



**A cancer diagnosis can cause financial difficulty. Dealing with these issues early on, with professional advice, will give you the best chance of managing your finances.**

This fact sheet provides information for people who are having trouble paying their debts.

## Making payment arrangements

If you have debts that you can't pay, the best first step is to contact the person you owe money to (the creditor) and explain your situation. Sometimes, if you let them know that you or a family member has cancer, they may be able to help.

The creditor may agree that you can:

- stop making payments for a short time, such as 6–12 months
- make lower payments for a short time
- pay by instalments
- reduce the total amount owing
- waive the debt altogether.

However all these things can affect your credit rating, known as your credit report. See your credit provider to see if you can come to an arrangement.

If you come to an agreement, make sure you get it in writing. If you need help understanding any of the documents, talk to a lawyer. If you cannot come to an agreement, see the section *Hardship variations* below.

### tip

If the creditor agrees you can stop making payments for a short period, confirm that interest and fees will not be charged during the period.

## Special arrangements for electricity and gas debts

Most electricity and gas companies have a hardship charter. This means they must try to find an arrangement that works for you, such as paying a small amount each week.

If you come to an agreement to pay a small amount each week or each fortnight, and you keep paying that amount, your electricity or gas can't be cut off.

If your electricity or gas has already been cut off, contact the supplier to try and make a new arrangement. If you can agree on payments, they may reconnect you. You may have to pay disconnection and reconnection fees.

Be very careful of businesses advertising debt agreements to avoid bankruptcy, which can often be expensive. Always get independent advice from a financial counsellor before entering into a debt agreement or considering bankruptcy.

## Hardship variations

A hardship variation is a formal process where you ask your credit provider to vary the terms of your loan contract.

You have a legal right to ask for a hardship variation if you meet all of these conditions:

- your loan is for a personal purpose, not a business purpose (home loans, personal loans and car loans are all usually okay)
- you can reasonably repay the debt (maybe you are planning to go back to work, or your debt is reasonably small and you can pay it off over a longer term)
- you can't pay at the moment because of illness, unemployment or another reasonable cause.



## Dealing with debts

Hardship variations are for people who can reasonably repay their debt. This means that you will be able to repay the loan within a reasonable amount of time. If your financial hardship is long-term and you won't be able to reasonably repay the loan, you may need to consider other options including a compassionate grounds debt release, selling assets or as a last resort – bankruptcy.

You can ask your provider for reduced repayments or a complete hold on repayments until your situation has improved.

To request a variation write to the bank. If there is a nominated person or department that deals with financial hardship, then address your letter to that department.

The lender is required by law to respond to your request in writing within 21 days. If your application is refused, the lender must give reasons.

If you think the reasons provided are unfair, you can complain to an external dispute resolution (EDR) scheme. EDR is a way to get disputes decided by an independent party without any cost to you, and without going to court. Both the Credit Ombudsman Service Limited (COSL) and the Financial Ombudsman Service (FOS) provide EDR. You can only use the service that your credit provider has joined. You can contact COSL on 1800 138 422 and FOS on 1300 780 808 to find out if your credit provider is a member.

### tip

- Don't wait until you have fallen behind on your loan before asking for a hardship variation.
- Getting a hardship variation can protect your credit rating. If you get a variation agreement before your bank records it on your credit report and you are up to date with the lower repayments, then the bank can't later record it.

### Refinancing

Sometimes, unscrupulous lenders take advantage of people in financial difficulty. They might offer refinancing or debt consolidation deals that lead to more problems. Sometimes, they charge very high establishment fees and interest rates, and make the loan term very short, even for a big loan. This is called predatory lending.

Before you refinance, get independent advice from a financial planner or financial counsellor. If you think you have a loan with a predatory lender, contact the Cancer Council Legal Referral Service on 13 11 20 for more information.

### Selling assets

You might decide that you need to sell one of your assets to repay your debts. If you do decide to sell an asset, here are some things to keep in mind:

- If the asset is mortgaged (such as a home), you need to get the lender's written consent to sell it. Contact the bank before you put it on the market.
- Check if you will be charged any fees for repaying the loan early. This sometimes happens with fixed rate loans. If there are fees, you might want to use the sale money to pay off different bills and debts.
- Some assets don't hold their value well. For example, if you are selling your car to pay off your car loan, be aware that the money from the sale might not cover the outstanding loan amount.
- You may be able to negotiate a repayment arrangement while the asset is being sold.
- There might be tax implications associated with selling some assets



## Dealing with debts

### Debt release

In some special circumstances, you can ask the bank to write off (release) your debt altogether. This is rare, and is usually only an option for people who are on Centrelink for a long time, and have no assets except household goods and tools of trade.

A lawyer or a financial counsellor can help you apply to have your debts released. Contact Cancer Council Helpline 13 11 20 for more information.

### Other options

You might be able to get early access to your superannuation to pay off your debts. This is only available for certain types of debts, such as unpaid medical bills, or to prevent the sale of your home

Before accessing your super early, be careful to check your insurance entitlements. Many funds have insurance attached to superannuation accounts with premiums deducted automatically from your preserved amount.

If you withdraw all of your super, you may no longer be up to date with insurance premiums. For more information, see the fact sheet *Superannuation and Cancer*.

### If a creditor is taking you to court

- If you receive an official court document, like a statement of claim, it's important to get legal advice straight away. You usually only have 28 days to respond.
- You should never ignore a statement of claim. You may have the right to get the statement of claim put on hold and seek external dispute resolution (EDR). This may give you an opportunity to make a repayment arrangement and avoid judgment being obtained against you. If you don't respond, the creditor can get default judgment against you. This means that the court will order that you must pay the money to the creditor. If you don't, the creditor will be able to take some of your income and assets to repay what you owe.
- Sometimes, debt collectors can give you documents that look like a statement of claim, but aren't. This is fraud and it is against the law. If you are not sure whether the statement of claim you have received is genuine, see a lawyer.

### Where to get help and information

- Cancer Council Legal Referral Service 13 11 20
- Credit Ombudsman Service 1800 138 422
- Financial Ombudsman Service 1300 780 808

*This fact sheet provides general information, which may be relevant to SA only, and is not a substitute for legal advice. You should talk to a lawyer about your specific situation.*

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