

CONTACTING/COLLECTING OF MONIES OWED GUIDELINES: FOR COLLECTORS & CREDITORS

Just 5 tips learnt in relation to collection, privacy, and even harassment.

1. Frequency of Contact

Debtors & third parties are entitled to be free from excessive¹ communications from collectors.

- Communications must always be for a reasonable² purpose and should only occur to the extent necessary.
- Collectors should seek to discuss multiple accounts with a debtor during the one contact to avoid unnecessary communications.
- Unnecessary or unduly frequent³ contacts may amount to undue harassment of a debtor.
- **It is recommended⁴ that you do not contact a debtor more than three times per week, or 10 times per month at most (when contact is actually made, as distinct from attempted⁵ contact) and only when it is necessary to do so.**
- This recommendation does not apply to face-to-face contact which is specifically addressed on page 3.
- Unreasonably frequent attempted contact⁶ may also amount to undue harassment. This may occur, for example, where an automated dialler (Dindas does not use automated dialler⁷) is used to make calls and a debtor's number is returned to the queue within a short space of time after each attempted contact.
- Collectors should ensure that attempted contacts are not excessive⁸, not abusive, not threatening (physically or mentally), not offensive, respect and decency must be observed.
 - If you contact a debtor or other person multiple times a day, without allowing an appropriate interval for the debtor to respond, then this is likely to involve unreasonable contact and may amount to undue harassment.

¹ Not Defined

² Not Defined

³ Not Defined

⁴ Only a recommendation

⁵ The reason some use "unknown no" or "private"

⁶ Disgruntled employee

⁷ The reason some use "unknown no" or "private"

⁸ Disgruntled employee

TYPE OF COLLECTION CONTACTS

2. Telephone and other contacts

(including letters, emails, text or telephone messages, social media channels, and fax).

- **Unnecessary or unreasonable** contact by letter, email, SMS, telephone messages (whether left on a voicemail service, an answering machine or with a third party, should be avoided).
- **Use of social media channels** or other similar¹ technology must also be avoided.
- Example: Contact using social media – (not relevant to Dindas), but worthy to note and understand.
- But if you use social media such as Facebook to contact the debtor, then you must ensure such contact is not excessive² and is always for a **reasonable**³ purpose; otherwise, the contact may amount to undue harassment.
- And you must also observe your privacy obligations when using such forums to contact the debtor.

It is important to cease your efforts to contact the debtor once you have reached the **recommended** limits frequency of contact or if it is evident that further contact would not be for a reasonable purpose (See p 1/3).

- Unless the debtor invites the contact or there is some other legitimate reason for making further contact (for example, if you are in the process of negotiating an agreement with a willing debtor).
- **It is also important to cease your efforts to contact the debtor using a particular medium when the debtor has requested that this medium not be used and has provided you with an alternative method of contact.**
- Once you have made contact, leave a **reasonable** interval before next contacting the debtor. Give the debtor time to respond to your previous communications, and/or to organise payments if this has been agreed.
- If you have spoken to the debtor and it is understood that the debtor requires a few days to speak to third parties or consider options, then contacting the following day may be considered **unreasonable**, even though it is within **recommended** limits.

** The words recommended, unnecessary, unreasonable, reasonable, are not defined so care needs to be taken.

Definitions

¹ Not Defined

² Not Defined

³ Not Defined

3. Face-to-face Collection contacts

- You should only make face-to-face contact when such contact is necessary and considered reasonable¹.
- The ACCC recommend that you do not make more than one face-to-face contact with a debtor per month (if contact with the debtor takes place).

4. Third parties (not something normally used, but again an interesting read)

- It is recommended that you do not contact a third party to obtain location information more often than once every six months. An exception is when permission to make further contact about the location of a debtor has been sought and given in advance by the third party.
- **If you contact a third party in an attempt to speak with a debtor, and that other person tells you that the debtor does not live at that address and they do not know the location of the debtor, or have no further details to provide, or simply do not wish to provide further details about the debtor, then you should not contact that third party again, unless you have reason to believe that after six months or more they may be in possession of relevant information about the debtor.**

5. Undue Harassment

- **Unduly frequent contact designed to wear down or exhaust a debtor, or likely to have this effect, constitutes ‘undue harassment’ or coercion and must be avoided.**
- **If the collector makes a number of phone calls or other contacts in rapid succession, this is considered excessive.**

Definitions

¹ Not Defined