



Financial Rights

LEGAL CENTRE

FACT SHEET



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GETTING A LOAN WITH SOMEONE ELSE

This fact sheet is for information only. It is recommended that you get legal advice about your situation.

CASE STUDY

Louise had been living with her partner Joe for 6 months. Joe worked as a builder. Joe's ute got written off in a car accident. The ute was uninsured so Joe needed to buy a new ute to continue working. Joe and Louise went to see a car dealer. Joe picked out a ute he thought would do the job. Joe sat down with the dealer to organise a loan to buy the ute. The dealer put some numbers into the computer. Finally, the dealer said the loan would not be approved without another borrower on the loan.

Joe asked Louise to be on the loan as well. Joe told Louise he was desperate, he needs the ute to work, he would pay the loan and Louise would not need to pay anything. Louise said OK and gave her details and signed the loan documents. Louise and Joe broke up 6 months later. It is now 2 years later and Louise has been contacted about the loan by the finance company. Joe has disappeared, the ute has been repossessed and there is a shortfall of \$5000 she needs to pay immediately. Louise is now being threatened with court action.

Getting a loan with another person is a big responsibility. This is because almost all loans you get with someone else are joint loans. Joint loans can be a great way to purchase something (for example a car or a house) that you would not be able to afford by yourself. Joint loans can also be a nightmare where you have to repay a loan when you did not get little or anything out of it (like Louise above).

WHAT IS A JOINT LOAN?

A joint loan (or debt) is a loan that both you and the co-borrower or joint borrower have to pay. The co-borrower is the person you have borrowed the money with. A joint loan means that both of you owe all or the whole of the loan.

To be a co-borrower or any kind of borrower you usually have to sign a loan contract. If you have not signed a loan contract and a lender is saying you owe a debt get legal advice straight away!

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SOME COMMON MYTHS ABOUT JOINT LOANS ARE:

MYTH: I only owe 50% of the loan. FALSE

FACT: You owe all of the loan. If the loan is for \$10,000 both borrowers owe \$10,000. This does not mean the lender can collect the loan twice! It means the lender can choose to collect it from you or the co-borrower until the whole debt is repaid. Of course, the amount owed will usually reduce as repayments are made. Also, if you agree with the co-borrower how the repayments are made and all the repayments are made, the issue of owing all of the loan will not matter as the lender is getting paid as agreed.

MYTH: The co-borrower took the car, stereo, or refrigerator so he has to pay the loan – FALSE

FACT: It does not matter who has the goods. If you are a borrower, then you owe the money.

MYTH: The lender has to pursue both borrowers. FALSE

FACT: The lender can pursue one, some (in the case of more than 2 borrowers) or all of the borrowers. The lender will usually pursue whichever borrower it believes is most likely to make repayments. So if you are a co-borrower on a loan and the other borrower disappears, the lender does not have to locate that person. It can choose just to pursue you and commence court action against you.

MYTH: I have a deal with the other borrower that they will pay all of the loan so the lender cannot pursue me. FALSE

FACT: The lender can pursue you for the debt even if you have an agreement with your co-borrower that they will repay the loan. If you have an agreement with the co-borrower it is up to you to get any money you pay to the lender off him/her.

MYTH: I am not a co-borrower but I can be held responsible for the loan if I am living with or married to the person who got the loan. FALSE

FACT: Being in a relationship does not automatically make you responsible for debts. You are only responsible for your own loans, joint loans and loans you have guaranteed.



WHAT QUESTIONS SHOULD YOU ASK YOURSELF BEFORE GOING CO-BORROWER?

Also see [Fact Sheet: Before You Borrow Money](#) for other matters to consider when borrowing money.

1. What am I getting out of this loan?
2. Are you getting something out of the loan, for example, a car or a house? Is the car or house going to be owned jointly? If it is make sure this is recorded.
3. If you are not going to get anything out of the loan then you should think seriously about not signing as a co-borrower. If you are at all unsure stop and think about it. Don't sign until you are sure!

CAN I AFFORD THE LOAN?

This is where you consider the worst case. Could you afford to pay the loan if the co-borrower disappeared or became ill? This does not necessarily mean you should not sign but it is something you should think about.

WHAT TYPE OF LOAN AM I GETTING INTO?

Don't rely on your co-borrower to tell you about the loan. Find out about the loan for yourself so that you understand what loan you are getting. Take care with line of credit loans! These are loans where you borrow money on a continuing basis up to a fixed limit. Examples are home equity loans (also called line of credit loans), and credit cards. For more information see [Fact Sheet: Line of credit loans and home loans with redraw](#).

WHEN YOU ARE GETTING THE LOAN

For all personal loans:

- You must receive your own copy of the loan contract before you sign the loan contract. Read the loan contract.
- You have the option of receiving your own statements to the address you specify or you and the co-borrower can sign a nomination form. This form allows you both to nominate one person to receive all statements and letters from the lender. If you decide to do this, make sure you remember to cancel this authority if your circumstances change.

NEED SOME MORE HELP?

See [Fact Sheet: Getting Help](#) for a list of additional resources.

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