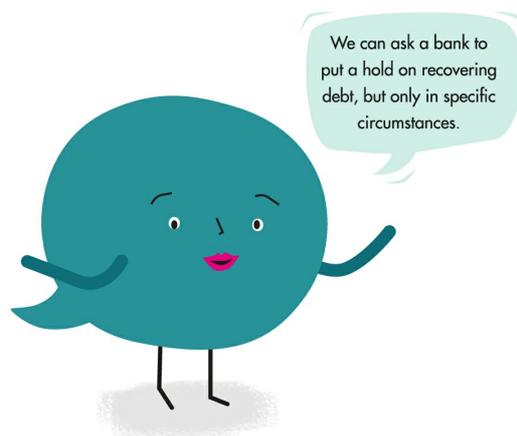


Suspending debt recovery action

We can ask a bank to put a hold on recovering a debt if a customer complains to us, but only in specific circumstances.



A bank typically takes debt recovery action because a customer owes it money and is not making repayments. When customers complain to us about this, we don't have the power to stop such action, but we sometimes ask a bank to consider doing so while we assess the complaint. The circumstances in which we make this request are set out below.

Debt recovery action can take different forms, including:

- referring the matter to a specialist debt recovery team within the bank
- employing an external debt collection agency to act on the bank's behalf
- selling property over which the bank holds security (which in the case of real estate is known as a mortgagee sale)
- seeking a judgement from the courts to enforce the debt.

Asking a bank to suspend debt recovery

We may ask a bank to suspend debt recovery action if the following apply:

- The complaint relates directly to the debt the bank is seeking to recover. Sometimes complaints are about peripheral matters, such as an alleged breach of privacy relating to the loan, and the complainants do not dispute that they owe the money. In such cases, we will not ask the bank to suspend debt recovery action.

- The complaint appears, on the face of it, to have some merit. There needs to be a realistic prospect that the complaint will succeed before we ask a bank to consider suspending action.
- A successful complaint would not result in any need for recovery action. We need to be satisfied that upholding a complaint would render debt recovery action unnecessary. This would not be the case if, for example, a customer accepted he or she owed part of a debt and disputed another part, yet could still not repay the undisputed portion without selling his or her property.

The rules under which we operate do not allow us to investigate a complaint if it is before the courts. For this reason, we will not ask a bank to suspend debt recovery action if it has already started court proceedings over the debt.

There is a limited exception to the general rule that a bank is able to continue with debt recovery action when a complaint is made. If a consumer has granted their bank security over consumer goods (such as a car) and complains about any repossession action, generally the bank may not continue with the action until the complaint has been resolved.

After suspending action

Banks still charge customers interest and any other costs applicable to their lending if they agree to suspend recovery action. The amount owed will therefore increase unless a customer is making repayments. This can cause a deterioration in the customer's financial position, and can also lead to losses for the bank. Such losses can come about because the failure to make loan repayments, together with interest and other costs then applied to the loan, result in the customer not having sufficient equity left in the property to repay the bank loan in full.

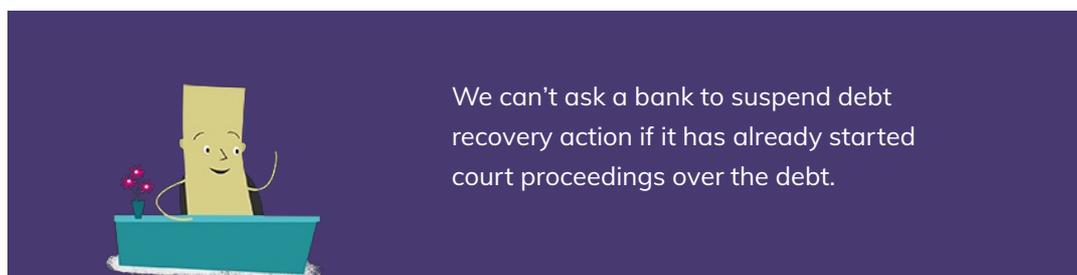
We give priority to such cases and will usually agree to a bank's request to fast-track an investigation if a bank can demonstrate that a customer's financial position is rapidly deteriorating and it is anxious to keep further delay to a minimum.

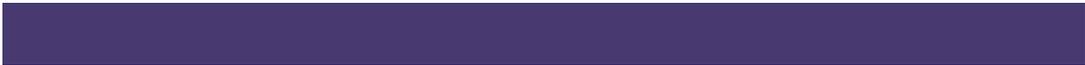
A fast-tracked investigation means:

- Both the customer and bank must respond to our investigator's requests for information or comment within 10 working days.
- We will not grant exceptions to this deadline except in exceptional circumstances.

When a bank asks for such priority and fails to meet our deadline, we either remove the case's priority status or take our investigation to the next stage on the basis of information already received.

When a customer fails to reply in time, we may, after a warning, discontinue our investigation.





Get in touch

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