

How do I get more information about my loan

Use this factsheet if you:

- Have lost or misplaced your loan documents;
- Want to find out how much money you owe and why you owe it;
- Need more details about an old debt; (Refer to Consumer Action Law Centre fact sheet '*Do I have to pay an old debt?*' for more details on old debts as you may not have to pay); or
- Want to pay out figure, that is the amount of money you need to pay to clear the debt.

When asking for information you do not have to:

- explain why you do not have the documents;
- explain why you want the documents; or
- get the consent of any co-borrower(s)

Do I have the right to ask for documents and information?

You can request copies of documents relating to your loan contracts. In most cases credit providers are obliged to provide you with copies of your loan contracts as well as some other information upon request. The Consumer Credit Code covers most consumer credit contracts and states that the credit provider must give you copies of certain documents if you ask for them.

Sometimes the person who contacts you to ask for payment of a loan will be a debt collector rather than the credit provider. You have the same rights to documents and information if a debt collector is involved.

When you have your loan documents and account statements you will be able to check what you signed, work out your financial position, and get advice about your rights.

What documents and information can I get?

If you are a borrower, mortgagor, or guarantor, under most consumer credit contracts the credit provider is obliged by law to give you the following documents on request:

- Copies of:
 - your loan contract,
 - your guarantee contract,
 - your mortgage contract,
 - any credit related insurance contracts that the credit provider holds (eg loan insurance, or car insurance), and

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- any notices that have been given to you under the Consumer Credit Code (eg a default notice – when the creditor sends you a letter saying that you have not paid the money you owe).
- A statement of:
 - the current balance of your account,
 - any amounts that have been credited or debited during the time you specify in the request,
 - any amounts currently overdue, and the date when they became overdue,
 - any amount that is currently payable and the date that it became due.
- A loan payout figure, with details of all the items that make up the amount (eg interest and fees).
- If you dispute any amounts that have been credited or debited on your account, the credit provider must provide reasonable written details of how that credit or debit arose. You need to request this information within 30 days of receiving the statement of account which shows the disputed credit or debit.

How do I ask for this information?

It is usually best to *write* to the credit provider or debt collector to ask for copies of loan documents and other information. You can use the following sample letter as a guide.

Sample Letter

Date

Dear Sir/Madam

Your Name:

Account details:

Please provide the following information about the above account:

1. Copies of all documents relating to the above account pursuant to section 163(1) of the Consumer Credit Code ("the Code") including:
 - the credit contract, mortgage or guarantee
 - any credit-related insurance contract in your possession
 - any notices you have sent to me

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2. A statement of amount owing in accordance with section 34(1)(a) - (d) of the Code setting out:

- the current balance of the account,
- any amounts credited or debited during the period (*state period – this might be the entire period, ie "from the date the contract was entered to the date of this letter"*)
- any amounts overdue and when each such amount became due
- any amount payable and the date it became due.

3. A statement of pay out figure as at (*insert the date you want*) with details of items which make up that amount in accordance with section 76 of the Code.

I look forward to receiving the above information and documentation within the time limits specified in the Code.

If a default notice has been served or other enforcement action has been commenced, insert the following paragraph.

I/We request that you hold any action in relation to the subject account until at least [14] days after the documentation requested has been received to allow me time to seek advice. If you are unable to agree to this request kindly advise immediately and I/we will take steps to protect my/our position.

Please note that in requesting the above documents, I/we am/are not acknowledging liability for any amount alleged to be outstanding on the loan.

Yours faithfully

(Your Name)

Before you write to the credit provider or debt collector, think about which documents you need. For example, you might need loan statements from the last 2 years, instead of statements covering the history of the account.

When will I get the information?

The credit provider or debt collector should send the information to you:

- within 14 days (if you are asking for information that is less than a year old);

Or

- within 30 days (if the information is more than a year old).

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If the credit provider does not provide you with the information within this time, or refuses to give you the information, you can:

- complain to the appropriate industry external dispute resolution scheme (see the free advice section of this fact sheet);
- complain to Consumer Affairs Victoria; or
- apply to the Credit List of the Victorian Civil and Administrative Tribunal (VCAT) for an order that the credit provider must give you the documents.

Contact Consumer Action Law Centre for more information on applying to VCAT. Note that if you are requesting statements of amounts owing, the credit provider is not obliged to provide further copies if it has already provided you with statements in the past 3 months.

How much will getting information cost me?

A credit provider can charge a fee for providing information and documents, provided the contract allows such a fee to be charge. Most contracts do say that a fee will be charged - this is often a \$dollar amount per page.

What if the credit provider or debt collector is threatening legal action?

If a credit provider sends you court papers – usually called a *Form 4A Complaint* or a *writ* – get advice as soon as possible. If you do nothing a court judgment will be entered against you. If a credit provider or debt collector has threatened legal action, you should ask the credit provider or debt collector to stop/hold any legal action while they respond to your request for information. If the credit provider or debt collector refuses to stop/hold legal action, get advice from the contacts listed as soon as possible.

What if the Consumer Credit Code does not cover my loan?

If the Consumer Credit Code does not apply, you can still ask for a copy of your documents. In some cases you may still have a right to obtain a copy of your documents. If the Consumer Credit Code does not apply and the creditor has refused your request for documents, seek advice from the contacts below.

Further information and assistance

Financial and Consumer Rights Council

Ph: (03) 9663 2000, or 1800 134 139 for country callers

To find your local financial counsellor who can give free advice and assistance with credit and debt problems, negotiating with creditors and budgeting.

www.vicnet.net.au/~fcrc

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Consumer Affairs Victoria

Ph: 1300 55 81 81 Mon – Fri

Consumer Affairs can help you resolve a dispute with a trader by informing you of your rights or by conciliating with the trader.

www.consumer.vic.gov.au

Victoria Legal Aid:

Ph: (03) 9269 0234, or 1800 677 402 for country callers.

Mon – Fri 9am – 5pm.

VLA publishes a useful series of pamphlets on credit & debt issues that it will send to consumers free of charge.

www.legalaid.vic.gov.au

Federation of Community Legal Centres:

Ph: 9654 2204

To find your local community legal centre.

www.communitylaw.org.au

Insolvency and Trustee Service of Australia

Ph: 1300 364 785

ITSA is not an advice service but it can send information about bankruptcy and forms.

www.itsa.gov.au

Dispute Resolution

Victorian Civil & Administrative Tribunal (VCAT)

General ph: 9628 9700,

country callers: 1800 133 055

Credit List ph: 9628 9790

Civil List ph: 9628 9830

www.vcat.vic.gov.au

Federal Privacy Commissioner

Ph: 1300 363 992 (Privacy Hotline)

To complain about credit reporting or other breaches of privacy.

www.privacy.gov.au

Industry Dispute Resolution Schemes

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Banking, Insurance and Investment Assistance

Ph: 1300 78 08 08.

A central telephone number to the appropriate scheme, for disputes with:

banks

insurance companies (claims disputes)

credit unions

finance brokers

investment advisors

Water, gas and electricity disputes

Energy & Water Ombudsman (Victoria) EWOV

Tel: 1800 500 509

www.ewov.com.au

Telecommunication disputes

Telecommunications Industry Ombudsman (TIO)

Ph: 1800 062 058

www.tio.com.au

Regulators

They investigate industry conduct & are unlikely to assist with individual complaints.

Australian Securities & Investment Commission (ASIC)

Complaints about conduct of financial services, including debt collection of consumer credit.

Ph: 1300 300 630

www.asic.gov.au

Australian Competition & Consumer Commission (ACCC)

Complaints about conduct of businesses including debt collection complaints. (Not complaints about credit or financial services).

Ph: 1300 302 502

www.accc.gov.au

Telephone Services

Telephone interpreter service:

Free to callers. Available 24 hours, Ph: 13 14 50.

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Hearing & Speech Impaired Access:

National Relay Service

All free calls (within Australia)

133 677

Speech to Speech Relay

All local and chargeable calls (within Australia): 1300 555 727

All free calls (within Australia): 1800 555 727

You can obtain more information about the National Relay Service on their website at

www.aceinfo.net.au.