

FS12B Debt collection: prohibited debt collection - seeking compensation in VCAT

Use this fact sheet if you:

- are being hassled by a debt collector; or
- think that a debt collector or a creditor might be acting unfairly

Key messages:

- You can seek compensation in some circumstances where you have suffered **humiliation or distress** as a result of a prohibited debt collection practice.

The [Victorian Civil and Administrative Tribunal \(VCAT\)](#) may award damages of up to \$10,000 where a person has experienced **humiliation or distress**:

- due to a course of conduct (conduct which occurs on at least two occasions);
- in contravention of the prohibited debt collection practices under the [Fair Trading Act 1999 \(Vic\)](#); and
- where the debt is a consumer debt (a debt which was incurred wholly or predominantly in connection with personal, domestic or household purposes).

You may also be able to seek compensation for other breaches of the *Australian Consumer Law*.

How do I claim compensation in VCAT for humiliation and distress caused during debt collection?

Step 1: Send a letter to the debt collector or creditor demanding compensation (an example is provided below)

Step 2: Lodge your complaint with VCAT

Getting advice about your claim

Before sending a letter of demand or making a complaint to VCAT, you should make sure you have a reasonable claim and that you understand all of your rights.

If your debt relates to a credit contract or lease, you may wish to consider making a complaint through the Financial Ombudsman Service or the Credit Ombudsman Service Limited before taking action in VCAT (see our factsheet:).

If you have suffered a significant injury, you need to consult a personal injury lawyer urgently.

Warning: This fact sheet is for information only and should not be relied upon as legal advice. This information applies only in Victoria and was updated in 2 March 2011.



FS12B Debt collection: prohibited debt collection - seeking compensation in VCAT

Sending a letter of complaint

Before you make your complaint to the VCAT it is best to send a letter making your demands directly to the debt collector. A sample letter is reproduced below.

It is a good idea to send a copy of your complaint to the Regulators (details below) to alert them to any unlawful debt collection practices that you have experienced.

Lodge your complaint with VCAT

For information about how to make a complaint to VCAT, see our [factsheet](#).

Do not be intimidated by the thought of making an application to VCAT, it is not like a Court and is generally designed for consumers to use without legal representation.

Seek help if you do not understand something, or you are concerned about having to deal directly with the debt collectors again.

Sample letter

Your Name
Your Address

Name of debt collector
Address

Date

Dear Sir/Madam

Re: Account [details]

I am writing to complain about your debt collection practices.

I consider the following actions to be prohibited debt collection practices:

Example 1

You continued to contact me without lawful reason when I had asked you in writing to stop all communication with me.

Warning: This fact sheet is for information only and should not be relied upon as legal advice. This information applies only in Victoria and was updated in 2 March 2011.



FS12B Debt collection: prohibited debt collection - seeking compensation in VCAT

Example 2

You communicated with me in a manner that was unreasonable in its frequency, nature or content by [provide details of unreasonable communication].

List the actions or statements that you believe to be unfair/illegal. Include dates and the names of staff members if possible.

These actions have caused me considerable humiliation or distress.

Please pay to me the amount of \$ [...] in compensation for the humiliation and distress caused. [If applicable, I have also suffered a loss of \$[...] as a result of [insert details of loss].

Yours sincerely,

Your Name

CC: Australian Security and Investment Commission,
Australian Competition and Consumer Commission
Consumer Affairs Victoria

Free Advice & Assistance

Consumer Action Law Centre

Legal Advice line

Telephone: (03) 9629 6300, or 1300 881 020 for country callers.

Email: advice@consumeraction.org.au

Mon – Fri 10.00 am – 5.00pm

Free telephone and email advice regarding credit and debt and consumer law matters

Warning: This fact sheet is for information only and should not be relied upon as legal advice. This information applies only in Victoria and was updated in 2 March 2011.