



Debt and debt collection

This fact sheet has information on what debt is, what debt collectors can and cannot do, and how Legal Aid WA can help with debt problems.

What is debt?

Debt is money that is owed to another person or organisation, through an agreed contract.

Contracts can be written or spoken.

A person or organisation in debt is called a debtor.

A person or organisation that is owed money is called a creditor.

Who is a debt collector?

Sometimes a creditor will ask someone else, called a debt collector, to recover overdue debts.

A debt collector can be a person from a credit or service provider, or from a debt collection agency.

What can debt collectors do?

Debt collectors can do a number of things to recover overdue debts, but there are laws and guidelines about their powers.

For example, there are laws about:

- » when and how they can contact a debtor, and
- » what they must do if the debtor disputes owing the debt.

Debt collectors also have a responsibility to provide information and documents to the debtor.

“There are laws about when and how a debt collector can contact a debtor.”

When and how can a debt collector contact you?

If you are in debt, a debt collector can contact you by telephone between:

- » 7.30am and 9.00pm Monday to Friday, and
- » 9.00am and 9.00pm on weekends.

They can also visit you face to face between:

- » 9.00am and 9.00pm

but they can only do this once a month.

Debt collectors should not contact you more than three times in a week.

If a debt collector contacts you more than three times in a week, it could be harassment.

Debt collectors can contact your family and friends but must not breach your privacy.

Your family and friends do not have to give the debt collector any information or agree to contact you.

This fact sheet contains information only. It is not legal advice. If you have a legal problem, you should speak to a lawyer. Legal Aid WA aims to provide accurate information but does not accept responsibility if it is not.

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“The person or organisation that says you owe the debt must prove it.”

What should a debt collector do if you dispute owing the debt?

If you tell the debt collector that:

- » you are not the alleged debtor, or
- » you never had the debt, or
- » the debt has been settled,

the debt collector should suspend collection activity.

You do not have to prove you are not responsible for the debt, and it is misleading if the debt collector tells you this.

The person or organisation who says you owe the debt must prove it.

The debt collector should provide you with enough proof to identify how the debt arose and why you are responsible.

What can you do if a debt collector harasses you?

You can make a complaint to the:

- » Australian Securities and Investments Commission, or
- » the Australian Competition and Consumer Commission

if a debt collector has not followed its obligations under the law.

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You can make a complaint if a debt collector has not followed its obligations under the law.

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How can Legal Aid WA help?

Legal Aid WA can provide advice but unfortunately, we cannot help businesses with debt problems.

Call Legal Aid WA’s Infoline on 1300 650 579 and ask to speak with the Civil Law Division for assistance.