



## Oppression

The law uses the term 'oppressive' to describe harsh or really unfair behaviour by creditors.

The law also explains oppression as "harsh, unjustly burdensome, unconscionable, or in contravention of reasonable standards of commercial practice."

The terms of the credit contract might be oppressive, or perhaps the way you were persuaded to enter into it was oppressive, or the way the creditor behaves towards you while enforcing the contract.

Example: Li Mei got a loan from a finance company. The loan was for \$4,000, which included \$1,800 brokerage fee (45 percent of the money lent). The fee was paid to a company associated with the creditor. The interest rate was 32.5 percent and there was a penalty rate for late payments of 38.5 percent. The finance company also listed Li Mei's house as security for the loan. Li Mei got advice from a community law centre and took the finance company to Court. The Judge decided that Li Mei was on an "unequal footing" with the creditor since Li Mei had a low income and needed the money in a hurry and had little experience with finance contracts. Under these circumstances and because of the very high brokerage fee, the Judge said the interest rate was oppressive. And the finance company was not entitled to an interest in her house.

When Courts are deciding whether a credit contract is oppressive they look at:

- evidence of real detriment or hardship – it is not enough for a contract to be a little bit unfair or difficult for you
- the relative power of the debtor and creditor
- how you got behind on your payments and how much you owe
- what sort of difficulties the contract has created for you
- the creditor's attitude
- what the contract looks like.

Even if the creditor's actions are standard practice in the industry, it does not mean that the actions are reasonable. The Court must determine what is reasonable independently from the industry. This means that finance companies cannot say 'but everyone else is doing it, so it must be okay'.

### **What if I think the creditor is acting harshly or extremely unfairly?**

You can ask the creditor to stop their behaviour and change the terms that you think are harsh or unfair. If they refuse, you can get some advice from a community law centre and take a claim against them to the Disputes Tribunal or Court. If the Court finds there has been oppression, it can require the creditor to change the terms of the credit contract, or cancel it all together.

The Disputes Tribunal can also change the terms of a contract or set aside a contract (get you back to the position you were in before you signed the contract). The Disputes Tribunal may do this if it considers that the contract is harsh or very unfair, or the way the creditor behaves towards you while enforcing the contract was harsh or very unfair.

[See here for more information on the Disputes Tribunal.](#)