

12 MAKING ENDS MEET — MONEY PROBLEMS

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introduction

Making ends meet is a challenge most people face at some time and for people on a Centrelink income, this is usually a daily challenge. When money is tight, or debts have become a worry, it is probably time to seek help.

No matter what any creditor may say, you have rights. This chapter focuses on sources of information about your rights and your options to sort out common money problems. It also gives an overview of some of those options.

assessing the problem

Assessing the problem means working out your financial position. Fixing the problem will involve finding out your rights and then working out how to best manage demands on your income and what, if any, payments could be challenged, ignored or reduced.

To work out your financial position, it can help to make three lists. Starting on a positive note, list your income and assets. Assets are items of value, for example real estate or savings. Your list should show the worth of the asset if you were to sell it. Assets do not include ordinary household items such as bedding or refrigerators. Check that you are receiving all your entitlements from Centrelink (see Chapter 11, *Centrelink*, for more information about this).

The second list is for your expenses, which are all your living costs, such as accommodation, food, and travel. Your list of living costs should be as accurate as possible. This may mean looking up past bills for things such as phone and electricity, to work out exactly how much these services are costing you. If your income is paid weekly, it is best to list your expenses in weekly terms. If you are paid fortnightly or monthly, then your expenses should be listed using that time frame.

The third list is for creditors and should show the amount you owe for any loans, unpaid bills and outstanding accounts. You should note beside each debt whether anyone else also owes the money or has guaranteed the loan. Also, show whether the creditor can repossess any property if a loan is not paid and what the value of any property would be if it were sold.

At this stage you should have a clearer picture of your financial position and be in a better position to plan.

how to manage living costs

It is a good idea to try to work out which living costs are a priority for you. Priorities are items that you consider most important and that you must pay. For many people the priorities are shelter, food and clothing. Any leftover money is used for things such as getting around and going out etc.

There are schemes available to help you organise your priority living expenses and to help reduce the burden of needing to find large sums of money at short notice. The beauty of using these schemes for priority expenses is that you know that any money you have left over is available for non-priority items.

fixed instalment arrangements

Utility (gas, water and electricity) companies are obliged to provide their customers with payment arrangement options. This includes paying accounts by regular instalments instead of needing to find all the money when the bill arrives. These accounts are called 'Easyway plans' and have the advantage of allowing you to spread the cost of bills over a year, which is useful if your winter accounts are higher than your summer accounts. The provider of the 'Easyway plan' usually agrees not to disconnect you, provided you meet all the instalments on time and the instalments realistically cover your usage over a year.

informal instalment arrangements

Some suppliers, such as telephone service companies, will provide you with a payment card to enable you to pay some money as often as you choose against your next bill. These schemes can reduce the pressure of needing to find the total cost of the bill when it arrives. It is important that you keep your receipts for sums paid, as the bill may not show all the payments you made due to delays in processing or errors. Similarly, if you rent privately and you pay your rent directly into an account, your landlord may agree to let you deposit rent more frequently than by monthly payments. Contact companies to whom you pay money regularly to see whether they can offer this type of payment arrangement.

direct debit

It is possible to arrange to have certain bills and expenses paid directly from your Centrelink payment or your savings account without cost. Centrelink, through its agency Centrepay, can arrange fixed amount payments of public housing rental, utility company bills (water, gas and electricity) and telephone costs. Other organisations are also coming under this scheme, so check with them or Centrepay to see whether they can assist you. Direct debit of your bills or Easyway instalment payments through your bank account can also be arranged; however, the costs of this service will vary. Check with your other suppliers or providers to see whether they participate in direct debit and whether they carry the cost of doing so.

budget account services

Many financial institutions, such as credit unions, offer budget account services, where a sum of money is set aside from your regular income to meet selected bills as they arise. Some of these institutions charge a fee for these services: the costs can vary so it pays to shop around. These services offer the advantage of allowing you to plan to meet bills that you consider essential. However, sometimes bills end up being larger than originally expected, resulting in you needing to find extra funds to cover the shortfall. It is important to note that once you have committed yourself to budgeting for the selected bills, you will usually have to pull out of the scheme if you decide you need the money for something else.

concessions

Holders of Health Care Cards (and similar Centrelink cards) are entitled to receive a number of different types of concessions. These can include discounts on living costs, including certain winter gas and electricity bills, cost limits for certain prescriptions and concession travel on public transport. Centrelink can provide you with the leaflets produced by both the Victorian and Commonwealth governments that outline the concessions offered to cardholders. It is worth getting hold of these leaflets to ensure that you are making full use of your Centrelink card. It is also important to keep this card up to date, as a concession may be refused if the card has expired. Centrelink also provides some working people with a Health Care Card because they are on a low income or were out of work for a while before getting their current job.

what to do if you have debts

If you have debts and loans, your decisions about managing your financial problems will largely depend on your resources and the priorities you have set yourself. For example, if you are struggling to meet your essential living costs, then you will probably have a fairly limited ability to meet demands from creditors. However, if you are concerned to protect property or someone who has given a guarantee over your loan, you may place a priority on finding a way to meet loan repayments. Your options may also be helped or hindered by the attitude of creditors and their willingness to negotiate.

If you are having problems meeting repayments on a consumer loan, you have a legal right to request that your payments be varied to a reasonable amount. What is reasonable depends on factors such as the terms of the loan and your circumstances. A creditor that refuses to meet a reasonable request to vary commitments under a loan can have that decision overturned by the Victorian Civil and Administrative Tribunal (VCAT). Get advice if you think you could meet your loan commitments if your payments were varied.

In reaching a decision about what to do to manage your financial problems, it is important to understand what your creditors can do to attempt to recover money owed and to know what your rights are should this happen.

repossession

Creditors who have a loan secured to goods (known as a mortgage or secured loan) may seize those goods if you have breached an obligation under the contract, such as not paying the instalments. With consumer loans, the creditor must give you notice before it can seize the goods. This notice is intended to give you limited time to fix the problem. Once the goods are seized, you must also get notice saying, amongst other things, when the goods will be sold, in order to give you further limited time to fix the problem. If the sale price of the goods is not enough to cover the loan, the creditor will still be able to pursue you for the money still owing.

If you have a secured loan and are experiencing financial problems, you may have a right to vary the payments under the loan contract. It is important to get advice as quickly as possible.

legal action

A creditor wanting to recover money can sue you to get a court order confirming you owe the money (plus the legal costs of the action). This court order is known as a 'judgment' and enables the creditor to take various legal steps to recover the judgment debt. Steps can include having your valuable property seized and sold by the Sheriff, having money taken out of your wages or getting a court order requiring you to pay the judgment debt by instalments. The creditor may also have you declared bankrupt.

It is important to get advice about whether the creditor can take any of these steps against you, as there are limits on creditors trying to enforce judgment debts. This is because the old adage, 'you can't get blood out of a stone', is generally reflected in debt recovery procedures. If you are worried a creditor may sue you, get advice quickly. You may find that something can be negotiated to avoid legal action being taken (which will result in legal costs being added to your debt). Even if a creditor already has a judgment against you, it may be that your income and assets are protected. People who have judgments against them also have other options, including getting an instalment order or going bankrupt.

impact on other people

If other people have become involved in your debts and loans, your decisions about how to proceed may be influenced by the impact on them if you cannot or do not pay. People involved in your loans could be either a guarantor or a joint borrower. A person who has

guaranteed your loan (the **guarantor**) is someone who has promised your creditor to pay your debt if you do not pay. The creditor can pursue your guarantor for the debt, including any costs of attempting to recover the money from you or from that guarantor. If your guarantor has given a mortgage over assets, the creditor can also seize those assets if the debt is not paid.

A **joint borrower** is someone who signed the contract with you, as you are both borrowing the money and therefore both agreeing to be fully responsible for paying the total amount lent. Joint borrowers are equally responsible for the entire loan, meaning that a creditor can choose to pursue either or both to enforce the debt. Because both borrowers are responsible, it is irrelevant if one party feels that they have ‘paid their share’. If you have problem debts and loans where other people are involved, you should get advice quickly about the impact on them.

impact on you

One of the main impacts of falling behind with loan repayments or failing to pay debts is that these matters may be listed with Baycorp Advantage. Baycorp Advantage runs a credit file system which money lenders may consult when deciding whether to give you a loan. Your credit file will show if your creditors have listed you as having defaulted on a loan. It will also record information about court orders made against you and whether you have gone bankrupt.

Information remains on your file for five years (but a bankruptcy listing can be held for seven years). Your credit file will also list any loans or credit cards you have applied for, but will not show whether you actually went ahead and borrowed that money. You can arrange to obtain a copy of your credit file by contacting Baycorp Advantage on 1300 762 207 or write to: Baycorp Advantage, Public Access Division, PO Box 964, North Sydney NSW 2059. If you have concerns about information on your credit file contact the federal Office of the Privacy Commissioner on 1300 363 992, or consult a financial counsellor.

This chapter cannot describe all the other implications of decisions that you make about how to deal with your creditors. You should get advice about your individual situation and the impact of any options that you may want to exercise.

coping with pressure from creditors

When a creditor contacts you about overdue payments or non-payment of a bill, it is important not to panic and not to simply agree with anything the caller says to you. If it is not a convenient time for you to talk or you do not feel ready to discuss your situation, ask the caller to ring you at a nominated time and telephone number. If you are trying to work out how to best manage your financial situation, explain this to the caller and let that person know when you think you will be in a position to discuss your situation. If you have arranged an appointment with a financial counsellor or other adviser to get advice about your situation, you may find that the caller is willing to wait until after your appointment before discussing matters with you.

A creditor must not engage in undue harassment of a person in the course of attempting to recover a debt. Undue harassment can include making threats, as well as persistent contact at unreasonable intervals, times or places. You are entitled to ask a creditor to only reach you at particular numbers or times and not to contact you at work or at certain times. If you believe that a creditor is unduly harassing you, consult a financial counsellor or community legal service for advice.

avoiding problems in dealing with creditors

When you are having trouble making ends meet, it is very easy to panic and do something that cuts off your options at a later stage. The following tips may help you avoid mistakes that people under financial pressure commonly make.

Act quickly. If you delay you can lose control of the situation because a creditor might take steps that deprive you of choices. The sooner you act, the more likely it is that you will have a say in what you would prefer to have happen.

Get advice. The information contained in this chapter is very general. You need information, from someone reliable and trained in this area, that is specific to your situation.

Watch out for sharks. When you are in financial difficulties, organisations may contact you offering, for a fee, to help negotiate with your creditors or restructure your debts. They often get your contact details from court lists after you have been sued. Some of these organisations can be trusted, but others should be avoided. Before you sign up with a fee for service agency, check with Consumer Affairs Victoria on 1300 558 181 and follow up references. Also get legal advice about any agreement you are invited to sign.

A consolidation loan may not be the answer. A consolidation loan is a loan taken out to pay off a number of debts, so that there is just one payment to worry about instead of several. The payment may even be lower than the combined payments of the loans that were consolidated. However, there are a number of disadvantages with consolidation loans. You may end up paying a higher rate of interest than before, especially if your consolidation loan paid out bills or debts that were interest-free. Even if the interest rate is the same, you may end up paying more dollars because you are paying over a longer period of time. In addition, the lender may not agree to the debt consolidation loan unless you can provide security, such as a guarantor, which would mean dragging someone else into your financial problems and putting them at very real risk of having to pay if you cannot.

Don't make offers to creditors unless you are sure you can afford to meet the arrangement in the long term. It is often easy to work out a payment you can afford for now and even the next few months. However, if the arrangement breaks down because you forgot about some big expenses due six months down the track, you will probably find the creditor is not willing to negotiate next time around. Before you make any offers be sure that you have considered your total financial position and have planned how you will meet all your commitments.

It is not in the creditor's interest to explain your rights to you. Just because a creditor tells you that something bad may happen doesn't mean that this is true. Keep a level head if a creditor threatens you or gives you a deadline to come back to it, and say you will respond after you have taken advice.

Pawnbrokers can be a very expensive form of credit. For example, if you pawn your video for \$50 and reclaim it two weeks later for \$60, you are paying the equivalent of over 1000% interest per annum. Worse still, if some emergency arises and you can't repay the money on time you risk losing your goods. If a crisis arises and you need small amounts of cash, you may be better off contacting emergency relief agencies (see Chapter 13, *Emergency Relief and Material Aid*).

getting help

financial counsellors

For free, independent, expert advice about debts, budgeting and the debt recovery system, including bankruptcy, contact a financial counsellor. Financial counsellors provide paralegal advice on credit, debt and some finance-related consumer issues, such as banking and insurance problems. You will receive information about your rights and options for managing your situation and, where appropriate, the financial counsellor can act as a negotiator and provide assistance related to the advice given.

Financial counselling services are usually provided by appointment only and are located throughout suburban Melbourne and in regional areas of Victoria. To be directed to the service nearest to you, telephone the Financial and Consumer Rights Council on 9663 2000 or 1800 134 139 (toll free number available between 10 am and 4 pm, Monday to Friday) or go to their website at <www.fcrc.org.au>. There is a constant demand for these services so you may not be able to get an appointment straight away.

telephone advice

The Consumer Action Law Centre has a statewide telephone advice service that provides free, independent telephone advice to consumers and consumer advocates on debt and credit-related problems. The Consumer Action Law Centre provides telephone advice only and does not represent individual clients. Callers will be referred to appropriate agencies for further assistance and representation as required. The Consumer Action Law Centre legal advice line can be contacted on 9629 6300, or on 1300 881 020 for country callers.