

Dealing with debts

Information for people affected by cancer

A cancer diagnosis can cause financial difficulty. Dealing with any 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. For general information on managing your finances during and after cancer, see Cancer Council's booklet about cancer and finances.

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
- pay a reduced amount
- be excused from paying the debt altogether.

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

You should only agree to an instalment amount that you can realistically afford. If you come to an agreement, make sure you get it in writing.



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

If you need help understanding any of the agreement documents, talk to a lawyer. If you cannot come to an agreement, see *Hardship variations* below.

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

Special arrangements for electricity and gas bill debts

Most electricity and gas companies have a hardship program. 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 fortnight and you keep paying that amount, your electricity or gas cannot be disconnected.

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

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 the following conditions:

- your loan is for a personal purpose, not a business purpose (home loans within the relevant threshold, personal loans and car loans are all usually okay)

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- you can reasonably repay the debt (perhaps 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 this time because of illness, unemployment or another reasonable cause.

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 debt release on compassionate grounds, selling assets or, as a last resort, bankruptcy.

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

To request a variation, write to the credit provider. If there is a nominated person or department that deals with financial hardship, then address your letter to that person or 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 provide 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 an independent party to try to resolve disputes without any cost to you and without going to court.

Refinancing

You might consider refinancing to manage your debt. This involves replacing an existing loan with a new one, or extending your loan.

Sometimes unscrupulous or shady 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. The lender usually knows you won't be able to make repayments, but they can obtain fees, charges and interest from you. This is called predatory lending.

Before you refinance, seek independent advice from a financial planner or financial counsellor. If you think you have a loan with a predatory lender, speak to a lawyer or call Cancer Council 13 11 20 for more information.

Selling assets

You might decide that you need to sell one of your assets to repay your debts. 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.

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 have been receiving Centrelink benefits for



- 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 provider records it on your credit report and you are up to date with the lower repayments, the provider can't later record it.

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a long time and have no assets except household goods and tools of trade.

A lawyer or financial counsellor can help you apply to have your debts released. Call Cancer Council 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. Before accessing your superannuation 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*.

You might also be eligible for the Mortgage Relief Scheme, which is a Victorian Government program that helps people who are in danger of losing their home. For more information, visit dhs.vic.gov.au or see Cancer Council's booklet about cancer and finances.

Where to get help and more information

- Cancer Council 13 11 20 for Information and Support

If a creditor is taking you to court

- If you receive an official court document, like a statement of claim, it's important to obtain legal advice straightaway. You have only 28 days from the date the claim was served on you to respond or file a defence.
- You should never ignore a statement of claim. You may have the right to get the statement of claim stayed (put on hold) and lodge a dispute in an EDR. This may give you the opportunity to make a repayment arrangement and avoid judgement being obtained against you. If you don't respond within 28 days, the creditor can get a default judgement against you. This means 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, unless or until an application is made to have a default judgement set aside (which can be costly).
- Sometimes, dodgy debt collectors can give you documents that look like a statement of claim but aren't. This is a tactic used to frighten people who owe money to get them to pay the debt. 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 immediately.

Note to reader

This fact sheet provides general information relevant to Victoria only and is not a substitute for legal advice. You should talk to a lawyer about your specific situation.

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For information and support on cancer-related issues, call Cancer Council 13 11 20. This is a confidential service.