrangements, lump sum settlements or waivers. They may also, for a fee, complain to free external dispute resolution services such as the Australian Financial Complaints Authority (AFCA).

Debt negotiation firms operate in different ways and may charge different amounts. Some charge fees on a percentage of your debts, others a percentage of what they save you. There may be ongoing fees if they also manage payments for you. These fees can add up to large amounts depending on the size of your debts.

Debt negotiation firms need to have an Australian Credit Licence and be a member of AFCA (from 1 July 2021).

## **The problem with debt negotiation services**

Getting a debt negotiator to deal with your creditors may sound like an attractive option, but the wrong service can make your situation much worse. They charge you for their services. Problems that could arise include:

- A debt negotiation firm may suggest you stop paying your creditors and pay them instead. They will only start negotiating after you have paid their fee, so you may have to deal with debt collectors and enforcement action in the meantime.
- A debt negotiation firm may ask you to get a lump sum. They might suggest borrowing from friends, borrowing from a mortgage or other credit facility, or getting your superannuation early. This may not be the best long term strategy for you.
- Sometimes debt negotiators want you to save up a lump sum by not paying your creditors. This may not be realistic. If you are already missing payments, you may not be able to save at all.
- A debt negotiation firm may advise you to stop paying your debt to create 'leverage' with your creditor. This can result in default interest or fees, listings on your credit report, court action, and other bad outcomes.
- A debt negotiation firm may negotiate with multiple creditors without properly thinking through the impact on you of paying less important debts before others.
- The debt negotiator may charge you big fees but not fix your financial problems. For example, they may reduce your debt, but you may still not be able to afford to pay the

smaller amount. Their contract will usually say they can charge you a fee if they reduce your debts, even though it is not enough to fix your problem.

- Many agreements are simply an arrangement between you and the creditor. However some companies offer Part 9 Debt agreement (sometimes just called a 'debt agreement') which is a form of bankruptcy. [Read our factsheet about Debt Agreements.](#)
- A debt negotiation firm may not give you independent advice about other, better options available to you – they may want you to pay their fees to use their services

Consider talking to a free and independent financial counsellor first about other options available to you (see section below).

However, if you are sure you want to sign up with a debt negotiation firm:

- Make sure you understand all the fees, and can afford them.
- Be clear about what they are doing for you.
  - Are they negotiating with your creditors one by one?
  - Are they going to manage your payments to each creditor?
- Check the debt negotiation firm's plan makes sense to you:
  - Will they deal with all your debts?
  - What if only some creditors agree and others don't?
  - What does the contract say about what they get paid if they only sort out some of the problems?
  - Check whether it is a Part 9 Debt agreement (sometimes just called a 'debt agreement') which is a form of bankruptcy. [Read our fact sheet about Debt Agreements.](#)
- Be clear about the impact on your credit report.
- Check they are a member of AFCA on AFCA's website. AFCA gives consumers a way to resolve disputes fairly and is free.

## Personal budgeting service

Personal budgeting services, or 'debt payment services' often promise they will manage your money so all your bills and debts are paid on time, and they give you an allowance for daily expenses. Some firms also promise to review your financial position regularly and negotiate future repayments with your creditors. These firms usually charge up-front 'establishment' fees as well as regular 'maintenance' or management fees.

### The problem with personal budgeting services

Be very careful about personal budgeting services. If you don't have enough money to start with, paying someone to manage your money could make your situation worse.

- The cost may seem low and affordable at first, but think about how it will add up over time. Consider how long you intend to use the service, and how much it will end up

costing. If you sign up, you are adding another creditor to your list – someone else you need to pay.

- If you fall behind in your payments, the personal budgeting service may not deal with legal notices and other consequences. You may have to deal with debt collectors and enforcement action yourself.
- The company may keep the interest earned from all their client accounts. This can be a conflict of interest: they want to keep your money as long as possible to get more interest, instead of paying your debts when they are due.
- Consider talking to a free financial counsellor first about other options available to you (see section below). They can help you work through the situation, and in some cases, may be able to negotiate with creditors for you.

How these budgeting services are regulated depends on the scope of the services they are providing. They should have a credit licence if they are managing debt, and an Australian Financial Service licence if they offer electronic payment services. These services require membership in AFCA.

However, if you are sure you want to sign up with a personal budgeting service:

- [Check they are a member of AFCA on AFCA's website](#) AFCA gives consumers a way to resolve disputes fairly and is free. You can also [check what licences the company holds on the ASIC website](#).
- Ask about their fee structure – ask for a written list of fees before you sign up. Be clear about establishment fees, ongoing fees, and cancellation fees. Figure out the total cost of all the fees. If you cannot afford the fees, don't go ahead.
- Work through the budget they suggest. If it does not leave you with enough money to cover your basic living expenses, do not go ahead.
- Check the solutions they offer are suitable, affordable and sustainable.
- Read the contract very carefully – if there is something you don't understand, don't sign up. Be sure you clearly understand:
- How they will manage your debts – who will deal with your creditors if you fall behind?
- What qualifications do they have?
- Will they take their fees before they pay your debts?
- What happens to any interest earned on your money?
- Are there contract terms that seem unfair?
- Do not sign anything unless you are absolutely sure about what you are paying for. If you are unsure what any terms mean, get legal advice.

## **Better options**

### **See a financial counsellor**

A free financial counsellor can help you come up with a plan to tackle your money problems.

They can help you set up a budget and can often negotiate with your creditors. They can advise you on any government programs or supports that you may be eligible for (such as energy vouchers). They advise on a range of different financial options and can help in complex situations, such as debt disputes, family violence, and financial abuse. There are also specialised gambling financial counsellors who can help you manage your addiction.

Financial counsellors are fully qualified professionals.

Financial counselling services are always free, so you won't waste money on unnecessary fees. They are usually run by not-for-profit organisations and charities.

[You can find your closest service using the National Debt Helpline \(NDH\) website.](#)

You can also call the NDH 1800 007 007 to talk to a financial counsellor or [use the NDH online chat](#). You may be referred to a face to face service if your matter is complex and better handled by a face to face service.

## **Set up a budget and schedule your payments**

[ASIC's MoneySmart budget planner](#) will help you work out where your income is going.

Use internet banking to set up scheduled payments to pay your bills as soon as your money comes in. You can avoid bill shock by paying small regular amounts into each bill each payday. You remain in control – you can change your scheduled payment if you are short of money in some weeks.

## **Ask for a payment plan or reduced lump sum**

Ask your creditors for a payment plan you can afford, and start making payments. [Read our Financial Hardship fact sheet for loans and leases](#). Also read our factsheets about [Phone debts](#) or [Electricity and gas debts](#).

You can also ask the creditor directly if they would accept a smaller amount as a full and final settlement of everything you owe them. Get it in writing if they agree, and make sure you keep to it exactly – pay the correct amount by the due date, and keep your records in a safe place.

## **Ask for a better deal**

Ask lenders if they will agree to lower interest or reduce fees (they usually don't have to agree, but there's no harm asking).

With utilities and other services, ask if you are on the cheapest plan or contract for what you use, and check if there are any fees or issues if you want to switch to a cheaper plan.

If you are in hardship and need a payment plan, see our factsheet here:

## **What you can do if you have signed up with a debt negotiation or personal budgeting service**

It can be hard to cancel a contract – once you have signed a contract, you are usually bound by its terms.

### **Check your contract**

You may have a “cooling off” period. Or there may be a way to end the contract, but there might be some cancellation fees.

### **Call our Credit & Debt Legal Advice line**

Call 1800 844 949 for advice on cancelling your contract, getting a refund, or seeking compensation for losses suffered. (Have a copy of your contract when you call.)

What you can do will depend on your circumstances and the contract. Potentially, you could argue:

- the services were not fit for your stated purpose
- the personal budgeting service or debt negotiation firm engaged in misleading and deceptive conduct or unconscionable conduct
- the personal budgeting service or debt negotiation firm failed to provide its services efficiently, honestly and fairly
- the terms in the contract were unfair.

These arguments can be complicated. Get legal advice.

### **Complain to the personal budgeting service or debt negotiation firm**

If the service is a member of AFCA, [find the contact details of their complaints officer on the AFCA website](#).

### **Complain to AFCA**

If the service or firm is a member of AFCA, and you have not been able to resolve the dispute directly, [complain to AFCA online](#). Time limits apply.

### **Take the personal budgeting service or debt negotiation firm to NCAT or court**

If the service or firm is not a member of AFCA, you can take the matter to NSW Civil and Administrative Tribunal (NCAT) or court. **Get legal advice first**. There are risks in going to the tribunal or court, and time limits apply.

## Need more help?

[For a list of other resources, visit our Useful Links page.](#)

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