

Financial Hardship and Family Violence

Warning: This factsheet contains information relating to domestic violence that may be triggering. If you need support, contact 1800RESPECT on 1800 737 732.

Financial Hardship describes when you are struggling to pay your bills and expenses when they are due. You have the legal right to ask for hardship assistance for consumer credit, like credit cards, personal loans, mortgages or car loans.

If you have a joint account, **you do not need the permission of the joint account holder** to apply for a financial hardship variation.

Financial Hardship Variations

Some situations in which you might need financial hardship assistance include:

- I need to pause repayments while I sell my house or car, and can pay off the loan when I sell;
- I think I can start making repayments in a few months, but can't afford them now;
- I can't afford the repayments, but I can pay a smaller amount over a longer period;
- I need to deal with missed repayments by paying extra, or by extending the term of the loan;
- I can't afford the repayments and I will never be able to.

Based on your situation, you might ask for:

- A 'moratorium' or pause on repayments;
- A pause on interest or a reduced interest rate;

- Time to sell an asset eg a car or a home;
- Reduced repayments for a fixed amount of time;
- A reduction in the amount that you have to pay, partially or completely;
- Waiving interest or fees;
- Removing you from responsibility for the loan;
- Refund;
- Compensation;
- Not listing negative credit information or removing negative credit information.

Generally, lenders will approve 3 to 6 months of hardship assistance at a time before reviewing the situation, unless a permanent variation or waiver is approved.

If you need help in making an application for financial hardship, or deciding what sort of request you should make, you can get free, confidential assistance from a financial counsellor or a community legal centre.

Applying for a Financial Hardship Variation

It is recommended that you have a safety plan in place, developed with a domestic violence support worker, before seeking a financial hardship variation for a joint account with your ex-partner.

If you have been through a relationship breakdown, experienced domestic violence, had to relocate or had access to your bank accounts restricted, this is relevant to your financial hardship application.

A lender is not legally required to approve a financial hardship variation request. One reason for refusal is that there is no reasonable cause for being in financial hardship. Experiencing a relationship breakdown or family violence **is** a reasonable cause for financial hardship, as this can be expected to impact your income and financial position.

Most lenders have internal policies about family violence. Larger lenders may have specialised teams, and you can ask for your application to be assessed by a staff member who has experience with family violence matters.

If the lender doesn't have a specific family violence team, you can ask for your matter to be escalated to a priority team and to have a case manager assigned to you, so you do not have to repeat your story to multiple staff members.

While you can make a request for financial hardship verbally, it is recommended that you make the application in writing, so you have a record of the information you have provided and requests you have made. You can choose to, but are not obliged to, provide supporting documents about family violence such as an Apprehended Domestic Violence Order (**ADVO**) or intervention order. You do not need to provide specific details of abuse you have experienced.

Financial Hardship Information is displayed on your credit report for one year. For more information, please see our Fact Sheet: **Fixing your Credit Report after Financial Abuse**.

If you are worried that seeking financial hardship on a joint account will risk your safety, you can ask the lender not to notify the joint account holder, not to pass on your details, and not to report this on your credit report or your ex-partner's credit report.

Timeline for Financial Hardship Applications

When you ask for a hardship variation:

1. If the lender can decide the application based on the information provided, they must decide within 21 days;
2. If the lender requires further information, they must request it within 21 days;
3. You must provide any relevant information they request; and
4. The lender has to respond within 21 days of receiving additional information.

You can ask for an extension, but generally must provide information within 21 days.

If you do not provide the requested information requested, the lender must decide within 28 days of their request.

The lender cannot take debt collection action for **14 days** after refusing a hardship variation, unless you had made a separate request in the last **4 months**.

If the lender refuses your application, they must give you reasons. You can appeal internally (seek internal dispute resolution) and externally (external dispute resolution, generally through the Australian Financial Complaints Authority). Please see our Fact Sheet: **Complaints and External Dispute Resolution (EDR)** for more information.

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This factsheet is not a substitute for legal advice. If you have a problem, please contact Redfern Legal Centre at www.rlc.org.au/contact or phone 02 9698 7277.