

## **Dealing with debts: your rights and responsibilities**

This information is from page 12, 13 and 14 of the ASIC/ACCC brochure

### **Disputing a debt**

If you are contacted about a debt you do not owe (or if you disagree with the amount of the debt being claimed), you have a right to dispute the debt or the amount of the debt.

When you make a reasonable request, debt collectors should be prepared to give you account information and copies of contracts (if the debt collector is acting on behalf of a creditor, they may refer your request to the creditor). For home loans (except for investment properties), personal loans and credit card debts, you have a specific right to this information by law.

If you are disputing a debt, a debt collector should stop collection activity until any reasonable request for information has been met, and the debt has been confirmed. Also, a default listing on your credit report should not be made during this period.

### **‘That is not my debt!’**

In cases of mistaken identity, showing your driver’s licence or other ID may resolve the situation. However, the decision to show ID is yours – you cannot be forced to do so by a debt collector.

Identity fraud is when a dishonest person or group uses your personal details for their own financial gain (e.g. to run up a debt in your name). If you think this has happened, contact the creditor or your financial institution immediately.

You can also get a copy of your credit report to make sure no fraudulent transactions have been made in your name.

### **‘I thought that debt had been settled!’**

Sometimes a debt collector might contact you about a debt even though you have paid it in full, or it has already been settled in some other way.

If this is the case, explain the situation to the debt collector in writing and include copies of any records or information you have that prove the debt has been settled. This is why it is always important to keep your own records of your debts, even when they have been paid.

If the debt has already been settled you should also ask the debt collector why they are contacting you. If the collection activity continues without an adequate explanation, make a complaint.

### **‘I don’t think I owe that much!’**

You might accept that you owe the debt but disagree with (or be unsure about) the amount claimed.

If this is the case, ask for an itemised statement of your account that clearly sets out:

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- the amount and date of the alleged debt,
- how it is calculated, and
- details of all payments made and all amounts owing (including principal, interest, fees and charges).

Check the statement carefully. It might include recovery fees or expenses charged by the debt collector. Check whether you have to pay these and get advice if you think the fees are unfair. For example, did your original contract say anything about these fees or expenses?

## **Dispute resolution schemes**

You may be able to resolve an ongoing dispute with a debt collector using an independent body (e.g. a fair trading tribunal or independent dispute resolution scheme).

There are independent dispute resolution schemes for the banking, telecommunications and utilities industries. These schemes are available to consumers free of charge, and scheme members must comply with their decisions.

Make sure you refer an unresolved dispute to a scheme or tribunal without delay. Generally, legal proceedings cannot be started against you while a matter is being considered by one of these bodies.

On the other hand, if legal proceedings have started you cannot take your dispute to a scheme or tribunal, and if you wish to dispute the debt you will need to file a defence in court