

Radio session #1 – Saturday 6 July 2013

Background

On Sat 11 June 2013, I spoke briefly about Consumer Credit's involvement in Law Week in mid-May 2013. We set up booths, advice clinics and information sessions across the metropolitan area throughout Law Week. We had a fantastic response to our activities.

Today

Today I'd like to expand on

1. Who we are - Consumer Credit Legal Service?
2. How can Consumer Credit Legal Service help?
3. What to do when you miss a home loan payment?

Consumer Credit Legal Service is a not-for-profit community justice centre. We provide free legal advice & information to the WA community. We advise on the law of consumer credit and on the Australian Consumer Law. I'm here to talk about consumer credit today. So what is 'consumer credit'? 'Consumer credit' includes home loans, credit cards, personal loans & car loans.

I wonder how many of us watched Monday night's airing of Four Corners on ABC 'On the Brink'? On the Brink was excellent. It was about the increasing poverty among people who depend on welfare. 'On the Brink' pointed out that many people are only '**1 paycheck away from financial hardship and potential homelessness**'. That sounds startling at first blush but it's true. The mining boom in WA has led to rising living costs. So when people lose their income or part of their income, it can become very difficult to meet the necessary expenses such as accommodation, food, clothing, transport costs, etc. When people lose their jobs or have to quit because of poor health or other difficulties in their life situations, they often experience **financial hardship**.

Financial hardship

This can of course lead to people not making their repayments on their home loans, if they have them. Not meeting repayments is a default.

Default notice

What is a default? A default is a simply a 'break' in the terms of the loan contract. So if you miss a repayment on your home loan, you are '**in default**'. When that happens, the lender may take enforcement action against you, meaning the lender can take you to court to get an order to compel you to pay up the total loan balance, or to **repossess** your home. However before the lender can repossess your home, the lender must first serve you with a '**default notice**'. So the default notice is the 1st step the lender takes if you miss repayments on your home loan.

What do you do if you receive a default notice?

- Act immediately
- Talk to your lender to negotiate
- Ring a financial counsellor for help (www.financialcounsellors.org Tel: 1800 007 007)

- Ring Consumer Credit Legal Service Tel: 9221 7066 between 9AM-4PM.

If you believe your financial difficulties are temporary, you may want to make a '*hardship application*' or '*hardship variation application*'. We recommend that you do so in writing. In your hardship application, you ask the lender to let you change the amount of repayments e.g. for you to pay smaller amounts for x number of months, or postpone repayments for x number of months. The lender may or may not agree.

If you feel confident to make the hardship application yourself, great. If not, get help from a financial counsellor.

If your lender rejects your hardship application, you could lodge a complaint with either the Financial Ombudsman or the Credit Ombudsman, depending on which ombudsman your lender is a member of.

What if your financial difficulties are not temporary?

Then, even if your lender agrees to a hardship application, you may have to face the inevitable later on and need to consider 'letting go' of your home by selling it or surrendering it to your lender.

Let me read a case scenario about Brooke and Peter:

- Brooke worked as a supervising nurse at the local hospital
- She and her stay-at-home husband Peter, took out their first mortgage together
- A few months after taking out the loan, Brooke lost control of her car, hitting a power pole and badly breaking her leg
- The doctor estimated that it would take 3 – 6 months to fully recover
- Brooke decided to resign from her job and she and Peter agreed that he would return to work as a school teacher
- Peter has not yet found a full time position
- The money Peter earns working as a relief teacher is not enough to cover the mortgage repayments - what can Brooke and Peter do?

Q What can Brooke & Peter do to try and save their home?

We ask: Is the financial difficulty that Brooke and Peter are in *temporary*? Yes.

They could make a hardship variation application.

If their lender rejects their application, they could complain to the ombudsman scheme which their lender is a member of.

If their financial difficulty were long-term e.g. if neither of them expects to get work for another 12 months, then I'd suggest that it may be time to negotiate with the lender for time to sell up.

- The end -