

Factsheet No. 27

Harassment by Debt Collectors



This factsheet looks at the law covering debt collection practices in New South Wales, Australia.

- When can a debt collector visit me at home?
- When can a debt collector visit me at work?
- What a debt collector can do?
- What can't a debt collector do?
- Things you can do if you are being harassed by a debt collector.

There are limits on what debt collectors can do when they are pursuing you for a debt. In this factsheet we list some of the problems people experience with debt collectors and outline the protections the law offers you.

When Can a Debt Collector Visit Me at Home?

A debt collector is allowed to communicate with you by visiting you at home. However, personal visits should not be used as the first contact, or to intimidate or harass you. Initial contact should be by either mail or telephone.

The ACCC / ASIC Guidelines on debt collection state that a debt collector should only attend your home between the hours of 7.30am and 9pm (though this law is being reviewed and might change shortly). Debt collectors are not allowed to make contact with you on Sundays or public holidays. The debt collector should leave your home as soon as you ask him or her to.

A debt collector must not leave any notice stating the name of the debt collector that s/he is a debt collector or give any other information that would tell a passer-by that a debt collector has visited you at home.

When Can a Debt Collector Visit Me at Work?

Debt collectors should only contact you at work as a last resort or if you have expressly asked to be contacted at the workplace.

Debt collectors should handle all workplace collection inquiries with discretion and ensure that no one else is aware of the purpose of their visit.

It is against the law for the debt collector to disclose, or cause to be disclosed, to your employer the fact that you are in debt unless you agree to this or it is required for the debt collector to perform a legal process involving your employer (e.g. a garnishee on your wages).

Debt collectors should leave the workplace upon request.

What a Debt Collector Can Do

Debt collectors **are allowed** to make reasonable efforts to contact you. However, they **cannot** use physical force or undue harassment or coercion. A debt collector **can** make reasonable demands on more than one occasion, for the purpose of reminding you of your obligation and drawing your attention to the likelihood of legal proceedings if payment is not made. A debt collector **cannot** though, intimidate, demoralise or exhaust you through the frequency or nature of their approaches to you, or the content of the letters or nature of phone calls they make to you.

A debt collector **can** threaten to take you to Court to recover the debt and advise you of the additional cost and damage to your credit rating from being taken to Court to recover the debt.

The debt collector **cannot**, though, say or do things which are intended to intimidate or threaten you, such as threatening criminal proceedings (as distinct from civil proceedings), or the immediate seizure and sale of your house or belongings.

In deciding whether or not a debt collector has acted lawfully in demanding payment, consideration will be given to:

- the language the debt collector used,
- the time and place at which the demand for payment was made, and
- whether or not the debt collector misrepresented or exaggerated what would happen to you if you did not pay.

What Can't a Debt Collector Do?

In addition to the things a debt collector **cannot** do mentioned above, debt collectors are **not allowed** to:

- use threatening, aggressive, personally abusive or obscene language;
- convey the demand to uninvolved family members, particularly your children;
- convey the demand through a third party in order to embarrass you when you could reasonably have been the subject of a direct communication;
- have excessive contact with you;
- make correspondence look like a court document when it is not one to mislead you into paying the debt;
- demand you pay enforcement costs (unless the debt collector is repossessing property you purchased using a mortgage where you failed to meet the repayments under the mortgage). For more information on repossession, see our factsheet [Repossession of Motor Vehicles](#); or
- charge unreasonable costs.

If a debt collector harasses you (for example by doing one of the things mentioned above), you should consider putting your protest in writing to the debt collection company itself.

If this does not stop the harassment you should contact either the Office of Fair Trading or the ACCC. If you need advice on to how proceed with a complaint contact your nearest community legal centre or the Legal Aid Commission.

You should also seek advice from a free financial counsellor about ways in which you can negotiate with debt collectors. You can contact a free financial counsellor on the phone through the National Debt Helpline on 1800 007 077. Financial counselling is always a free service. Don't pay money to for profit "debt help" or "budget repair" companies. See RLC's factsheets on negotiating with creditors and financial hardship for further guidance.

Produced by Redfern Legal Centre.

This factsheet is a guide to the law in New South Wales, Australia. It is not a substitute for legal advice. If you have a legal problem seek legal advice from your local community legal centre or legal aid office.

January 2017

Things You Can Do If You are Being Harassed By a Debt Collector.