

## CASE STUDY

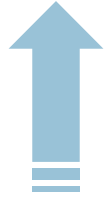
Lily signs up for a 12-month mobile phone contract. After 6 months, she gets an unusually high bill for \$250. Lily is unsure why her bill costs so much this month so she decides to ignore it. A few weeks later she gets a call from debt collectors demanding payment on behalf of the mobile phone company. The debt collector calls twice a day and even came to Lily's house without her permission.



### What should Lily do?

- 1 Lily should call the phone company to find out why her bill was so high.
- 2 If Lily knows that she owes the money but is having money problems she can ask the company for a payment plan to pay off the bill a little bit at a time. She can also ask a financial counsellor for help making a budget to pay her bills.
- 3 If Lily wants to make a complaint about the bill or the company, she can contact the Ombudsman that helps with telephone companies.
- 4 Lily should definitely see a lawyer and tell them about how the debt collector is acting. A debt collector is only allowed to call 3 times a week. They cannot legally come into your house unless you give them permission. She can also get help writing a complaint to the Ombudsman.

## ABOUT US



Deakin Student Legal Service provides free and confidential legal advice and information for all current Deakin University students.

Even if you are not sure if your problem is a legal one please visit our website. If we are unable to help, we can refer you to someone who can.

Request an appointment at:

[eclc.org.au/deakin](http://eclc.org.au/deakin)



Eastern Community Legal Centre  
ph: (03) 9285 4822

Burwood Campus



Barwon Community Legal Service  
ph: 1300 430 599

Waurm Ponds Waterfront & Warrnambool Campuses

## OMBUDSMAN SERVICES

### Financial Ombudsmen Service

(Bank and Insurance)  
1300 780 808  
[fos.org.au](http://fos.org.au)

### Credit Ombudsmen Service

(Company Loans and Financial Brokers)  
1800 138 422  
[cio.org.au](http://cio.org.au)

### Telecommunications Industry Ombudsmen

(Telephone & Internet)  
1800 062 058  
[tio.com.au](http://tio.com.au)

### Energy and Water Ombudsmen Victoria

(Gas, Electricity and Water)  
1800 500 509

Deakin Student Legal Service is a partnership between Deakin University Student Association (DUSA), Eastern Community Legal Centre and Barwon Community Legal Service.



Deakin Student  
Legal Service



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**DEBT  
COLLECTORS  
CONTRACTS  
BILLS**

## KNOW YOUR RIGHTS!

For free information, referrals and appointments visit:

[eclc.org.au/deakin](http://eclc.org.au/deakin)

**DISCLAIMER:** This information is intended as a guide only. It is not a substitute for legal advice.

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# WHAT TO DO IF YOU'RE IN DEBT

## What is a debt?

A debt is an unpaid amount of money you owe a company or another person.

You can get a debt when you miss payments for loans, or on contracts for goods and services. Sometimes you can also get a debt if you cause someone else to lose money - for example, if you are held responsible for damaging someone's property in a car accident.

## What is a debt collector?

If you owe a debt, the company or person that you owe may send out a debt collector to get the payment from you. These people usually work for a separate company and their job is to collect money from debts. Lawyers can act as debt collectors as well and the same laws apply to them.

## I don't like how a debt collector is treating me

Debt collectors **must not** make you feel unsafe or threatened. Even if you owe money there are laws that say what a debt collector can and cannot do. They should not:

- ◆ Contact you more than three times a week
- ◆ Enter your house without permission
- ◆ Refuse to leave your home or workplace after you ask them to
- ◆ Lie about what will happen if you don't pay the debt

If you think a debt collector is acting unfairly you should see a lawyer to help you decide what to do.



## DO I OWE THE DEBT?

Before giving any money to a debt collector, make sure you actually owe the debt, and that the amount is correct. If you are unsure, ask the person who says you owe the debt for information and proof of the debt.

**NO**



**YES**



If you think you do not owe a debt or only owe some of it, you should write to the debt collector and the original person asking for the money with your reasons. You should also include any contracts, photographs, and other evidence to support your reason.

## What is a defence?

A defence is a legal reason to say why you don't owe the debt or haven't paid the debt. A defence can include reasons like:

- ◆ The debt is too old
- ◆ The company gave you wrong information about the contract
- ◆ The contract is unfair
- ◆ The debt is not your responsibility

If you think you might have a defence, the best idea is to see a lawyer.

## What is an Ombudsman?

An Ombudsman is an independent organisation that can help you make a complaint or help you negotiate with the company. You can find the contact details for some different Ombudsmen on the back of this brochure.

## What if I don't pay?

A debt collector may ask a court for an order to make you pay the debt. The first step in this process is filing a Magistrates' Court Complaint. **You should get immediate legal advice if a Complaint is given to you.**

If a Court order is made against you for the debt, that information can be kept on your credit record for 5 years. During that time, it could be difficult for you to apply for new contracts or loans.

## What if I can't pay?

If you cannot pay the whole debt, sometimes you can negotiate with the debt collector or the original company to pay off the debt gradually. You can negotiate even after you receive a Complaint. If you choose a payment plan, make sure you keep copies of all your payments. For example, you should print out the receipt when using online banking or keep the deposit slip when paying by cash or cheque.

If you cannot pay any money at all, then you should seek further legal advice.

## WHAT IS A FINANCIAL COUNSELLOR?

Financial counsellors provide free, confidential advice about any money or financial problems you might have. They can give you practical advice on how to manage your debts and your money, and can work with you to make a budget.

Financial counsellors are funded by the government and not-for-profit organisations. A financial counsellor should never charge you any money for their services.

You can find out more through MoneyHelp run by the Victorian government on [www.moneyhelp.org.au](http://www.moneyhelp.org.au) or call to speak to a free financial counsellor on 1800 007 007.

