



# **Credit arrears**

Your rights and options

There are so many different types of credit and so many different lenders that it can be hard to know what to do when you find it difficult to keep up with repayments. The purpose of this leaflet is to provide you with a number of pointers on what to do if you find yourself in a situation where one or more of your credit agreements is, or is about to be, in arrears.

### **Where do I start?**

Whether you are experiencing difficulties in maintaining payments or are in serious arrears, the worst thing you can do is ignore the problem in the hope that it might go away. The credit institution is likely to think you don't care if you don't get in touch with them. Contact them by letter or telephone, and explain your situation. Make some suggestions yourself and ask what they can do to help you. Being open and honest about your circumstances shows them that you do care and that you have missed payments because you are unable, rather than unwilling, to make them.

## How do I work out what I want to say?

It is a good idea to take stock of your situation if you are having difficulty with either one agreement or with several. Take a piece of paper and divide it in two. On one side write down the money you have coming in each week or month, and on the other make a list of all your weekly or monthly spending and commitments. Be honest with yourself and involve other family members if at all possible. You can get a budget sheet listing a number of common items of expenditure from any MABS office or on our website (see below) if you feel it would help.

Add everything up and identify areas where you could maybe increase your household income or cut back on spending. Seeing the full situation on paper can help you to identify how much you can realistically afford on your credit commitments and whether you need to ask companies to accept less than the normal repayments. If so, sending the companies a copy of your budget is often an effective way of persuading them to accept reduced payments over a longer period.

**If you require guidance on how to go about this, please visit our website, [www.mabs.ie](http://www.mabs.ie), or contact your local MABS for an appointment to speak to a Money Adviser in confidence.**

## **How do I know what type of agreement I have?**

It is always a good idea to check the agreement you signed with the company. The reason for this is that it will tell you what type of agreement you have and what might happen if you default. This can help you decide what you want to do next. If you took out a loan to buy goods, the agreement may tell you that it is a credit sale agreement, so the goods you are buying are already yours and you do not need to worry about them being repossessed. Any offer you make should be on the basis of any money you have left over after paying your essential commitments such as housing, heat, light and so on.

However, if the agreement tells you it is a hire purchase agreement, the goods belong to the company until you make your final payment. If you are in arrears, the company may try to repossess the goods, although they need a court order if you have paid more than one third of the total hire purchase price. If you need the goods (a car for work for example), this loan will be more of a priority and your offer should reflect this. Again, as most companies are generally willing to accept lower repayments in line with your means, try and work out what you can actually afford first.

If you have mislaid your copy of a consumer credit agreement, you are legally entitled to get a copy by post, providing you write to the company asking for one. If you are unsure about what the small print means, we may be able to advise you.

### **Do I have to pay what the company wants?**

It is our experience that you should never offer or pay more than you can realistically afford. In the vast majority of cases, if a company is unhappy with your proposals or fails to hear from you, their only alternative is to try and recover the debt through the District Court, which deals with most matters involving broken credit agreements. If so, please see our leaflet 'Debt and the District Court' for guidance on what to do.

### **How do I know that the company has acted legally and properly?**

Most loan agreements (though there are exceptions such as credit union loans) are covered by the Consumer Credit Act 1995. As a result of this Act, agreements and documents must contain certain information. Companies must also send you certain notices if they are intending to take action against you to recover their money.

The rules are often quite complicated and mistakes might have been made that can make your negotiating position stronger, or mean that the agreement is legally questionable.

Your local MABS or the Irish Financial Services Regulatory Authority (IFSRA) can advise you further.

You can get IFSRA's contact details from their website, [www.ifsra.ie](http://www.ifsra.ie), or you can phone them for advice on Lo-call number 1890 777 777.

### **What sort of proposals might my creditors accept?**

Depending on the circumstances, your payments might be covered by a payment protection insurance policy. If not, creditors may be willing to:

- accept reduced or minimum payments,
- suspend or reduce interest and other charges being applied to your account,
- grant you a payment break to see if circumstances improve, or
- accept a lump sum payment to clear the debt.

If you are asking for any of the above, be open and honest with your creditors about the full extent of your financial and household circumstances – it's the best approach. A letter along with a budget sheet listing your income, spending and credit commitments can help both you and your creditor to see what a realistic solution might be, given your current position (make sure you keep copies of these).

If you require assistance with this, we can guide you on how to put forward proposals that you can afford, given your means.

### **Disclaimer**

Every effort has been made to ensure that the information contained in this leaflet is accurate, but the Department of Social and Family Affairs accepts no legal responsibility for any errors or omissions contained in it. If you have a specific legal query relating to matters raised in this leaflet you should get detailed legal advice.



*For free, confidential advice  
and assistance contact:*

## **The Money Advice and Budgeting Service (MABS)**

**This leaflet is prepared on behalf  
of the Money Advice and Budgeting  
Service (MABS), a free, confidential  
and independent service for people  
with debt and money management  
problems.**