

COVID-19: Financial Hardship and Consumer Law Issues

27 May 2020



Consumer
Law
Centre®
a program of **care inc.**



Care Inc. and the Consumer Law Centre



Care Inc. has been assisting people impacted by financial hardship for over 35 years.

We offer financial counselling, as well as microfinance loans to those in need. Care also provides specialist support for people impacted by domestic and family violence as well as gambling harm.

The Consumer Law Centre is a program of Care. We provide free legal advice and representation in the areas of consumer credit (mortgages, credit cards and personal loans), debt recovery, banking, bankruptcy, insurance, simple contracts, and general fair trading and consumer protection.

DISCLAIMER: This presentation is for information only. It is not legal or financial advice. You should obtain legal advice if you need help in relation to your specific circumstances.

Session Overview

Financial hardship and
dealing with debt

Predatory lending and
scams

Family violence and
financial abuse

Consumer law issues

Where to get help

- COVID-19 pandemic has reportedly affected 5.31 million people across the world, with 341k (recorded) deaths as of last week.
- The widespread effect on the global economy is predicted to last for decades; the worst hit are the economies of the developing countries which may take several generations to start to escape poverty.
- **8,700 Canberrans** lost their jobs in May – the largest job-loss in one month in the ABS' records; the number of Canberrans who are under-employed (working fewer hours than they want to) almost doubled to over 22,000. Almost every job lost in the ACT was casual or part-time.
- Many Canberrans are experiencing housing stress and financial hardship. Some also support family or friends. Older Canberrans may worry about their superannuation balances, possibly remembering the 2008 GFC.
- **Care Inc.** offers support to people in financial hardship through financial counselling, microfinance program and legal advice on consumer credit and debt and Australian consumer law via the [Consumer Law Centre](#).

Financial hardship and dealing with debt

What is financial hardship?

You are in financial hardship if you find it hard to pay your bills and make repayments on your loans and other debts when they are due.



Two main reasons for financial hardship are:

1. You could originally afford the loan, but your circumstances changed (e.g. unemployment, reduction of income, illness or injury, a death in the family, an increase in bills or expenditure)
2. You could not afford to repay the loan when it was originally obtained (Get legal advice [immediately](#))

For loans and leases for personal purposes you have rights under credit law (the *National Credit Code*, Schedule 1 of the *National Consumer Credit Protection Act 2009*) and may be able to ask for a financial hardship repayment arrangement (Hardship Variation).

Applying for a Hardship Variation

Applying for a Hardship Variation

Generally, to obtain a Hardship Variation your financial difficulty must be *temporary* in nature.

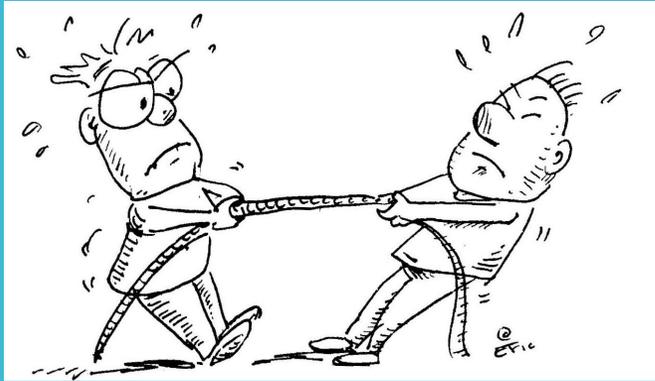
You must be having trouble making your loan repayments because of a 'reasonable cause' (illness, family breakdown, unemployment).

You can ask for any type of repayment arrangement provided you can reasonably repay the loan. Usually, many credit providers would agree to a 3-months' Hardship Variation. COVID-19 support packages are often offered for up to 6 months.

Work out what you can afford to pay: start paying the amount you can afford and contact your creditor ASAP to put a repayment agreement in place. Keep a detailed record of all communications and emails.

Tip: [MoneySmart.gov.au](https://www.moneysmart.gov.au) offers a useful budget planner tool for people to work out how much of their debt they can afford to repay.

Negotiating with your creditor



Negotiating with your creditor

You can call, email or write to the creditor requesting a repayment arrangement. Keep detailed notes of your conversation, and a copy of all email and written communications.

When asking for a hardship variation, consider the following:

- The creditor will more likely accept your request if it is genuine and *reasonable*. Try to strike a balance between what you can afford, and meeting at least some of the loan commitments during your period of hardship.
- The creditor may ask you to complete a Statement of Financial Position. Consider asking a financial counsellor to help you complete the Statement. Call [National Debt Helpline](#) on **1800 007 007** or contact [Care Inc.](#) for help.
- do **NOT** commit to repayments you cannot afford.
- provide evidence of your hardship, e.g. medical certificates, employer letter, evidence of current expenses.

Response

&

External Dispute Resolution (EDR)

The creditor must respond to you

The creditor must respond to your request for a repayment arrangement **within 21 days**. If the creditor agrees to the repayment arrangement, then your contract will be varied. Keep copies of all communications.

If the creditor refuses your offer it must tell you that it has not agreed and give you reasons for the refusal.

If the creditor does not agree to a repayment variation

- Keep negotiating with the creditor, ask questions, provide more evidence
- Contact the [National Debt Helpline](#) on **1800 007 007** or us at [Care Inc.](#)
- Lodge a dispute with the [Australian Financial Complaints Authority \(AFCA\)](#). It is an external dispute resolution service that is independent and free for consumers. It can review the creditor's decision and make a final and binding decision. This decision can not be challenged by the creditor.

Hardship Variations & your Credit File



What if I am served with Court papers?

Hardship Variations and your Credit Report

When you ask for a Hardship Variation you should also ask the lender not to list a default on your credit report or report your payments as being overdue on your Credit File.

If the lender agrees to your hardship variation but does report your payments as late on your Credit File, you can make a complaint to AFCA.

What if the Lender is threatening a Court action?

If you received a Default Notice or the lender threatens legal proceedings, you must act urgently. You should immediately:

- apply to the lender for a Hardship Variation
- lodge an application with the [Australian Financial Complaints Authority \(AFCA\)](http://www.afca.org.au) – ph.: **1800 931 678**; Email: info@afca.org.au.

IMPORTANT: the lender cannot commence court proceedings against you once you have lodged a written dispute with AFCA until the dispute is determined (or AFCA considers that it cannot consider your dispute).

Covid-19 and hardship



Response of the finance industry to Covid-19

According to the Australian Banking Association (ABA), their members have to date deferred mortgage repayments totaling more than \$150 billion to assist Australians through the Covid-19 pandemic.

Banks and credit unions have offered options to defer home loan and repayments for up to six months. Support with other loans, credit cards and business loans has also been offered. Other assistance includes fee waivers, restructure of loans and offers of further credit.

It is important to remember that hardship variation agreements do NOT reduce debt. Even where arrears are 'capitalised' and the life of the loan is extended, in most cases interest continues to accrue.

[Australian Financial Complaints Authority \(AFCA\)](#) has a dedicated hotline **1800 337 444** for individuals financially impacted by the COVID-19 pandemic.

Covid-19 support packages

- COVID-19 Support packages are offered to individuals and for small business by the finance sector (banks, credit unions).
- Most include offers to pause home loan repayments for up to 6 months.
- Some include an option to capitalise arrears and extend the life of the loan.
- Packages may not extend to a line of credit or may have certain limitations.
- During a repayment pause, interest continues to be calculated and accrues in accordance with the loan contract.
- After a repayment pause ends, your loan will increase, and your repayment amount may change (i.e. the amount may be higher than current repayments and you will incur a higher amount of interest over the life of the loan). This is to ensure you repay the loan within its contracted term.

Examples of Covid-19 help offered by the Big Four



Remember to check in with your insurers. You might have cover in your super fund, for example, that could provide support if you've lost your job, or if you are ill or injured and unable to work.

Help from the Big Four:

- <https://www.nab.com.au/personal/customer-support/covid19-help>
- https://www.commbank.com.au/latest/coronavirus.html#Banking?ei=btn_view-support
- <https://www.anz.com.au/support/covid-19/>
- <https://www.stgeorge.com.au/about/sustainability-and-community/disaster-relief/covid-19/customer-support-package>
- https://www.westpac.com.au/help/disaster-relief/coronavirus/?pid=iwc:br:covid_2004:hub-in:

Most websites link you to “Apply Now” and streamline the process.

Deferring repayments

Home loan customers requesting financial assistance during this time will be able to defer their repayments for 6 months, with interest added to their home loan.

- For the 6-month deferral period no repayments are required. However during this time, interest and fees will add to the loan balance and your loan balance will progressively increase
- Your loan term will be extended so your repayments do not increase as a result of the deferral period but may increase for other reasons such as a change in interest rate or accessing redraw
- Any available redraw you have will be drawn on first during the 6-month support period. If you need to access your redraw during the support period, transfer your available redraw to another account now

All requests are through the online registration below.

- The fastest way to get support is by completing our online form. Once you submit your form online, we'll action your request within 7 business days
- We are receiving a large number of calls so if you phone us, you may experience a significant delay. If possible, please complete the online form
- Select 'coronavirus' as the reason you are requesting assistance to access the repayment deferral option
- **Please do not submit more than 1 form (unless we request otherwise, by direct communication with you), as it will delay processing your request**

[Defer Repayments Request](#)

Pause your repayments

COVID-19 assistance

If any of the above options are not suitable for your personal situation, you may want to consider accessing the COVID-19 Assistance.

If you're experiencing financial difficulty due to COVID-19, you may be able to put your home loan repayments on hold for up to six months (but interest will continue to be charged on your loan during this period). You will not be required to make any repayments to your home loan during the assistance period.

If you pause your repayments, ANZ may check in with you after your repayments have been on hold for three months to see if you need further assistance.

Do I still get charged interest?

Yes, during the assistance period when we put your repayments on hold, interest will continue to be charged on your home loan and will need to be [paid back over your remaining loan term](#).

This is known as [interest capitalisation](#).

The total loan amount you owe us therefore increases when repayments are on hold during the assistance period so you may end up paying more interest over the life of the loan.

There may be [other options available](#) to help you make your loan repayments without having to take up COVID-19 assistance.

Catching up on repayments

In order to catch up on the repayments you paused, your repayments will need to be adjusted at the end of the six months. Your repayments could increase, because you'll be paying off a higher balance in the same period of time.

If you're making repayments of principal and interest, you may also have the option to extend your loan term by six months. This means you'll have more time to pay off your loan, but the new repayment amount could be higher than the current amount, because interest is being charged on the loan for a longer period.

Interest capitalisation example

Watch our video comparing these two different repayment options to see how they could be affected by interest capitalisation.

You can also view [our infographic \(PDF, 62KB\)](#).



[View video transcript \(PDF, 33KB\)](#)



COVID-19 Updates

We're currently experiencing a high volume of calls, but you can find out the latest information on our [COVID-19 Customer Support Hub](#).



[Contact us](#) [Locate us](#) [Lost or stolen cards](#) [Register](#)



[Home](#) [Personal](#) [Business](#) [Corporate](#) [About us](#) [Help](#)

Online Banking - Personal

[Sign in](#)



COVID-19: Customer Support

> [A message to our customers](#)

> [Customer Support Package](#)

> [Frequently asked questions](#)

> [Help for business customers](#)

> [Home loans](#)

> [Credit cards](#)

> [Flexi loan](#)

> [Online and Mobile Banking](#)

> [Visiting our branches and temporary branch closures](#)

> [Other ways to bank with us](#)

> [Where to find Australian](#)

[Help](#) > [Disaster Relief](#) > [COVID-19: Customer Support](#)

COVID-19: Customer Support

Westpac has supported our customers and community through the good and tough times for more than 200 years and will continue to be here for you as the coronavirus situation evolves.



[Customer Support Package](#)

[COVID-19 FAQs](#)

Help with your banking

- > [Home Loans support](#)
- > [Personal credit cards support](#)
- > [Personal loan support](#)
- > [Flexi Loan support](#)
- > [Landlord Insurance support](#)
- > [Credit Card and Loan Repayment Insurance support](#)

Business support

- > [COVID-19: Support for your business](#)
- > [Loan and credit card repayment deferral](#)
- > [Business Loans](#)
- > [JobKeeper support](#)
- > [Register for business banking online](#)
- > [Merchant terminal fee relief](#)
- > [Tips and ideas that may help during COVID-19](#)

Banking with us

- > [How to bank with us Online and on Mobile banking](#)
- > [Visiting our branches and temporary branch closures](#)
- > [Other ways to bank with us](#)

[Chat Now](#)

 **We're here for you.** We're experiencing high call volumes and longer than usual wait times. For support, visit: [COVID-19 help](#)



Personal

Business

Corporate

About us



Internet Banking



Login

[Personal home](#) > [Customer support](#) > [Guidance during COVID-19](#)

GUIDANCE DURING COVID-19

You have our support. We'll get through this together.

Need help with our Coronavirus (COVID-19) support package?

[Request support](#)

We're here to help you with your general enquiries.

[Find out more](#)

Predatory lending & scams

Struggling with cash?

Need money fast?

Bad credit?

No worries!!

Apply today!!

RAPID application, FAST process,
QUICK approval!!

Get cash in 60 mins!!

*you will **PAY** later ...*



Pay-day loans

Pay-day loans

You can borrow up to \$2,000 and have 16 days to one year to pay it back.

- It might look like a quick fix, but a payday loan has a lot of fees. To pay back a \$2,000 payday loan over two fortnightly pays, you will pay an extra \$480. Over one year, your total repayments will be about \$3,360. That's \$1,360 more than you borrowed.
- MoneySmart calculator <https://moneysmart.gov.au/loans/payday-loan-calculator> lets you calculate the cost of a pay-day loan.

The cost of payday loans

- Lenders can't charge interest on payday loans, but they can charge a lot in fees. You will have to pay back a lot more than you borrowed.
- Most payday lenders charge an establishment fee of 20% of the amount borrowed and a monthly service fee of 4% of the amount borrowed. For a \$2,000 loan, that's a \$400 establishment fee and \$80 per month for the service fee.
- Payday lenders can also charge enforcement costs, government fees and charges (there shouldn't be any), and default fees (up to a maximum amount of twice the amount loaned).

Pay-day loans

Pay-day loans and responsible lending

Additional responsible lending laws apply to payday loans (known as Small Amount Credit Contracts):

- payday lenders cannot take security (e.g. a car) for a payday loan
- payday lenders must obtain and review 90 days of your bank account statement before granting you a loan
- a payday lender has to think twice about giving you a 3rd pay day loan in a 90-day period – the law says that there is a presumption that this means you are already in a debt trap and the lender has to be satisfied that it can show this is not the case before giving you another loan
- a pay day lender also has to think twice about giving you a pay day loan if you have been in default on another pay day loan in the previous 90-day period
- required repayments on a pay day loan cannot be more than 20 per cent of income for consumers who receive 50 per cent or more of their income from Centrelink
- a warning must be displayed (online and on premises) or given verbally over the telephone (if you are borrowing over the telephone) to advise consumers of the high cost of small amount credit and possible alternatives.

Pay-day loans and Covid-19

- Payday lenders and rent-to-buy operators charge some of the highest rates of any lender. These loans are aggressively marketed to people struggling to make ends meet. They are very fast and easy to get, but much harder to escape.
- Financial counsellors and consumer lawyers across Australia anticipate a deluge of people with payday loan and rent-to-buy related debt as a result of the Covid-19 emergency.
- For a person who is unable to pay for daily essentials like food and rent, these loans are likely to send them into a financial debt spiral down.
- Some payday lenders may try get around the laws that regulate consumer credit and use loopholes, so that the usual consumer protections do not apply.
- Where this happens, **there is very little we can do to help you in relation to a pay-day loan except try to negotiate.**

Examples of some Pay-day Lenders' response to Covid-19 (from websites)

What is the Coronavirus or COVID-19?

COVID-19 is a disease caused by (...)

How does the Coronavirus or COVID-19 affect my personal finances?

The lockdowns in place to prevent the spread of COVID-19 have wreaked havoc on countless businesses, large and small, across the country.

Losing Your Job / Becoming unemployed is stressful at the best of times, let alone during a pandemic that leaves you stuck at home all day.

Centrelink Job Seeker Payments / Government Stimulus Packages / Early Access Super

Some Common Questions Around COVID-19

Are we in a recession / What is social distancing? /What is self-isolation?

How to Keep Yourself Safe from COVID-19

Avoid touching your face / Minimise the number of surfaces you touch (...)

In the meantime, if you need some financial assistance while waiting to access a government scheme, consider [applying for a short-term loan](#).

Supporting customers affected by COVID-19

The health, safety and wellbeing of our customers, employees and the community is paramount, and we are taking a cautious approach consistent with the latest medical advice and government requirements.

If you have been impacted by COVID-19 please email our friendly team at (...) They will assist you as best they can (...).

Tips on saving \$ on grocery bills

Get a mortgage holiday

Advice on schools and travel

Advice on entertainment :

- learn an instrument
- have a sing-along
- try a new workout from home
- try something new with the kids
- get **sciency**

If you do need some cash to get you through, **apply for a fast cash loan.**

Cheaper ways to get \$ fast



- **Centrelink advance payment**
- **Help with paying your bills and fines:** repayment plan, rebates/vouchers from government and community organisations for utility/phone bills.
- **Care Inc.** offers a **No Interest Loan Scheme (NILS)** for people on low incomes to borrow up to \$1500 for purchase of essential household items. You only repay what you borrow. There is no interest, fees or charges.
- **Care Inc.** also offers a NILS loan through Trusty Loans Program (TLC).
- **Assistance Beyond Crisis (ABC)** offers interest free loans for people who have experienced and left a domestic or family violence situation. The loans provide immediate financial assistance where no other options are available and can include finance for household and white goods, vehicle related costs, childcare and education, housing costs, medical and dental expenses and other.
- **Good Shepherd** also offers loans under the NILS Microfinance Program, see: <https://goodshepherdmicrofinance.org.au/>

Scams & ACCC ScamWatch

Common types of coronavirus scams

The ACCC has reported the following COVID-19 scams:

- phishing emails and phone calls impersonating entities. These include the World Health Organisation, government authorities, people confirmed to have the coronavirus, and legitimate businesses such as travel agents and telecommunications, access to superannuation 'help'.
- people receiving misinformation about the coronavirus, being sent by text, social media and email
- products claiming to be a vaccine or cure for the coronavirus
- investment scams claiming coronavirus has created opportunities

<https://www.scamwatch.gov.au/>

<https://www.scamwatch.gov.au/types-of-scams/current-covid-19-coronavirus-scams>

<https://www.accc.gov.au/media-release/warning-on-covid-19-scams>

Some useful advice from ACCC ScamWatch



Protect
yourself

- Be aware of **fraudulent emails** claiming to be from experts saying that they have information about the virus. See official websites.
- Be careful of fake online shopping sites requesting unusual payment methods (upfront payment via money order, wire or international funds transfer, etc.)
- **Search for reviews before purchasing.** No vaccine or cure presently exists for the coronavirus.
- Don't click on **links from unknown sources.** They could download viruses to your computer or device.
- **Don't open attachments or click on links** in emails, text messages or social media messages you've received **from strangers** — just press delete.
- **Never respond to unsolicited messages and calls that ask for personal or financial details** — just press delete or hang up.
- Keep your computer security up to date with **anti-virus and anti-spyware software**, and a good firewall.
- Stay up to date with latest consumer advice relating to COVID-19 (coronavirus) on the ACCC website at: www.accc.gov.au/covid-19.

Family violence and financial abuse

Understanding financial abuse in context of family violence

Financial abuse is when a loved one, a family member, friend or a carer uses money, assets or income to control another person and their decisions. Their behaviour may include:

- controlling access to cash, bank accounts, benefits or pensions
- refusing to contribute financially to joint family expenses
- taking out loans and running up debts in a family member or partner's name without their knowledge or consent, or forcing such consent
- forcing someone to change their will or transfer their assets to them
- forging signatures on financial documents, or pressuring someone to sign documents against their will
- preventing a partner or a family member from working or studying
- forcing a partner or a family member to claim social security benefits.

Financial abuse can happen to anyone regardless of ethnic and cultural background, socio-economic status, age, health or other factors.

Impact of COVID-19 in family violence situations

The number of persons subject to domestic and family violence seeking urgent assistance has reportedly increased after the COVID-19 lockdown began.

Care Inc. resource *Understanding Financial Abuse* provides useful information and contact details for obtaining support, see: <https://www.carefcs.org/financial-abuse>.

eSafety Commissioner has also published useful advice about steps to protect yourself from financial abuse: see <https://www.esafety.gov.au/key-issues/covid-19/advice-women-domestic-violence>.

If you are concerned for your safety, or need support in relation to family violence call Domestic Violence Crisis Service (DVCS) 24/7 Crisis line on 6280 0900

If you would like to speak to a financial counsellor about financial abuse, contact the **National Debt Helpline** on 1800 007 007.



COVID-19 and Australian Consumer Law

- Under the Australian Consumer Law (ACL), a business can not keep charging you for a service they are unable to provide, and you would generally be able to receive a refund for a service you did not receive, or stop payments for a service you are no longer receiving.
- Normally, the ACL allows you a choice of a refund or a suitable replacement if a service is not provided with due care and skill or is not provided at all. But, if an event or service can't take place because of government directed shut-down, the situation is more complex.
- You should not be afraid to ask for a refund or to negotiate, or ask for legal advice. Sometimes you may not necessarily be entitled to a refund, but the service provider may agree to refund your money as a 'gesture of good will' and for reputational reasons.
- Businesses (e.g. gyms) cannot keep charging you for a service that they are unable to provide. Your gym should offer you a suspension of fees or cancellation if they are closed. Similarly, you are entitled to credit or a refund of a flight – it is important to remember that you may not have to agree to alternatives offered by the service provider if they do not work for you, and may be entitled to demand a refund.

ACL resources

ACCC factsheet re COVID-19 information for consumers

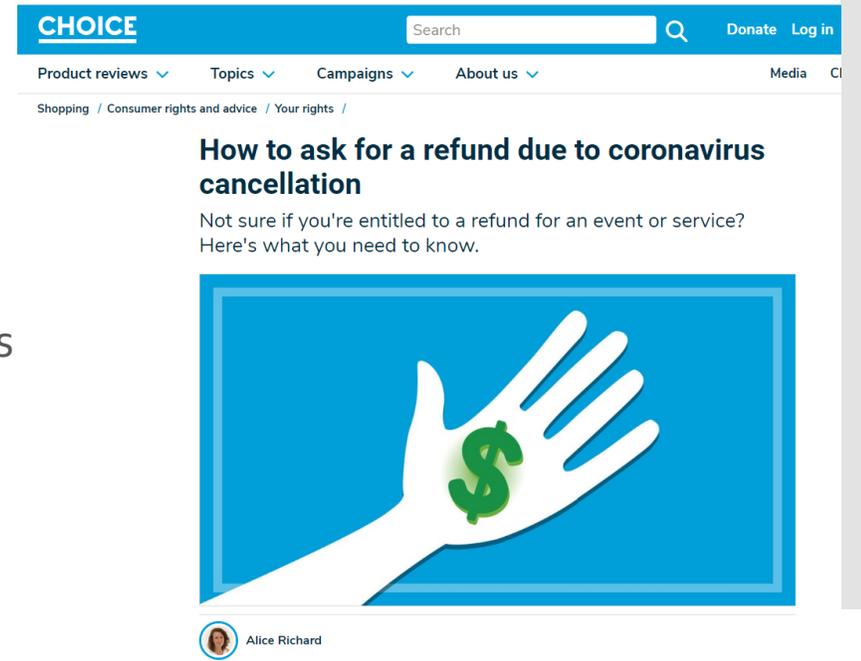
<https://www.accc.gov.au/consumers/consumer-rights-guarantees/covid-19-coronavirus-information-for-consumers>

CHOICE publications re COVID-19 and consumer issues

<https://www.choice.com.au/topics/covid-19-coronavirus>

<https://www.choice.com.au/shopping/consumer-rights-and-advice/your-rights/articles/how-to-ask-for-a-refund>

- What are your rights under ACL
- How to ask for a refund
- Specific contracts: gyms, travel, flights
- Insurance products



The screenshot shows the top navigation bar of the CHOICE website. The header includes the CHOICE logo, a search bar, and links for 'Donate' and 'Log in'. Below the header is a menu with 'Product reviews', 'Topics', 'Campaigns', and 'About us'. The breadcrumb trail reads 'Shopping / Consumer rights and advice / Your rights /'. The article title is 'How to ask for a refund due to coronavirus cancellation'. The sub-headline asks 'Not sure if you're entitled to a refund for an event or service? Here's what you need to know.' Below the text is a graphic of a white hand holding a green dollar sign against a blue background. At the bottom left of the article is a small circular profile picture and the name 'Alice Richard'.

Useful resources

- Care Inc. COVID-19 Resources: <https://www.carefcs.org/corona-virus-service-advice>
- Canberra COVID-19 Legal Help: <https://canberracovidlegalhelp.org.au/>
- National Debt Helpline COVID-19 financial hardship factsheet: <https://ndh.org.au/debt-problems/covid19/>
- ASIC factsheet on COVID-19 financial relief: <https://asic.gov.au/for-business/payments-fees-and-invoices/covid-19-relief/>
- Centrelink Payment and Service finder: https://www.centrelink.gov.au/custsite_pfe/pymtfinderest/paymentFinderEstimatorPage.jsf?wec-appid=pymtfinderest&wec-locale=en_US#stay
- ASIC Money Smart Website: Budgeting and money management information: moneysmart.gov.au

Where to get help and advice

Speak to a financial counsellor by calling the [National Debt Helpline](#) on **1800 007 007**

Speak to a consumer credit lawyer by contacting the [Consumer Law Centre](#) on **6143 0044**

Seek support if you are distressed by calling [Beyond Blue](#) on **1300 22 4636**, [Lifeline](#) on **13 11 14**, or your GP

If you are experiencing family violence call the [Domestic Violence Crisis Service \(DVCS\)](#) on **6280 0900** (24/7)

Call **ACT Government COVID-19 helpline** on (02) 6207 7244 operating between 8am and 8pm daily

Thank you for
coming

National Debt Helpline

1800 007 007

Consumer Law Centre

6143 0044

