

Consumer Credit & Responsible Lending

This factsheet explains consumer credit and responsible lending laws in NSW, and how they protect you.

What is responsible lending?

Responsible lending means lenders must only give you a loan if it is suitable for you and you can afford to repay it.

This requirement comes from the *National Consumer Credit Protection Act 2009* (Cth).

These rules apply when a lender:

- gives you a loan or credit, or
- increases your credit limit

They are designed to stop lenders from putting you into loans that don't suit your needs or financial situation.

Who do the responsible lending requirements apply to?

The responsible lending rules apply to three types:

- Credit assistance providers (like mortgage and finance brokers)
- Credit providers (like banks, credit unions and finance companies)
- Lessors offering consumer leases

What is required of lenders?

Before giving you a loan, lenders must:

- have a credit licence (or be an authorised representative of someone who holds one)

- ask about your finances, needs and goals
- check your financial situation
- give you a quote showing the total you may have to repay
- give you documents explaining the loan and how to complain
- provide a copy of their assessment if you ask

These obligations apply to all lenders.

Assessment of Unsuitability

Lenders must not give you a loan that is unsuitable.

They must check that it is “not unsuitable” before approving it.

They consider:

- your income
- your expenses (including housing, groceries, bills, education)
- whether you can make repayments
- whether the loan would cause serious financial hardship
- whether the loan meets your needs

If you would have to sell your home to repay the loan, it is generally assumed to cause hardship.

Disclosure documents

Before you sign a loan, the lender must give you a written credit contract and a credit guide.

Credit contract

Credit contracts must contain the following details:

- amount of credit
- interest rate
- repayments
- fees and charges

Credit guide

Credit guides must contain the following details:

- lender name and contact
- lender Australian credit licence number
- complaints process for resolving disputes

Some lenders must also give extra documents, like quotes, key fact sheets, or disclosure statements.

If a lender gets it wrong

Sometimes, a lender's breaches of responsible lending obligations can amount to "maladministration in lending".

The Australian Financial Complaints Authority (AFCA) can decide whether a lender has engaged in maladministration.

In assessing whether there was maladministration, AFCA will look at the consumer's ability to repay the debt.

If you make a complaint, AFCA will look at your income and financial situation at the time the loan was given, how you applied

for the loan, whether the lender verified the information provided, and the lender's guidelines and whether they were followed.

If AFCA finds that there was maladministration and you suffered a loss AFCA can:

- order compensation
- reduce or change the debt
- waive fees
- require the lender to fix the problem

Lodging a complaint

Lodging a complaint:

- You can complain to AFCA on its [website](#).
- It is helpful to read information about [AFCA's dispute resolution process](#) before making a complaint.
- You can also call AFCA:
1800 931 678
9am-5pm Monday-Friday (AEST).

Financial Hardship and Negotiating Hardship Variations

If a lender has complied with their responsible lending obligations but you are unable to pay the debt due to financial hardship, you can ask for hardship assistance from your lender.

This fact sheet is for information only and is not legal advice.