

Legal Approaches to Resolving Financial Abuse

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

Financial or economic abuse, a type of domestic violence, involves using money to control a partner. Actions may include your partner getting loans or fines in your name, limiting access to money, or selling jointly-owned property without your knowledge. There are different legal pathways that can help resolve these issues, and using both at the same time can be more effective.

Family Law Pathways

Under the Family Law Act, family violence is a relevant factor in parenting and financial (property) cases.

In financial cases, family violence is relevant, particularly when a person's contributions were made more difficult because of the violence.

In parenting cases, the need to protect children from being subjected or exposed to family violence is a primary consideration in determining the best interests of the children.

Possible Family Law Outcomes

A family lawyer can help you with negotiations, mediation or going to Court about parenting, property, spousal maintenance or child support.

Family law cases are heard in the Federal Circuit and Family Court of Australia. The types of orders the Court can make include:

- Superannuation splits
- Transfer of assets (e.g. a car or a house) from one party to another
- Payment of money from one party to another
- Sale of assets
- That one person pay the mortgage until the house is sold or transferred
- Spousal maintenance
- Reversing a transaction, such as a transfer of property
- Care and responsibility for children

The application you make will depend on your situation. You should talk to a family lawyer about anything that is causing you particular stress, to see if something can be done to address the situation.

Credit & Debt Pathways

Civil law may help you resolve your debts and financial matters by getting an outcome against your ex-partner, or a third party like a bank or lender.

Many banks, lenders and agencies have legal obligations and policies for dealing with financial hardship and customers who have experienced family and domestic violence. These can usually be found online and can be used to support your request for the outcome you want.

Credit & debt pathways include:

- Applications to reduce or waive a debt because of financial hardship (See our Fact Sheet “**Financial Hardship and Family Violence**”)
- Applications to cancel a debt because the lender breached the law, guidelines or policies
- Requests that fines be withdrawn or written off (waived)
- Applications to recover money from individuals or companies through the courts.

Possible Credit & Debt Outcomes

- Loans and Bills:
 - Reduction of amount to pay
 - Waiver or pause on interest or fees
 - Removal of name from account
 - Cancellation of account
 - Pause on repayments
 - Payment plan
 - Refunds and compensation.
- Fines:
 - Payment plan
 - Withdrawing or writing off the fine.
- Credit reporting:
 - Removal of default listings or credit enquiries
 - Amendments to repayment history information
 - Removal of loan accounts.

See our Fact Sheet “**Fixing your Credit Report After Financial Abuse**” for more information.

Financial Abuse Service NSW

The Financial Abuse Service at Redfern Legal Centre offers tailored appointments with a family lawyer, credit and debt lawyer, or both.

This collaborative approach brings together experts in different areas of law to provide holistic advice about pathways for resolving your legal problem.

Julie’s Story

Julie was married for 9 years and has a young child. She experienced significant family violence throughout her relationship. RLC helped Julie with a safety plan to leave her husband and move out of the family home and into a rental property. Her husband was charged with family violence offences.

Julie’s husband stopped making payments on the mortgage and the bank chased Julie for the arrears. The bank threatened to take possession of her house and sell it to pay the mortgage. Julie could not afford to make mortgage payments or pay the arrears.

RLC started a court case on Julie’s behalf. The Court ordered that Julie’s husband pay the mortgage until the property is sold, and that Julie receive the funds from the sale of the home.

This meant the mortgage arrears stopped increasing, and Julie avoided the extra costs of a mortgagee (bank) sale, meaning more money was left over from the sale for her and her children.

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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.