

## Financial Hardship

This fact sheet is for information only. You should get professional advice about your personal situation from a financial counsellor or a lawyer.

### Main ideas

• If you are having trouble paying back a loan or a debt, you can ask for a hardship variation.

• Keep paying whatever you can afford while you are negotiating a hardship variation. Keep paying even if the lender says it is not enough.

• Don't agree to pay anything you cannot afford.

• If the lender threatens to take you to court, don't ignore it. Get help immediately.

• Financial counsellors can help if you are in financial hardship. Their services are free.

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## How people get into financial hardship

When you first take out a loan, your repayments should be affordable. But sometimes unexpected events make it difficult to repay a loan or a debt. It might be difficult to repay your loan because:

1. you become ill and couldn't earn an income
2. you lost your job
3. you had a family breakdown
4. you have unexpected expenses
5. lots of other reasons.

If you could not afford to pay the loan from the start, ring our Credit & Debt Legal Advice line (1800 844 949). You can also check our [Debt Problem Solver](#) for more information about particular debts.

## What to ask for in a hardship variation

A hardship variation is a temporary arrangement with the lender while you get back on your feet. Hardship variations are short-term help. The idea is you will return to normal repayments after a few months, or pay out the loan within a reasonable time. If you think your financial troubles will last longer than a few months, please get free help from a financial counsellor (call 1800 007 007).

You can ask the lender to:

1. Postpone or reduce your repayments for a few months.
2. Reduce or freeze the interest rate for a few months.
3. Extend the term of your loan. This adds the missed payments (called arrears) to the end of the loan, so you don't need to catch up straight away.
4. Waive default fees or other penalty fees.
5. Give you time to sell an asset to repay the loan.

The lender does not have to say 'yes' to your request for a hardship variation, especially if you request reduced interest on a car or home loan. But if they say 'no', you may have options to challenge it.

If you took out the loan with another person (a joint loan), you can still ask the lender for a hardship variation. You can do this even if the other person does not agree or you cannot contact them. If you were experiencing family violence of any form, read our fact sheet about [Financial Abuse and Family Violence](#) for information and options.

Some lenders may agree to a long-term repayment arrangement. Make sure you understand:

1. how long it will take you to repay the debt
2. the total interest you will pay over the period of the loan.

If you have already been making payments for years and your debt is barely reducing or increasing, call us for free legal advice (1800 844 949).

[If you are in financial hardship with a home loan, read our Mortgage Stress fact sheet.](#)

If you are in financial hardship with a Buy Now Pay Later service (such as Afterpay, Humm, Zip, Klarna, etc.), read our [Buy Now Pay Later fact sheet](#).

## **How a hardship variation will affect your credit report**

Getting a hardship variation will not fix any late payments that have already been reported to the consumer credit reporting agency, before you contacted the lender about hardship. These late payments will remain on your credit report for 2 years from the time of listing.

For more information about how hardship affects your credit report read our [Credit Reports fact sheet](#).

Consumer credit reports are different to commercial or business credit reports. We provide limited advice to small businesses affected by extreme weather events in NSW. Call our Credit & Debt Legal Advice line on 1800 844 949. You can also call the Small Business Debt Helpline on 1800 413 828, a free service for small business owners in financial difficulty.

## **How to ask for a hardship variation**

Don't be scared. Lenders make hardship variations all the time.

Phone or write to the lender to ask for a hardship variation. Keep a copy of the letter/email/text/chat. Make notes of what is said on the phone.

Contact the lender as soon as you think you are in financial hardship. You can use our [Request for Hardship Variation sample letter](#).

1. Explain why you are in financial hardship. For example, you are sick or lost your job.
2. Explain what variation you want. Be sure you can afford the variation you ask for. For example:
  1. Postpone your repayments temporarily.
  2. Reduce the amount of your repayments temporarily.
  3. Extend your loan and add arrears to the end.
  4. Reduce or freeze the interest temporarily.
  5. Waive default fees.
  6. Give you time to sell an asset to pay off the loan.
3. Have a plan for when you can go back to normal repayments. Make sure the loan or debt will be repaid in a reasonable time.

## Examples for making a hardship request

**I'm in hardship. I'm a builder and I lost my job when the company folded.**

I'm on Centrelink payments while I look for a new job and I can't afford my loan until that happens. Can you pause my payments for 6 months? Once I get a new job, I want the missed repayments added onto the end of the loan, so I can go back to normal repayments without worrying about catching up on the missed repayments.

**I'm in hardship. I need surgery and will be off work for 3 months while I recover.**

My partner is still working, and between us we will only be able to afford \$300 per week into the loan for those 3 months. Can you reduce my payments to \$300 per week for 3 months? After 3 months, we can afford to pay an extra \$50 per week on top of our normal repayments to catch up on the missed repayments.

**I'm in hardship. I've had a work injury and it's permanent.**

I have gotten some compensation but it's not enough to pay the mortgage down enough so I can afford the repayments. I can't go back to work, and I don't have enough superannuation to help. I won't ever be able to go back to normal repayments and I want a 6 month pause on payments so I can sell the home and pay out the loan.

## How your lender might respond

Many lenders must work with you if you are in financial hardship:

1. Banks, credit unions and building societies.
2. Members of the Mortgage and Finance Association of Australia.
3. Members of the Australian Financial Complaints Authority (AFCA). All consumer lenders and some business lenders are members. [Check AFCA's website to find your lender's contact details.](#)

Loans for personal use, like credit cards, personal loans, car loans and home loans (including homes for investment) are known as consumer credit. This means the National Credit Code generally applies, and your lender must consider your request for a hardship variation. This fact sheet covers these types of regulated debts.

Business loans are not protected by the National Credit Code, but some lenders are committed to following a code of practice. You can still ask for a hardship variation. The lender may also be part of AFCA, which is a free complaints service that you can go to if you don't think your lender's response is fair.

If you have other types of debts, like telco, utilities or council rates, [check out our online Debt Problem Solver](#).

## **Your lender might say 'yes'?**

If the lender agrees to your hardship variation, make sure you get their agreement in writing. The variation should state:

1. the amount and frequency of any repayments
2. any interest or fees that will be charged
3. the start date and end date of the variation
4. what happens when the variation comes to an end.

Make sure you do whatever you have said you would do during the variation, like making all payments on time. If you don't keep to the arrangement, the lender will be unlikely to agree to future requests for a hardship variation.

If you can't keep to the agreed variation, contact your lender. Ask for a new hardship variation.

## **Your lender might ask for more information**

Lenders may ask you for evidence of your hardship, like a doctor's certificate or termination notice.

Lenders may also ask for bank statements and evidence of income. They may also ask for a money plan or an income and expenses form. [A free financial counsellor can help you put this information together](#).

## **Your lender might suggest a different variation**

Lenders may suggest a different repayment amount or frequency than what you have asked for. For example, you may have asked to pay \$50 per week, but the lender suggests \$100 per week. Only agree to an amount you can afford to pay. A free financial counsellor can help you figure out your budget and how much you can afford.

Or, the lender may suggest a different time for the variation. If you ask for 6 months but the lender will only agree to 3 months, ask for a review at the end of the 3 months if you need more time.

## **Your lender might say â??noâ??**

If they say â??noâ??, keep paying whatever you can afford. This shows the lender that you want to get back on track. Your lender will be less likely to take legal action and even small payments can reduce the interest being added on.

If the lender is a member of ACFA, the lender must tell you:

1. why they have not agreed to your request
2. how to make an internal complaint (called internal dispute resolution or IDR)
3. that you have a right to complain to AFCA.

## **If the lender does not agree to your request for hardship variation**

1. Contact the lenderâ??s internal complaintâ??s department and ask them to reconsider. Ask them to put the account on hold in the meantime. [Find your lenderâ??s contact details on the AFCA website.](#)
2. If that doesnâ??t work, lodge a complaint with AFCA. AFCA is a free complaints resolution scheme. AFCA has the power to force the lender to agree to a reasonable hardship arrangement. You need to show AFCA why your hardship request is reasonable and that you can realistically afford future payments. [Make a complaint to AFCA.](#)

The lender cannot take any legal action against you while AFCA looks into your complaint.

3. If you are unsuccessful in AFCA, or your lender is not a member of AFCA, ring us for free legal advice on 1800 844 949.

## **Your lender might not respond at all**

For consumer credit, the lender must respond in 21 days. If they donâ??t, then:

1. Contact the lenderâ??s internal complaints department and ask them to respond to your request. [Find your lenderâ??s contact details via the AFCA website.](#)
2. If that doesnâ??t work, [make a complaint to AFCA.](#)
3. If you are unsuccessful in AFCA, or your lender is not a member of AFCA, you may be able to go to court. Get legal advice before you do this. Ring us for free legal advice on 1800 844 949.

## **If the lender is threatening to take you to court, act urgently.**

## Your lender may send you

1. a default notice
2. a threat of going to court
3. a Statement of Claim. You have limited time (varies in each state, but often only 21 or 28 days) to respond to a Statement of Claim. After that, the lender can apply for a court judgment against you.

You should:

1. Call or send a letter to the lender asking for a hardship variation, if you have not already.
2. If the lender is a member of AFCA, lodge a complaint. Do this before the lender gets a court judgment.
  1. If you lodge online with AFCA you will immediately get an email acknowledgment that the dispute has been lodged. The lender cannot start court action while you have an open complaint with AFCA. Get legal advice if there is already a judgment in place.
3. Regularly check your emails or mail for communications from AFCA.
4. Call us for legal advice on 1800 844 949.

## Need more help?

Other fact sheets you may find helpful

1. [Mortgage Stress](#)
2. [Financial Abuse and Family Violence](#)
3. [Buy Now Pay Later](#)
4. [Credit Reports](#)

For links to further services and information [visit our Useful Links page](#).

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