

Your consumer rights

Debt collection and repossession

How consumer laws protect you





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How to use this booklet

This booklet sets out your rights and what you can expect if you get behind in loan repayments and face debt collection or repossession.

It includes information about the complaints process if rules are not followed.

Learn about your specific issue

- Use our flow chart to find the scenario that best fits your issue. – **page 6**
- Turn to the page given in the flow chart to find out more.

Your rights

If you face debt collection or repossession on a consumer credit contract, you must be treated fairly. The lender, or their agent, must follow the Credit Contracts and Consumer Finance Act (CCCFA) and responsible lending code. These laws protect you and any guarantors.

When you fall behind on loan payments and don't work with your lender to sort it out, lenders or their agents may either:

- **Collect the debt** — hire a debt collector or sell your debt to a debt collector.
- **Repossess** — part of the debt collection process, which involves taking items listed as security in your credit contract. These may be sold as a way to get some or all of the money you owe.

Lenders or their agents can only repossess if:

- You default on your credit contract (see definition in green box).
- Your debt is secured by items you own, e.g. car, TV. Details of specific items that can be repossessed must be in your credit contract. For a TV used as security, the contract must specify the precise details about the TV. This can include the brand, model and serial number. No other TV can be repossessed.
- Your credit contract explains why and how items may be repossessed. These rules must be in line with the Credit Contracts and Consumer Finance Act.
- The lender or their agent follows all repossession rules, e.g. sending a repossession warning notice.

Default means:

- falling behind on payment and failing to get back on track
- breaking another rule of your credit contract, e.g. trying to sell an item listed as security in your contract.

Disputing debt

Check the overdue amount. If it's incorrect, tell your lender or debt collector. Also tell them if:

- anything else is incorrect
- you think they have broken any rules.

It's best to do this in writing, e.g. email or letter. Use the word "complaint" so the lender treats it seriously. Once you make a written complaint, the lender or debt collector must stop the repossession process until your complaint is resolved.

Act quickly

Being chased for overdue debt can be stressful. But it only gets worse if you do not act.

The first step is always talk to your lender or debt collector, or ask a free financial mentor to do this for you. Ask how to make repaying more manageable.

If you are contacted by a repossession agent or debt collector, you may still have options. For example, you may be able to pay off what you owe in instalments if your lender agrees. Explore your options with a free financial mentor, e.g. MoneyTalks.

Credit score

Missed, late and defaulted payments negatively affect your credit score.

A low credit score can make it hard to take out loans or buy on credit in the future, including car finance and home loans. Utility companies — internet, phone and power — may not want to take you on as a customer.

For more on what to do about payment problems, see **Loans and debt** on consumerprotection.govt.nz

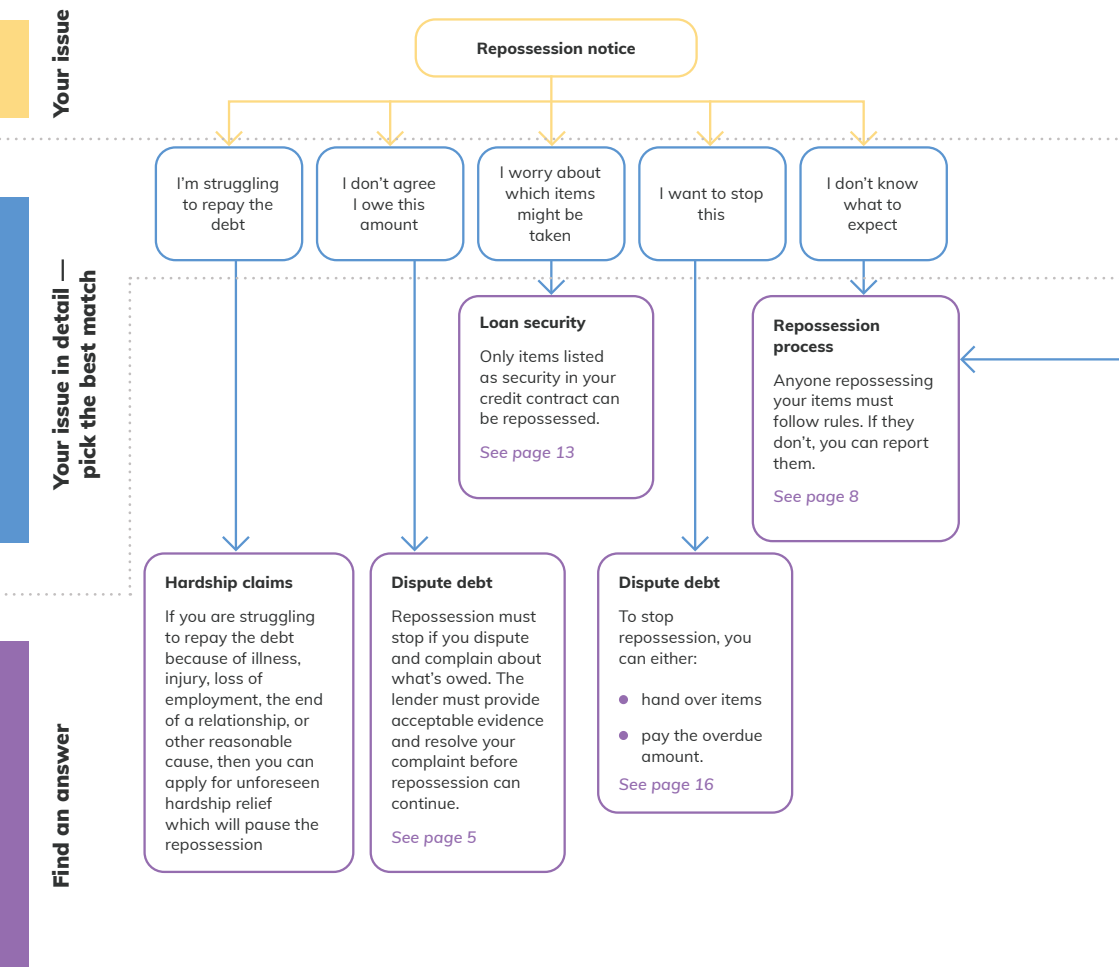


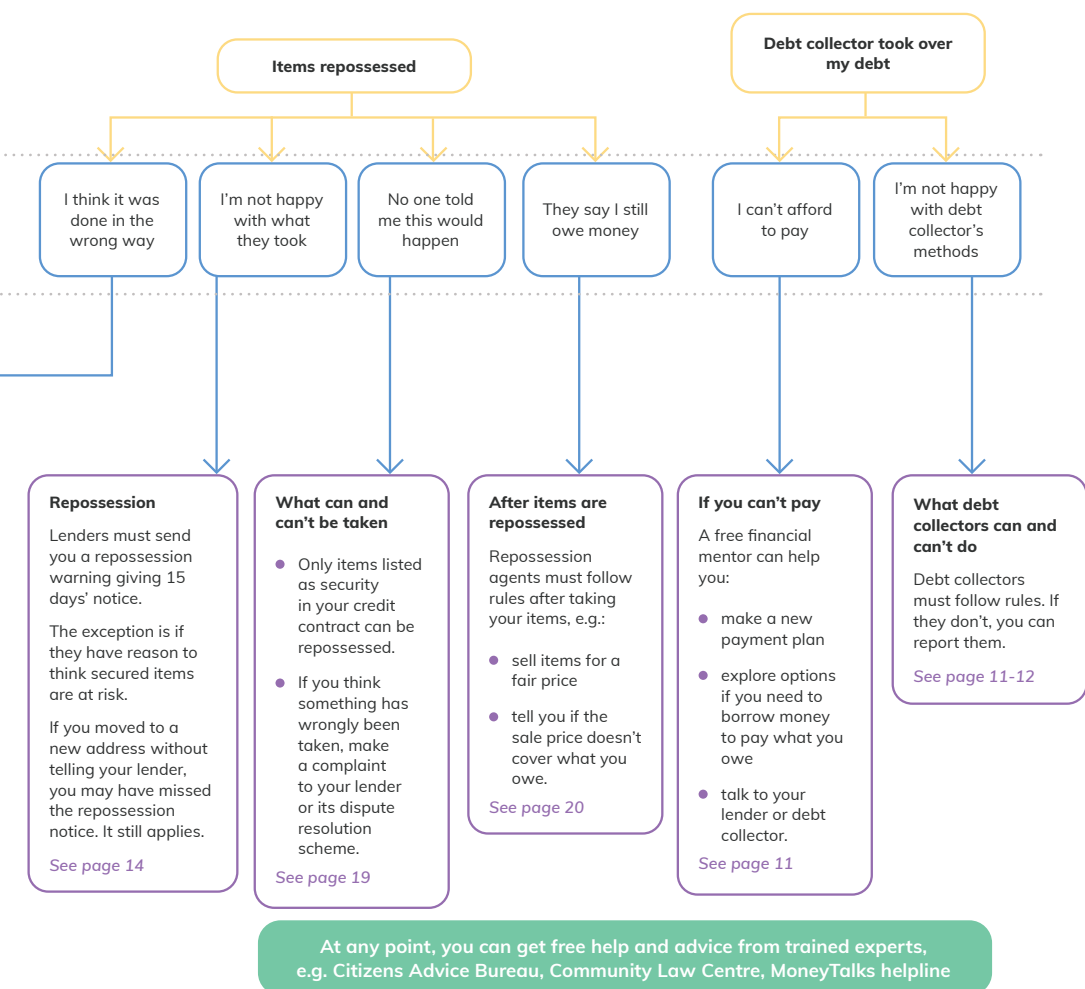
When you have overdue debt, it's important to act quickly to reduce damage to your credit score.

Find an answer to your issue

Note: Laws protect your rights when borrowing money or buying from a truck shop. Lenders, repossession agents, debt collectors and truck shops must follow certain rules.

Start with the statements at the top of the chart. Pick one that best matches your issue. Follow the arrows to find an answer. Then go back to see if any other statements apply.





Repossession timeline

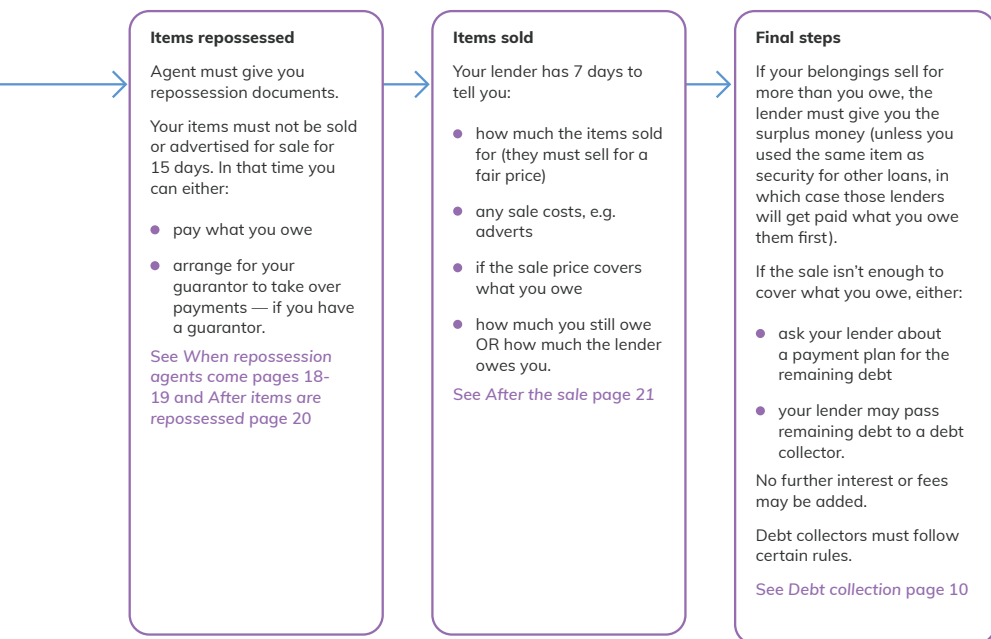
There are steps leading to and following repossession. Each step has time requirements and rules, set out in the boxes below.

If repossession rules aren't followed, you can report your lender to their independent financial disputes scheme. See page 24.



If you are struggling to pay, repossession may help get your finances back on track. If you need to take out a new loan as a way to prevent repossession, explore your options with a free financial mentor.

If the amount you owe is incorrect, complain in writing to the lender or debt collector as soon as possible. They must stop the debt collection or repossession process until the lender responds to your complaint.



Debt collection

Debt collectors either:

- buy your debt from your lender, so you owe money to them
- collect your debt for the original lender.

It's their job to gather up money owed by people whose bills or repayments are overdue.

Debt collector hired by lender

Credit contract still with lender.

You must pay outstanding amount plus debt collection fees to lender, unless told to pay the debt collector.

Debt collection fees must be reasonable. This means charging enough to cover costs but not make a profit.

Debt sold to debt collector

Credit contract is now with the debt collector.

You should be given information about the transfer of your debt within 10 working days of the transfer. If you don't, request that information so you know your rights and obligations to the debt collector.

You must pay outstanding amount to the debt collecting agency.

Debt collection fees must be reasonable. This means charging enough to cover costs but not make a profit.

For more on fees, see **Unfair fees** on consumerprotection.govt.nz



When you hear from a debt collector, don't ignore it. Contact them to work out a repayment plan. A free financial mentor can give you advice and talk to the debt collector or lender for you.

If you can't pay

If there is no way you can repay your debts even with a new repayment amount, talk to a free financial mentor about your options.

Rules debt collectors must follow

Debt collectors must treat you fairly and follow certain laws. These include the Privacy Act and these consumer laws:

Fair Trading Act

Applies to all debts with lenders who are in trade, including:

- loans
- credit contracts
- overdue bills
- unpaid fines, e.g. speeding tickets.

Credit Contracts and Consumer Finance Act (CCCFA)

This Act and its responsible lending principles apply to all consumer credit contracts, including:

- loans, e.g. vehicle finance
- mortgages
- credit cards
- money owed to truck shops.

What debt collectors can do

Debt collectors can contact you for valid reasons, e.g. to:

- ask for payment
- arrange a repayment plan
- ask why you have not paid.

They can contact you by phone, email or letter.

What debt collectors cannot do

Debt collectors must not:

- repossess items that you have not given as security for your loan
- repossess your beds and/or bedding, cooking equipment (stoves, microwaves, etc), medical equipment, portable heaters, washing machines, refrigerators, travel or ID documents and/or bank cards.
- mislead you, e.g. falsely say they are taking legal action against you
- use physical force, unreasonable pressure or hassle you or your family
- enter your home or garage, unless your credit contract says they can or you invite them in
- tell anyone about your debt, unless you say they can, e.g. family, friends or employers
- take advantage of any disability or vulnerability
- give false information about your debt to credit reporting agencies.



Report any assault or threats of violence to the Police.

Loan security

When you take out a consumer credit contract or buy from a truck shop, you and the lender might agree which of your belongings or assets will secure your loan. Not all credit contracts are secured.

Items listed as security could be:

- what you are borrowing money to buy, e.g. TV, car
- other belongings or assets, e.g. jewellery, house, car.

Security items written in the contract must be described in detail. For example, it is not enough to mention a TV. The TV must be described with its make, model, colour and size.

Example: Essential item listed as security

A finance company lends Sal money to buy a fridge. The fridge is listed as security on Sal's loan contract. If Sal gets behind on payments, without agreeing how to get back on track, the lender may legally repossess it.



Essential items can't be listed as security unless you take out the loan to buy these items. Essential items include beds, heaters, fridge, stove and washing machine.

When security may be repossessed

Lenders may take items listed as security in a credit contract if:

- You are behind on payments, and don't do enough to get back on track.
- The items are at risk of being damaged, destroyed or removed, e.g. sold or given to someone else.

Repossession warning notice

Lenders must give you 15 days' written notice to pay the money you owe.

The 15 days starts from when the notice is delivered to you. The notice is still valid even if you don't get it because you moved without telling your lender.

The notice must include:

- how you broke your contract, e.g. missed payment, risk to secured items
- what you can do to sort it out
- a warning the lender will repossess the items if you don't take acceptable action.

It must also include:

- your full name and contact details
- lender's details
- date of the credit contract
- enough detail to identify the goods to be repossessed.

If you have a guarantor, they should be sent the same repossession notice.



It's your responsibility to tell your lender if you move to a new address after agreeing to the credit contract.

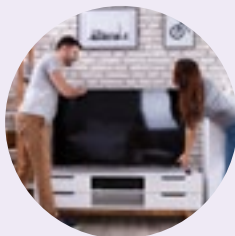
When a warning notice is not needed

The lender can repossess without issuing a written notice if they believe items listed as security are at risk of being destroyed, damaged or removed. Examples include attempting to sell the item, or giving it to someone else.

Example: Repossession without warning

Bec is behind on payments for a TV she bought on credit. The TV is listed as security in her credit contract.

To help repay what she owes, Bec lists the TV for sale online. A few days later, the lender makes contact to say the TV will be repossessed unless she stops the sale. The lender has the right to do this because Bec's credit contract says items listed as security must not be sold.



Stop items being repossessed

If you get a warning notice, you can prevent your items being taken by a repossession agent.

You can either:

- Contact your lender to ask for more manageable repayments. Some lenders will try to work with you to find a solution.
- Hand over items voluntarily. This may not always be possible, e.g. if you use a car stereo as security and it's installed in your car.
- Pay the overdue amount plus any costs, e.g. repossession warning fees.

It can be difficult to prevent repossession if a repossession agent is already at your home. But you can still hand over items voluntarily or ask for time to talk to your lender about paying the overdue amount.

Example: Truck given back voluntarily

Dan gets an email to say his truck will be repossessed if he doesn't make missed payments plus fees. Dan knows he has no way to repay the debt. He takes the truck back to the dealership. By doing this he avoided paying repossession agent costs on top of his debt.



If you need to borrow money to pay what you owe, explore your options with a free financial mentor.

Hand over item to avoid further costs

You can choose to hand over secured goods instead of having them taken by a repossession agent. Handing over items means you won't be charged repossession costs.

- The same post-possession rules apply if you hand over items voluntarily. For more on these rules ([see page 20](#))



If you cannot afford your loan repayments, repossession can be a step to getting your finances back under control.

Pay the overdue amount

If you can comfortably afford to pay the overdue amount quickly, contact your lender to arrange this. It's best to pay during the 15-day repossession warning notice period.

If the notice period has passed and the repossession agent arrives, you can ask for time to call your lender to arrange payment. Under the law, lenders do not have to agree to stop the repossession but must treat you fairly.

Lenders may charge you for the costs of repossession, including:

- agent's time
- agent's expenses, e.g. transport or vehicle use.

If you can prevent repossession at this point, you will still be responsible for paying the cost of arranging repossession.

To learn the rules lenders must follow, including what repossession agents can and can't take.

see **What lenders must do** on consumerprotection.govt.nz

When repossession agents come

Only licensed repossession agents can do repossessions. They must give you a copy of their licence or certificate of approval when they visit.

You must have been issued a warning notice and given 15 days to respond before the repossession agent comes.

Documents you must be given

When repossession agents visit your home, they must give you a copy of:

- their authority to act on the lender's behalf
- repossession agent's licence or certificate of approval
- a statement of their entry, the date, and the list of items to be taken
- a statement of your rights after repossession, including your right to complain about the repossession agent's behaviour
- the repossession warning notice
- your credit contract.

When agents are allowed to come

Repossessions can only happen between 6am and 9pm Monday to Saturday.

Lenders can't repossess anything on Sundays or public holidays, unless they have your written consent.

If a repossession agent comes outside these times without your consent, you can refuse to let them into your home and ask them to leave.

If they refuse to leave, call the Police.

Example: Visit outside allowed hours

Vi's family are sitting down to Sunday lunch when a repossession agent comes to take back her son's TV. Vi reminds the agent it's against the law to come on a Sunday. She asks him to return the next day.

If you're not home

If no one is home and the credit contract authorises the repossession agent to enter, they can come into your house or garage and take the items.

They must:

- do as little damage as possible
- not leave your house obviously open
- leave a notice stating they entered your house, with details of the items they took
- leave copies of required repossession documents.

What can and can't be taken

Can take	Can't take
Items listed as security in your credit contract, e.g. car you bought with vehicle finance.	Any items not listed as security in your credit contract.
	Certain essential items like beds, bedding, heaters, fridges, cooking equipment (e.g. stoves), medical equipment, washing machines — unless an essential item was bought with money borrowed from the lender and listed as security.

How you must be treated

Lenders must treat you and your property reasonably and in an ethical way.

This includes:

- not unnecessarily damaging anything when removing items
- keeping repossessed items safe and properly stored
- being reasonable about their right to enter your home.



If a lender or agent breaks any of these rules, they could be acting illegally. Talk to a free financial mentor. You can also report the lender or agent to the Commerce Commission.

After items are repossessed

The lender must give you a post-possession notice. This must happen within 14 days of repossession, or 18 days if they send a letter by post.

The post-possession notice should say you have 15 days to either:

- Pay the overdue amount and any reasonable repossession costs, then carry on with your credit contract. You should then get your items back.
- Arrange the sale of the items for the amount set out in the notice.
- Settle the contract by paying off all the money you owe. You should then get your items back.
- If you have a guarantor, arrange for them to take over payments.



If you disagree with the amount the post-possession notice says your items are worth, you can get an independent valuation. You must pay for the valuation.

Selling your repossessed items

If you can't pay or find your own buyer within 15 days, the lender can sell the items.

Items must be sold at market value. Sales must be by auction, public tender or private sale. If the lender doesn't sell your items within 30 days, you can ask for items to be auctioned. The lender must agree.

After the sale

Within 7 days of the sale, the lender must give you a written statement showing:

- sale proceeds (price the item sold for)
- any sale costs, e.g. adverts or auction fees
- any outstanding amounts and the balance owing.

Sold for less than what you owe	Sold for more than what you owe
You still have to pay the lender the balance, but they can't add any further interest or fees.	You should be refunded the extra. But if you used the same item as security for other loans, those lenders will get paid what you owe them first. Any extra money will then be paid to you.

If you still owe money

Your lender should offer a manageable payment plan for the outstanding amount. Once items are sold, the lender can't add any more interest or fees, e.g. administration fees.

—

Example: Payment plan for remaining debt

Mia's repossessed car sells for \$200 less than she owes her lender. Mia and her lender agree on a payment plan of \$5 a week to clear the outstanding debt. In line with the law, no further fees will be added.

How to resolve your issue

When you know your rights, you are ready to resolve your issue. You may not need to do both steps. Support and advice is available along the way.

Step 1: Contact the lender or debt collector first

Phone, email or visit the lender or debt collector

The first step with any debt issue is always talk to your lender or debt collector, or ask a free financial mentor to do this for you. Repossession agents work for your lender, so take up any repossession issues with your lender.

Describe your problem and what you want to happen. Be prepared to answer questions and give the lender or debt collector time to look into your issue.

Tips

- It's best to talk to a manager or supervisor, if possible.
- Keep calm and stick to the facts.
- Explain the outcome you want.
- Know your rights. (see page 4)
- Use this booklet to show you understand what you are entitled to.
- Take a friend or family member for support.
- If your items will be repossessed soon, move to step 2.



Use the Complaint notes worksheet at the end of this booklet to record who you talk to, the date, and what was said.

Step 2: Make your complaint official

Put your complaint in writing

If this doesn't help, try making your complaint official by writing a letter or email to the manager, owner or customer service team, if the business has one. Let them know about your issue and what you want done.

Once you make a written complaint, the lender or debt collector must stop the repossession process until either:

- you both agree on how to resolve the issue
- their dispute resolution scheme decides what must happen.

Tips

- Give a detailed description of the issue.
- Stick to the facts.
- Include your contact details.
- Give a date when you want to hear back.
- Attach copies of any relevant documents, e.g. the repossession notice, any emails or other proof — don't send originals.

If this doesn't work, you can complain to the lender's dispute resolution scheme.

Report the lender or debt collector

Your issue	Complain to	When
Lender, debt collector or repossession agent breaks repossession or debt collecting rules	Lender's dispute resolution scheme (details should be in your credit contract)	After a written complaint to lender that has failed to resolve the issue
Threatening or violent behaviour	NZ Police	After a breach
Unfair fees If you have been misled, Or if your lender has breached the repossession rules	Commerce Commission	After a breach
Lender, debt collector or repossession agent tells others about your debt without your consent	Privacy Commissioner	After a breach

Get help and advice

Contact an advisor

At any point when trying to resolve your issue, you can get help and free advice from trained experts.

They can explain your rights, show the next steps, and provide support. This might mean helping you resolve the issue directly with your lender, or taking your issue to a dispute resolution scheme.

Where to find help

MoneyTalks is a free budgeting advice helpline which can help you understand your financial situation, organise your debt and plan for the future. Phone 0800 345 123.

Citizens Advice Bureau is a free, independent service, run by volunteers. CAB can advise you on your consumer rights in person, by phone on 0800 367 222, or online at cab.org.nz.

Community Law Centre offers free legal advice to people with limited finances. Find legal information and other resources on their website, communitylaw.org.nz

Complaint notes

Use this worksheet to record your issue. Have it with you when you contact your lender or debt collection agency. Fill in the **Notes and supporting documents** section as you follow the steps.

Credit contract information

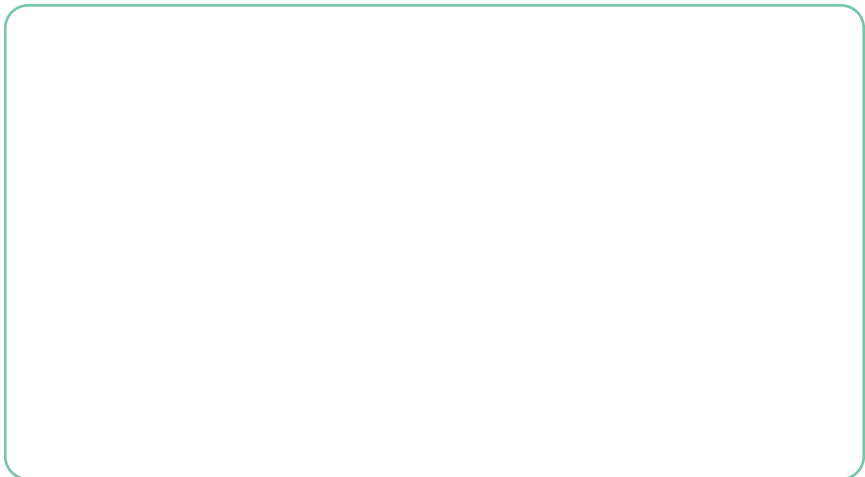
Write down key details of your contract — amount borrowed, what you bought with the money, security items listed, name of dispute resolution scheme.



What's gone wrong

Write down the issue.

Examples include wrong amount owed, agent didn't show licence, agent took items not listed on contract, agent hassled my family.



Consumer laws

Tick the law that applies to your issue. There may be more than one.

- ☐ Credit Contracts and Consumer Finance Act, e.g. responsible lending rules
- ☐ Fair Trading Act, e.g. misleading information
- ☐ Privacy Act, e.g. telling others about your debt without your permission

Requested outcome

Explain what you want the lender or debt collector to do.

Examples include correcting amount owed, returning items that shouldn't have been repossessed, an apology, refunding unfair fees.

Notes and supporting documents

When you contact the lender or debt collector, keep a record of what happened. Take notes if you speak in person or by phone. Save emails. Take screenshots of texts or online messages. These will be helpful if you need to follow up again, or take the issue further.

Date and time	Who	What they said, actions from here
10am, 3 June	Name of agent or other person you speak to	They will check record to make sure the amount the notice says I owe is correct

Notes

Notes

Notes



Consumer Protection

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