

## Debtor Harassment

If you have fallen behind in payments, a bank, finance company, service provider or creditor may hand your debt over to a debt collector. If you are legally bound to pay or repay money, you are expected to meet that obligation.

Debt collectors are able to take reasonable steps to arrange with you the repayment of a debt, however, there are things that they cannot do and it is important that you know your rights.

### What is Debtor Harassment?

Debtor harassment is where a debt collector resorts to bullying, bluffing, misrepresentation, stand over tactics or any unfair or intimidating behaviour.

### Where is it regulated in the law?

Where the law regulates corporations:

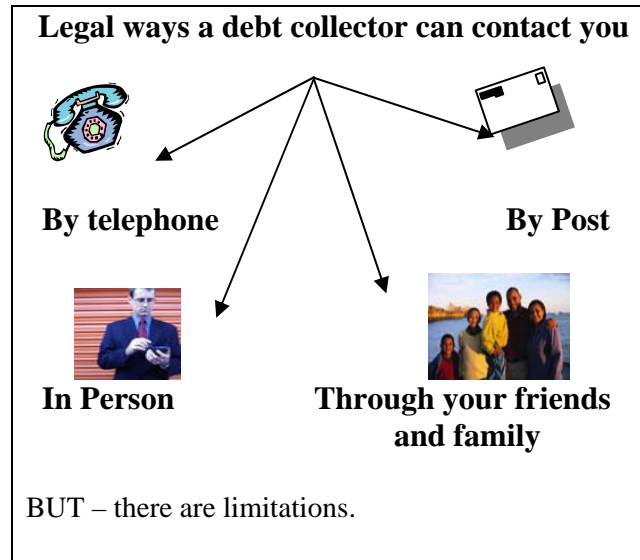
- Debtor harassment is regulated by section 52 of the Trade Practices Act 1974 which states that debt collecting agency “shall not use misleading or deceptive conduct”.
- Section 60 of the Trade Practices Act 1974 states that debt collecting agencies “shall not use physical force or undue harassment or coercion”.

Where the law regulates individuals:

- Section 50 of the Fair Trading Act 1989 states that a debt collector cannot use physical force or undue coercion or harassment.
- Section 12DJ of the Australian Securities and Investment Commission Act 2001 states that a person cannot use physical force, harassment or coercion in connection with the supply or the payment for financial services by a consumer.

## What can the debt collector do?

The debt collector has a right to contact a debtor to make arrangements to collect a debt.



## What the debt collector cannot do



There are many limitations on the way that a debt collector can contact you about your debt:

### **1. Reasonable Time**

Debt collectors cannot contact you at unreasonable hours. Any time between 9pm and 7:30am is usually unreasonable.

### **2. Reasonable places**

#### *Personal visits*

Generally, a collector should not use a personal visit as the initial step in communicating with you, and personal visits should not be used if other, less intrusive means of communication are available. Debt collectors are not allowed to visit you in person at usual places such as clubs, restaurants or pubs, unless you have not given them an alternative way to contact you. If a debt collector visits you at your home or workplace and you do not want them to visit you there, you can give them a telephone number to contact you on.

#### *Friends and Family*

If debt collectors don't know how to contact you, they may contact your family and friends to find out where you are. However, they should not discuss your debt with others without your permission. Your family and friends are not liable for the debt and do not have to tell them where you are.

### **3 Frequency**

Collectors should contact you only when necessary and this is usually not more than three times a week. If they contact you by telephone, this should not be more than three calls you answer.

Debt collectors should not remain near your home or workplace for an extended length of time to try and intimidate or embarrass you or

make you feel that they have placed you under surveillance.

Other things debt collectors cannot do are:

- threaten you with legal action that they are not legally permitted to take;
- mislead you about who they represent, the amount of money owed, and the consequences of non-payment;
- disclose loan information to third parties such as work colleagues, neighbours and family members;
- threaten to disclose information to child welfare agencies, social security agencies and immigration agencies;
- threaten you with violence or physical force to property; and
- use abusive, offensive or discriminatory language.

### What can you do?

Writing to the collector can be effective. If it is a particular type of contact you want to stop, say what it is and also say what would be acceptable, for example, calling you at home instead of work. Keep a copy of the letter.

Always keep accurate details about what has been said and done in case you need to make a complaint.

Complaints about collectors can be made to:

- The Office of Fair Trading
- The Australian Securities and Investment Commission (ASIC)
- The Australian Competition and Consumer Commission (ACCC)

If you need help or advice with your financial situation you should talk to a free financial counselling service such as Lifeline.

This pamphlet only provides general legal information. You should always seek legal advice about your particular problem. Further advice can be obtained from Legal Aid Queensland or from Queensland Public Interest Law Clearing House (QPILCH)

### CONTACTS

**QPILCH:**  
(07) 3012 9773

**Legal Aid :**  
1300 651 188

**Lifeline Financial Counselling Service:**

**Springwood**  
(07) 3209 3622  
**Chermside**  
(07) 3861 4400  
**Woodridge**  
(07) 3209 3622  
**Bowen Hills**  
(07) 3250 1900

**Office of Fair Trading:**  
1300 658 030

**ASIC Infoline**  
1300 300 630

**ACCC Infocentre:**  
1300 302 502

# Debtor Harassment



*Are you being harassed  
about your debts?*

*Are debt collectors  
calling you for money?*

*Know your rights!!*