



Mortgage stress: What are my options?

Temporary financial hardship

If you have a mortgage and you are experiencing **a period of temporary hardship**, we recommend contacting your lender first to request assistance. It is always best to speak with your lender as soon as you are unable to meet your repayments. The sooner you seek help, the more options there are available to you.

It is a good idea to sit down and work through your budget to get a clear understanding of your income and expenses. This will help you understand your weekly, fortnightly or monthly shortfall.

Often your lender will request a **statement of financial position** from you to determine what might be the best solution. Lenders usually have their own templates available for you to complete. The Australian Financial Complaints Authority (“AFCA”) also has an easy-to-use template on their website: [Statement of Financial Position \(afca.org.au\)](https://www.afca.org.au/financial-position-statement).

Requesting hardship assistance

You can contact your lender to request hardship assistance. We advise putting your **request in writing**, but if you request hardship assistance over the phone we recommend you make notes detailing the conversation including the date, time and who you spoke with.

If you are already behind on repayments, you might be receiving calls from the lender’s collections department. It is always best to ensure you are speaking with the right team – most lenders have their own **hardship department** who are best able to help you.

The **lender has 21 days to respond** to your hardship assistance request. The lender will likely ask you to provide additional information – if they do, you have 21 days to respond, otherwise they might decline your request for assistance. You can lodge a new request if this occurs.

Common hardship assistance options

- **Interest rate reduction:** If you are on a variable interest rate, you can request an interest rate reduction. This might be a good option if you only have a small shortfall on your statement of financial position when comparing your income against your expenses.
- **Term extension:** Depending on the current term of your mortgage (e.g. 30 years), you might be able to request an extension on the term of your loan in addition to an interest rate reduction. Lenders vary on their approach, and some might require an internal lending review to be conducted before they will

agree. It is important to note that although extending your loan term will reduce your repayment amount, you will pay more in interest over the life of your loan and it will take you longer to pay off your mortgage unless you pay more than the minimum repayment amount.

- **Freeze on interest:** We don't often see this, but we would certainly like it to be more available. If you don't ask, you won't get! You can ask your lender to put a freeze on the accrual of interest for a period of time.
- **Hold on repayments:** If you are experiencing a period of temporary financial hardship (e.g. in between jobs, experiencing health issues, dealing with other debts, etc.) you can ask your lender to place a hold on your repayments for a period of time. This is often called a **deferral or moratorium**. If your repayments are put on hold for a period, keep in mind your arrears balance will still grow by the amount of missed payments and the hardship arrangement is recorded on your credit report. However, this is a better alternative to having a missed payment default listed on your credit report if you have not entered into an arrangement with the lender.
- **Reduced repayments:** If you can't afford full repayments but you can afford a lesser amount, you can ask the lender for a reduced repayment arrangement for a period of time. Again, your arrears balance will grow by the difference in the reduced repayments and your contractual repayment amount.
- **Interest only repayments:** If you are currently only paying interest and your loan is soon to switch to principal and interest repayments – you can ask your bank for an extension of the interest only period. Alternatively, you can pay interest only as a form of hardship assistance for a set time frame e.g. six months. Please be aware that while you are only paying the interest portion of your loan, you are not paying down any of the principal sum.
- **Mortgage/Loan Protection Insurance:** If you have mortgage/loan protection insurance, it may cover you for a period of temporary hardship. The policy might cover all or a portion of your repayments if a co-borrower passes away or if one of the borrowers are terminally ill, for example. Some policies might cover you for a period of unemployment, sickness, etc. This type of insurance should not be confused with Lenders Mortgage Insurance ("LMI") which covers the lender and not the borrower.
- **Accessing superannuation benefits:** You may have **Income Protection** or **Total and Permanent Disablement ('TPD')** benefits attached to your superannuation. If you are considering an Income Protection or TPD claim, please seek advice from a superannuation lawyer.
- **Reverse mortgage:** If you are considering accessing the equity in your property through a reverse mortgage or the government's Home Equity Access Scheme, we recommend getting financial advice given the risks associated with a reverse mortgage.

What if the lender has declined my request for hardship assistance?

Step 1: Internal Dispute Resolution

If your lender refuses to provide reasonable hardship assistance, you can make a complaint to its internal dispute resolution (“IDR”) team, and/or Customer Advocate office if the lender has one. Again, the **lender has 21 days to respond** to your complaint.

Step 2: External Dispute Resolution

If you are unable to reach a satisfactory resolution with the lender’s IDR team or Customer Advocate office, you can lodge a complaint with the Australian Financial Complaints Authority (“AFCA”). Not all lenders are members of AFCA but you can check this on their website. AFCA is a free external dispute resolution scheme. You can lodge a complaint online: [Make a Complaint \(afca.org.au\)](https://www.afca.org.au) or call 1800 931 678. If you have been served with court documents by your lender, you can lodge an AFCA complaint any time before a Defence is filed or judgment has been entered against you and it will place a hold on the court proceedings (a stay on enforcement action).

Dealing with an arrears balance

If your lender has granted hardship assistance, it is important to discuss with them how you are going to deal with the arrears balance that grew while you were making no repayments or reduced repayments. Lenders might ask you to pay off the arrears in full, in part or by paying it off in instalments. Sometimes you cannot afford to repay the arrears upfront and there is an alternative way to deal with your arrears – it is called a **serviceability test**.

If you currently have an outstanding arrears balance but you can now meet your minimum repayments, you can ask the lender to place you on a **serviceability test**. A serviceability test is where you meet your minimum repayments, typically for six months, and if you successfully do this the lender will **capitalise your arrears**.

Capitalising arrears means the lender will absorb the arrears balance back into the total balance outstanding on your loan. Your overall loan balance will increase by the amount of interest not paid, which will make your monthly repayments increase.

Default notices

If you are in arrears on your mortgage and you have not entered into an arrangement with the bank, your lender can issue you with a **default notice**. This is the first step along the pathway of enforcement action. The default notice will usually ask you to pay the arrears balance in full and will provide at least 30 days to do this **or to contact the lender to come to an alternative arrangement**.

If you cannot pay the arrears up front but can pay your minimum monthly repayment you can ask to be placed on a **serviceability test**. If you cannot afford your minimum repayments, you can request a **hardship arrangement** (options outlined above).

Usually default notices and demand letters are sent by the lender’s lawyers. Once the lender’s lawyers begin contacting you, fees will likely be charged to your loan account. You can contact the lender directly to come to an arrangement, rather than speak to the lawyers.

Court proceedings

If you do not take any steps after being issued with a default notice, the **lender may commence legal proceedings** against you in court. The lender has **15 years** from whichever is most recent of the date you fail to deal with the Default Notice, your last repayment, or your acknowledgement of liability for the debt in writing to commence legal proceedings against you for repossession of the property. However, this will often occur much sooner than 15 years. If you have contacted the lender but they have refused your request for assistance, you can lodge a complaint with AFCA to put a hold on the court proceedings (up until you file a Defence in court or judgment is entered against you).

If you have been served with court documents or would like more information about this process, please seek legal advice as quickly as possible.

Selling your property

If you believe selling your property will be the best solution, you can ask the lender for time to do this. You can ask for hardship assistance if you cannot afford your repayments whilst the property is being sold. You incur less costs if you sell the property yourself rather than having the lender sell the property for you.

If you want the property sold but do not want to conduct the sale yourself, you can ask the lender to take control of the sale for you. You will have to hand possession over to the bank to conduct the sale but this is an alternative to the bank pursuing you in court and applying for a judgment order to be able to repossess the property.

If you have to sell the property due to unaffordability, you can ask the lender for a goodwill payment in the form of a lump sum payment to cover costs associated with relocation to another residence.

What if I was given a loan I could not afford?

If you believe you have been provided with **a loan that was never affordable**, you might want to seek advice on **whether the loan was suitable**. There are laws in place to ensure the lender does not provide you a loan you could not afford.

If you think this has happened to you or if you have other concerns about the loan contract itself, please seek advice.

You can call **Mortgage Stress Victoria** on **1800 572 292** and our lawyers and financial counsellors may be able to provide you with advice or assistance.

This fact sheet is a guide to the law in Victoria, Australia. It is not a substitute for legal advice.

Written by Mortgage Stress Victoria in July 2024.