

## Financial Complaints to AFCA

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

### Main ideas

• Try to solve the problem with the company first.

• If you can't resolve with the company, you can complain to the Australian Financial Complaints Authority (AFCA). Complaining to AFCA is free.

• You can still go to court after AFCA, if you want to. Time limits apply.

• Financial counsellors can help. Their services are free.

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This fact sheet is for complaints against financial companies like lenders, loan brokers, debt collectors, rental companies (for goods), payday lenders or mortgage managers. If your problem relates to insurance, [read our fact sheet about Insurance Complaints to AFCA.](#)

If you have a dispute with a telecommunications company, contact the Telecommunication Industry Ombudsman (TIO), phone: 1800 062 058. [Read our fact sheet about Phone Debt.](#)

If you have a dispute with an energy or water company in NSW, contact the Energy & Water Ombudsman NSW (EWON), phone: 1800 246 545. [Read our fact sheet about Electricity and Gas Debt. Details for other state and territory energy and water ombudsman can be found on our Useful Links page.](#)

## **AFCA is usually better than going to court**

AFCA is the main way to resolve your complaint (in most circumstances). AFCA is usually better than going to court because:

- it is free for consumers
  - it is independent (despite being funded by industry)
  - all enforcement action stops (including court proceedings) while AFCA considers your complaint
  - AFCA may try to help the parties negotiate an outcome
  - AFCA can make a decision that the financial company has to follow – if you accept the decision. If you don't accept the decision, you can still go to court (but check your time limit to go to court)
  - AFCA can give you a payment plan, if they think it is fair
  - complaints can be lodged in AFCA before and after court proceedings have started.
- Get legal advice if there is already a court judgment.**

AFCA can consider a wide range of complaints, including:

- you need a hardship arrangement or payment plan
- you've been charged the wrong fees or interest
- your lender did not lend responsibly, you could not afford the loan or it did not suit your situation
- you were misled or lied to by the company
- the company didn't act fairly towards you.

There are limits to the amount AFCA can award, get legal advice if the amount in dispute is over \$631,500\*. AFCA can only award \$6,300\* in indirect or non-financial loss such as excessive stress or delay.

[\\*These amounts can change over time – check AFCA's website for updates.](#)

Time limits apply to lodging in AFCA. Do not delay, and get legal advice if you have any concerns.

## **Try to resolve the complaint with the company first**

**If you are at risk of court proceedings being started, or if they have started but there is no judgment yet, then you may be better off skipping this step and [complain to AFCA immediately](#) and seek urgent legal advice.**

[Complain to the company. You can find contact details on the AFCA website.](#) This does not have to be in writing, you just need to ring and say:

- what the problem is
- what you want them to do to fix the problem.

Don't worry about exactly what you say. It does not have to be perfect, you just need to make it clear you have a problem. For example, they unfairly rejected a hardship or payment plan you offered.

Usually, the company has to respond within:

- 21 days for hardship complaints, or
- 30 days otherwise.

You do not have to accept any resolution they offer if it does not fix the problem, but always consider a fair compromise. If you are not sure what to do, say you will get advice and ring back.

## **If you can't resolve with the company, go to AFCA**

If you are not happy with the response from the company, or they have not responded in the required timeframe, you can complain to AFCA.

### **1. Complain to AFCA**

[AFCA's online complaint form is usually the easiest and quickest way to complain.](#) You can also do it over the phone, if you are not able to do it online. Make sure you get a confirmation with your case number.

Keep the information in your complaint simple to start. You can add further information later.

Write a simple description of the problem. For example:

- *I have \$8,000 owing on my credit card, my normal payments are \$240/month. I lost my job and asked my bank to postpone payments as I couldn't afford anything. They agreed at first and gave me 3 months. I was able to find a job but it was only casual and not enough hours. I need another 3 months to look for another job.*

Write how you want the complaint resolved. For example:

- *I want a payment arrangement of \$20/month for 3 months while I look for another job. This is all I can afford right now.*
- *No default interest and fees to be charged. If the bank can get rid of interest altogether while I'm in hardship, that will help me a lot as well.*
- *A review at the end of the 3 months to see what I can afford at that point.*
- *At the end of my hardship, arrears capitalised (added to the end of the loan) so I don't need to worry about catching up on missed payments.*

Read our other fact sheets for more information about different types of complaints, and what you can expect. Get legal advice if you want to discuss your situation.

## **2. Consider the company's response**

AFCA will send your complaint to the company for it to respond – usually within 30 days.

The company will send you a response to your complaint. This may include how they would like to resolve the matter.

AFCA will ask you to respond back. Make sure you respond by any date set by AFCA, or ask for an extension if you can't respond by the date set. If AFCA gives you an extension, get it in writing.

**You don't have to settle.** If you are not happy with the lender's response, say so!

This lender responds then you reply – process may occur again. Do not give up!

If you get an offer you are not sure about, get advice before deciding whether to accept or reject it. Once you reject it or it expires, it is gone – the lender may not make the same offer again.

## **3. Ask for an investigation**

If you believe the complaint has not been resolved, tell AFCA why. Ask for an investigation.

AFCA will usually ask for more information to investigate your complaint. Provide the information and any evidence to support your case.

For example:

- With hardship complaints, AFCA will usually ask you to fill out a statement of financial position so they can see what income and expenses you have, and what you can afford to pay towards your debt. You also need to say what your plan is to get back on track with future repayments, and show it is realistic.
- If your complaint relies on your memory or word of mouth, write a statutory declaration – for example, if you were misled about something and there isn't any better evidence (such as a phone recording). Give as much detail as you can, preferably in

time order.

- AFCA can award some compensation up to \$6,300 for both consequential financial loss and non-financial loss (for example, excessive stress or inconvenience). You need to ask for this type of compensation and provide solid evidence, such as medical certificates.

Get legal advice if you are not sure what to do.

#### **4. Consider AFCA's recommendation**

After considering the arguments about your complaint made by you and the company, AFCA may make a recommendation.

If both of you accept the recommendation, it becomes a binding agreement. If either of you rejects it, AFCA will accept further submissions and evidence from both sides and then make a determination.

It can take compelling new arguments or evidence for AFCA to change their position, get legal advice.

Sometimes AFCA will not make a recommendation, but go straight to a determination.

#### **5. Consider AFCA's determination**

A determination is AFCA's final decision and cannot be appealed.

You usually have 30 days to decide whether to accept or reject the determination.

If you accept the determination, the company is bound by it.

You can choose to reject the determination, but it's best to get legal advice first.

If you reject the determination, legal action is usually your only other alternative. Legal action can be expensive, and you may not have a better chance of success. You may end up having to pay the other side's court and legal costs, if you lose or something else goes wrong. You should get legal advice before starting any legal action. Time limits apply.

## **Need more help?**

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

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