

## **What to do when you get in trouble with your home loan repayment**

Irrespective of why or how you went into arrears with your home loan, the most important thing you can do is to TALK TO YOUR LENDER ABOUT IT. Ignoring them will only annoy them and may make them act faster to sell the property to recover their money.

Please keep in mind this is general advice on possible options, it may not contain all options available in your circumstances and should not be relied upon as a legal opinion or legal advice. If you are in arrears on your mortgage, you should seek independent legal advice for your specific situation.

The availability of these suggestions as a solution to mortgage arrears may depend on what sort of loan contract you have with your lender. This is due to a piece of legislation called the Uniform Consumer Credit Code (UCCC) which protects borrowers who borrow money predominately for personal or domestic use.

If the money was borrowed predominately for business or investment use the loan is not regulated by the UCCC and some of these options may not be available.

When your mortgage falls into arrears, there is a process which lenders must follow in order to repossess your property and sell it under mortgagee in possession. Lenders really don't like selling properties in this way as it's time consuming and doesn't make them look very good. In most cases they would much prefer to work out another way of you fixing the problem and getting the arrears back on track. As such, there are a number of possible options that you can explore.

It is important to note that your conduct on the loan prior to your current problem will often determine how helpful the lender is willing to be. If you have consistently been late on payments or missed payments, lenders are unlikely to be too sympathetic and may just want to get rid of you anyway.

**Mortgage repayment holiday** - If the reason that the loan went into arrears is a temporary one (such as illness or short term unemployment) then you may have the option of requesting that then lender grants you a loan repayment holiday, generally up to 12 months to allow you time to sort out the problem and get on with the home loan. Usually you and the lender agree on the amount of time that will make up the holiday and it will be added to the end of the loan.

**Paying extra** - If the problem that caused you to go into arrears has already sorted itself out then working out an extra repayment plan to bring the arrears up to date over the next few months is a good solution. Most lenders would be happy with that result although you want to make sure you keep your promise as you lose a lot of credibility if you fail to keep your end of the agreement. You will need to make the full regular payment each month plus some extra until the loan is up to date so make sure that you pick a figure which won't cause too much strain on your finances so that you can't keep your word

**Lump sum payments** - there is an option which can be a combination of both the repayment holiday and paying extra which might apply in situations where the arrears was caused by an accident (for example) and you were expecting a lump sum payment (such as an insurance payout). These sort of agreements can become a little

complicated though as insurance payouts can be a long and drawn out process and the lender probably won't be interested in looking at this option unless you have some iron clad proof that the payment is definitely coming and an idea about when it will be paid. It doesn't have to be insurance claims though, it could be in a situation where you were going to receive some money from a will or any other provable source.

Re-negotiate your repayments - In some cases where your income has been reduced and your existing payments are no longer financially viable, you may be able to renegotiate your loan to a longer period of time and a lower monthly repayment. There is also the possibility of changing your loan from a Principle and Interest loan (where the balance you owe reduces over time) to an interest only loan (where the balance you owe does not reduce over time)

Refinance - If the negotiations aren't working very well or you have had poor conduct in the past and the lender doesn't want to give you a second chance then you may want to consider re-financing the loan to another lender. This can be a difficult thing to do as another mainstream lender is unlikely to refinance a loan that is currently in arrears or has been in arrears in the last 6 months. There are other lenders out there who will consider such re-finances although they tend to charge a higher interest rate. The interest rate may depend on how far you are in arrears but can be a good option especially if you are consolidating other debts such as credit cards which when consolidated would give you a lower overall monthly commitment. To consider this option, you should consult a specialist mortgage broker such as Grand Capital Finance Group on 1300 139 883 to discover your options

Early Super payout - There is a mechanism to have an early superannuation payout in times of extreme financial hardship. Of course you would need to have enough Superannuation in your fund to cover the problem for this to be a viable option. The process is quite lengthy so you will probably need to have your lender's co-operation for the time it takes for the payout to come through. You do need to be in extreme financial hardship for the super fund to release the funds though, generally they won't release your super if you've only missed one payment, normally they will only do so after you have been served a legal notice from the lender to take possession of the property so this option is really designed to be a "last resort" sort of thing.

As usual there are several options available to you if you feel that the lender is treating you unfairly or won't negotiate. The Banking Ombudsman is designed to be impartial and assist in disputes between you and your lender and can force lenders to comply with a reasonable solution through the courts if necessary. The office of fair trade in your state may also be able to give you advice or further information as to your rights and obligations.

There are a couple of things worth noting about fees and charges which you might want to keep an eye on in the case of mortgage arrears: Some lenders charge a "default interest rate" when the mortgage goes into arrears which can be a couple of percentage points above the usual interest rate. If this is the case then you may need to make more than the regular monthly repayment until the loan is up to date. Ensure you know whether this applies to you as if you make the usual payment instead of the extra then you could be unintentionally slipping further behind.

Some lenders also charge late payment fees, reversal fees (in the case where the

repayment was supposed to be a direct debit which was declined), arrears fees and other fees which may not be included in your calculations as to how far you are in arrears. When in doubt, ask for a written statement including all fees for an accurate arrears figure (they may charge a fee to produce the statement...)

Whatever you choose to do, do something. Do it quickly and talk to your lender while you do it

### **For more information:**

Enquiries about the Uniform Consumer Credit Code (UCCC) and complaints for possible breaches of the code can be made to the Office of Fair Trading/Consumer Protection agency in your State or Territory

The UCCC web site is <http://www.creditcode.gov.au>

The Banking Ombudsman -  
Financial Ombudsman Service  
Phone 1300 78 08 08  
Web - <http://www.fos.org.au>

For home loan refinance inquiries -  
Grand Capital Finance Group  
Phone 1300 139 883  
Web <http://www.banksaidno.com>

There is more information about what to do when you fall into arrears available through the Australian Securities and Investment Commission (ASIC)  
Phone - 1300 300 630  
Web <http://asic.gov.au>

For an early superannuation payment release, the first enquiry should be to your super fund to determine whether you are able to under the rules of your fund and then to the Australian Prudential Regulation Authority (APRA) for the process. Some companies have been advertising to assist people with Early Super payouts for a fee this is NOT NECESSARY. APRA will assist you to obtain an early Super payout provided you qualify for it, you shouldn't have to pay a third party fee.  
Phone 1300 13 10 50  
Web <http://apra.gov.au>

There are other local financial assistance groups who also may be able to help you negotiate with the lenders and who may be able to give you financial assistance into the future with budget planning etc. Consult your local phone book for businesses and charity groups who offer such assistance