



Gifts, Loans & Debts

Information for Older People

It can be hard to see someone you care about struggling financially. Older people often get asked to help when family members are in difficulty and it's sometimes hard to say no. Whether you have a lot to give or a little, it's important to know your rights and responsibilities and what can go wrong when you help someone financially.

This Help Sheet covers what you should think about when considering a loan or gift of money or other assets. It also covers going into debt for someone, going guarantor and providing security for a loan.

Don't risk your future

At Seniors Rights Victoria we work with many older people whose efforts to help someone financially have resulted in the devastating loss of their home and/or savings. In older age it can be impossible to recover from a financial loss, particularly if you are on a fixed income such as a pension.

Before you agree to help someone out financially, ask yourself:

- How will I cope if I have to leave my home?
- Where would I live?
- How will I manage in an emergency if I don't have my savings?
- Who will pay if I need special treatment or services later on?
- How will this affect my relationship with my other children?

Understand the risk

Someone who is unable to get the money they need from a bank or other lender is probably

considered too risky for a loan. Ask yourself if you should take this risk. Think carefully about the person's financial habits and methods. Even the most well-meaning and financially competent of people can make mistakes. Circumstances such as a relationship breakdown or job loss can bring big changes to a previously secure situation.

Promises and threats

"I'll pay you back as soon as I get a new job."

"If you don't give us the money we'll have to move and you won't see the grandchildren anymore."

"If you love me you will trust me and just sign."

Don't be pressured into giving or lending money or signing documents. Seniors Rights Victoria can help you understand your rights.

Worried about your safety or independence?

Seniors Rights Victoria – Helpline 1300 368 821–10am–5pm, Monday–Friday.
Free confidential support, legal advice, information and education.

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It's OK to say 'NO'

It can be difficult to say 'no' to someone you care about, particularly if they are going through difficult times or are used to getting your financial support.

Tips for saying 'no'

- Explain that you don't want to risk damaging the good relationship you have with them now.
- Let them know you have the right to protect your interests and that it has nothing to do with your love or trust of them.
- Give examples of what could go wrong, such as losing your home, and point out just how difficult it would be for you if this were to happen.
- Encourage them to explore other options for managing the problem. Money Help (see P.4) offers financial counselling, information about low-interest loans and much more.

Think about your pension and entitlements

Giving away or lending money or other assets ('gifting'), including money raised by mortgaging or guaranteeing your home, may affect your Centrelink payments. It can also affect the fees you pay for aged care accommodation in the future.

Centrelink requires that you tell them about any gifts or loans. Amounts above the allowable gifting amount could affect how much pension you receive. Check with the Centrelink Financial Information Service for the current gifting amount and any other changes. You can also

visit: www.humanservices.gov.au/customer/enablers/assets

Some older people give away money or assets because they believe it may help avoid taxes or reduce the cost of aged care fees or bonds. These arrangements can also go wrong.

It's important to seek independent advice from a lawyer, financial adviser or Centrelink.

Plan and get advice before selling your home to move in with family

Many older people choose to move in with family members so they can get the care they need as they age. Often this involves selling a home or other assets and giving the money to a family member who has agreed to provide ongoing care. If you are considering such a move it's important to first get advice about planning and securing your future interests.

It's also important for everyone involved to talk about what they expect from the arrangement and how it may work in practice. A written family agreement can help ensure everyone understands the plan and avoid future conflict.

The Dispute Settlement Centre of Victoria assists older people and their families who want to discuss future living arrangements by offering a range of dispute resolution services. Seniors Rights Victoria has produced a guide for older people considering living with family members. Contact us (see p.4) for your free copy of *Care for Your Assets: Money, Ageing & Family*.

Think before you sign loan documents

There are a number of ways you may be asked to get involved in a loan for someone else's benefit. This may include using your home as security, taking out a mortgage or reverse mortgage* on



your home or transferring ownership or title.

Loan and mortgage documents can be difficult to understand. Don't risk your future. Get independent advice before you sign. Contact a lawyer, financial advisor or Seniors Rights Victoria.

** A reverse mortgage involves borrowing money using the value of your home (equity) as security.*

Be clear – is it a gift or a loan?

When you give money or something valuable it's important to make it clear in writing whether you intend it to be a gift or you expect to be repaid at some time.

A written agreement helps to ensure both parties understand the deal and provides proof in case there is any disagreement in the future. It can also make clear when and how you expect a loan to be repaid, if you expect any interest to be paid and any other terms. It's best to get independent advice regarding such an agreement. Contact a lawyer or Seniors Rights Victoria.

Keep good records

As well as a written loan agreement, it's also important to keep clear records of when payments are made to you. Good record-keeping can help make the process of recovering money easier.

Purchase a duplicate receipt book from a newsagency or stationery shop, so that both you and the person making the repayment can have a copy. Remember to include your names, the date and amount repaid and it should be signed by both parties.

“ **My daughter and her partner were really stressed out about all their debts. When they asked me to sign for a loan to get the debt collectors off their back, I felt I had no choice.**

They promised it wouldn't cost me anything and they would make all the repayments. A few months later they split up and payments on 'my' loan stopped. Now it was me who had all the stress.

There was no way I could manage the repayments from my pension and when the letters and phone calls came in from the bank, the worry of it all was making me really sick.

It took months to sort out with the help of Seniors Rights Victoria and a financial counsellor. I wish I knew then what I know now, because as it turns out, if my daughter had gone to a financial counsellor in the first place, she could have got help without involving me.”

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Where to get help or more information

Seniors Rights Victoria

1300 368 821 10am–5pm, Mon–Fri
www.seniorsrights.org.au

Free confidential support, legal advice, information and education to help prevent elder abuse and safeguard the rights, dignity and independence of older people.

Money Help

1800 007 007
www.moneyhelp.org.au

Free, confidential, independent financial information and telephone counselling service.

Centrelink Financial Information Service (FIS)

13 2300
www.humanservices.gov.au/customer/services/centrelink/financial-information-service

A free service to help you in making financial decisions, including how any gifts or loans you make may affect your pension.

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- Seniors Rights Victoria Volunteer public speakers

Some content in the Help Sheet has been drawn from the NSW Legal Aid *Legal Issues for Older People* sheet: *Helping your family financially?*

Financial Ombudsman Service

1300 78 08 08
www.fos.org.au

Resolves disputes between consumers and financial services providers free of charge.

Dispute Settlement Centre of Victoria

1800 658 528
www.disputes.vic.gov.au

Provides free dispute resolution and facilitates discussions to make agreements on future living arrangements. Offices throughout Victoria.

Seniors Rights Victoria is responsible for the content of this Help Sheet. This publication provides a general summary only of the subject matter covered and is for information only. It must not be relied upon as legal advice. People should seek professional advice about their specific case. Seniors Rights Victoria is not liable for any error or omission in this publication. Last updated June 2018. © Seniors Rights Victoria 2018.



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