



## DEBT COLLECTION ISSUES AND COMPLAINTS FACT SHEET

*Disclaimer: Consumer Credit Legal Service (WA) Inc. produced this information as a general guide only. The information is not legal advice. You may ring us on (08) 9221 7066 for more help.*

### CASE STUDY

Julie received a phone call from a debt collector at 7am on Saturday demanding that she pay up an old credit card debt. The debt collector has been to her house six times in the past week and threatened to report her to the Department for Child Protection and Family Services (**DCPFS**) if she did not pay up. Julie rang CCLSWA because she could not afford to pay the debt in full and was also afraid of being reported to the DCPFS. CCLSWA advised Julie the debt collector breached the Debt Collection Guideline by calling before 9am on a weekend, by making contact more than 3 times in one week, and by their threat. CCLSWA also advised Julie to make a complaint about the debt collector's conduct.

### What do debt collectors do?

A debt collector collects debts. A debt collector could be an agent of the creditor, or be the new creditor. If the debt collector works for the creditor, they are an agent of the creditor; and you still owe the debt to the creditor. But if the original creditor assigns (sells) the debt to the debt collector, then the debt collector becomes the new creditor; and you now owe the debt to the debt collector. The conduct of creditors and all debt collectors is regulated by the Debt Collection Guideline.

### What is the Debt Collection Guideline?

The Guideline is a set of rules to ensure creditors and debt collectors engage in debt collection activity in a way that complies with consumer protection laws. These guidelines are enforced by the Australian Competition and Consumer Commission (**ACCC**) and the Australian Securities and Investments Commission (**ASIC**).

## When and where can they contact you?

### Your workplace

A debt collector should not visit you at your workplace unless you request or agree to it.

### Contact hours allowed

Over the phone

- Between 7:30am and 9pm on weekdays; and
- Between 9am and 9pm on weekends.

Face-to-face

- Between 9am and 9pm on weekdays and weekends.

If you request they leave, they must do so immediately.

### Public holidays

A debt collector should not contact you on a public holiday.

## What are debt collectors not allowed to do?

A debt collector can contact you for a reasonable purpose. For example, they can contact you to demand payment of a debt or discuss options about repaying your debt. Debt collectors are **not** allowed to:

- Contact you more than 3 times per week;
- Use physical force or trespass on your property;
- Unduly harass you;
- Use unconscionable or misleading means;
- Get you into further debt to repay their debt;
- Threaten, abuse or embarrass you; or
- Refuse to refer you to a supervisor/complaints department or dissuade you from making a complaint.

## Can a debt collector communicate with my child?

A debt collector should not contact a child under 18 years of age unless you willingly allowed the communication with the child or you ask the child to act as a translator.

A debt collector must cease all communication with the child if the child becomes upset, or you request that the communication stop.

### **How can you make a complaint against a debt collector?**

To make a complaint against a debt collector, you may;

- Complain to the debt collector's internal dispute resolution (IDR) department; or if the debt collector is an agent of the creditor, to the creditor's IDR. Please see our [Sample Letter to Complain about a Debt Collector](#).
- If you are not happy with the response to your complaint, you may wish to complain to the debt collector's external dispute resolution (EDR) scheme. This will be either the Financial Ombudsman Service or the Credit & Investments Ombudsman (details below).
- If the debt relates to a financial product/service, you may also complain to ASIC. If the debt relates to a non-financial product/service such as a trade, telephone, or utility service, you may complain to ACCC. ASIC and ACCC's details are below.

We advise you to keep a copy of your complaint for your records.

If you have been physically assaulted or verbally abused by the debt collector we advise you to report the incident to the police.

#### **For further information contact:**

Consumer Credit Legal Service (WA) Inc.  
Website: [www.cclswa.org.au](http://www.cclswa.org.au)  
Advice line number: (08) 9221 7066

Financial Ombudsman Service  
Website: [www.fos.org.au](http://www.fos.org.au)  
Telephone number: 1800 367 287

Credit & Investments Ombudsman  
Website: [www.cio.org.au](http://www.cio.org.au)  
Telephone number: 1800 138 422

Australian Securities and Investments Commission  
Website: [www.asic.gov.au](http://www.asic.gov.au)  
Telephone number: 1300 300 630

Australian Competition and Consumer Commission  
Website: [www.accc.gov.au](http://www.accc.gov.au)  
Telephone Number: 1300 302 502