

# Consumer leases

## What community workers need to know

Presented by  
Loretta Kreet, senior lawyer, Legal Aid Queensland  
November 2016

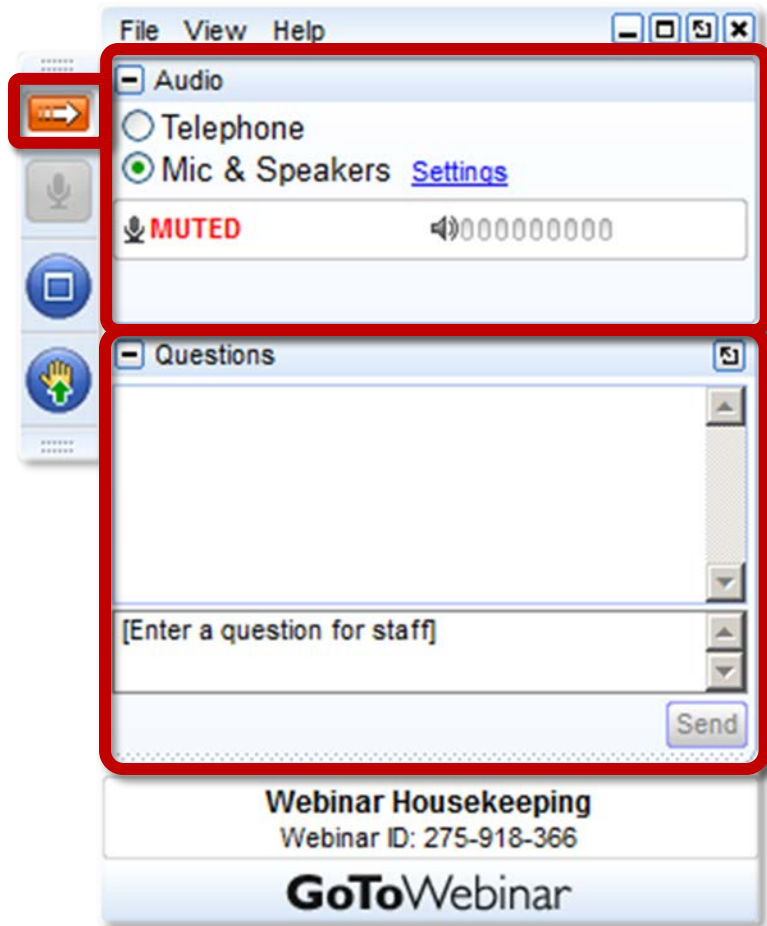
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- Raise your hand



# GoToWebinar housekeeping: attendee participation



## Your Participation

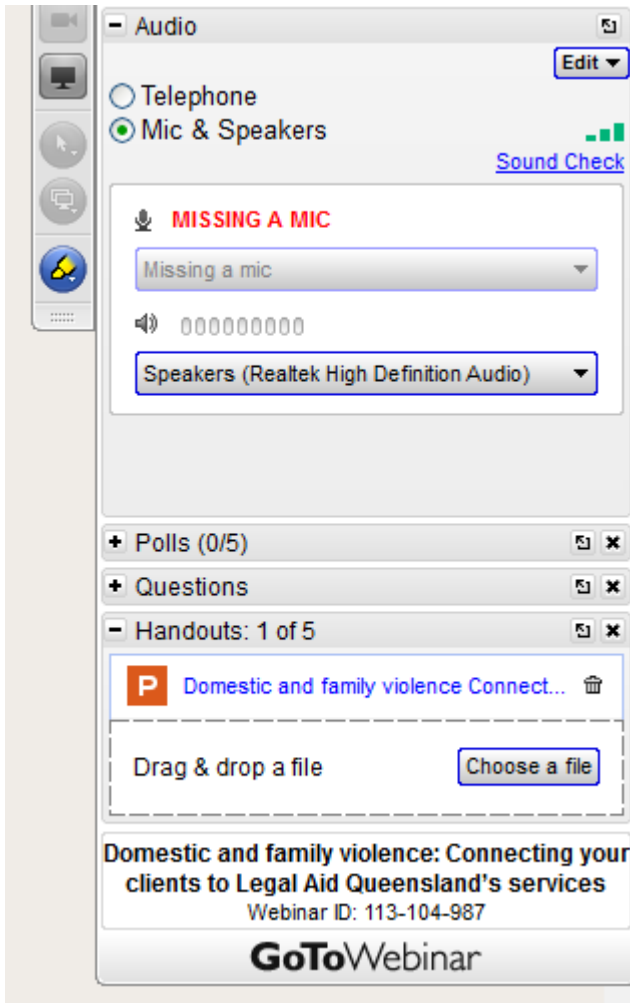
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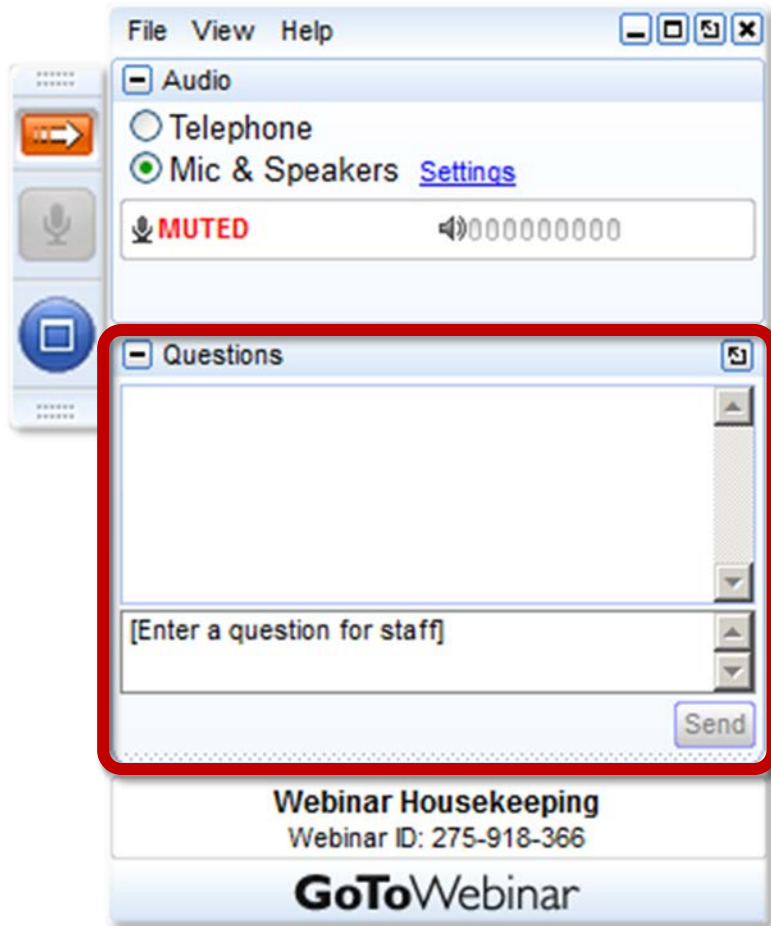
## Download Handout

Download the handout in your control panel

- Click **Handouts** to open the handout section
- Click on the link to download this

# GoToWebinar housekeeping: hold questions for the end

40 minute presentation + 20 minute Q&A



## Questions

- Please submit your text questions and comments using the Questions panel

# Poll

What area do you work in?

- South East Queensland
- Far North Queensland
- Regional Queensland

# Poll

I would rate my knowledge of Legal Aid Queensland as:

- High - I know a lot about Legal Aid Queensland
- Good - I have some knowledge of Legal Aid Queensland
- Limited - I know a little about Legal Aid Queensland
- None - I have no knowledge of Legal Aid Queensland
- Not in Qld - I know of Legal Aid within my own state



# Presenter

## **Legal Aid Queensland**

- Loretta Kreet, senior lawyer, Consumer Protection Unit

# Facilitator

## **Legal Aid Queensland**

- Katherine Bowden, communication and community legal education officer

# Outline

1. Types of leases that are regulated
2. Enforcement by lenders
3. Responsible lending and unfairness
4. Special rules that apply to consumer leases
5. Resolving the dispute
6. Common consumer lease issues
7. Financial hardship and debt waivers
8. Getting advice and assistance from Legal Aid Queensland.

# Regulated leasing

- National legislation regulates consumer leases:
  - National Consumer Credit Protection Act (NCCP)
  - National Credit Code (NCC).
- Leases that are regulated (s 170, NCC):
  - Predominantly for household or domestic purposes
  - Charge for leasing
  - Lessor in the business of lending.

# Which leases are not regulated as a consumer lease?

- Where there is a right to buy (s 9, NCC)
- Novated leases (s 171(2), NCC)
- Short term leases or indefinite leases (s 171(1))
- Where payments do not exceed the cost of the goods.

**Please note there is a presumption that the legislation applies.**

# Enforcement by lenders

- Laws regarding the enforcement of judgements differ between states.
- If a lessor takes a consumer to court to try and recover the money that is owed to them, they may have different outcomes depending on which state the judgement is obtained in or which state the consumer resides in.

# Responsible lending and unfairness

## Responsible lending requirements

- Reasonable inquiries about financial situation
- Requirements to assess a consumer's needs and objectives.

## Was the contract unjust?

# Special rules that apply to consumer leases

- Interest rate and fees caps
- Security over household goods
- Written requirements.

# Case study: vehicle lease

- Jill\* (not her real name) approached Legal Aid Queensland after she unsuccessfully attempted to resolve her issue with the lender despite having assistance from her parents.
- The lessor was pursuing Jill for her car lease debt where the amount borrowed was \$19,000 for a car worth perhaps \$5000.
- Jill was diagnosed with ADHD, an intellectual impairment together with mild bipolar as a child and was in receipt of a disability pension. Her literacy levels were very basic and it took her a significant amount of time to read documents and even then found it difficult to understand their meaning.



# Case study: vehicle lease (contd)

- In 2015 she went to a caryard with her then partner Graham as he wanted to buy a car.
- Despite telling the salesperson that the car was not for her, he offered to give her \$1000 trade-in on her car if she signed a contract for the new car.
- Jill really wanted to go home and talk to her parents. She was very happy with her Suzuki and she usually got her parents to look over anything that she was required to sign. The salesperson did not allow her to take the paperwork home with her despite her telling him that she always had her parents help her when she needed to sign paperwork.
- She did think she was buying the car and not leasing it.

# Case study: vehicle lease (contd)

- The initial contract was written in both names but when Graham refused to sign it was written in her name alone despite the salesperson taking Graham's bank account details.
- Jill did not know how much the car was worth.
- Graham did made payments for a few months until he separated from her and left the car with Jill.
- Jill's parents tried to sort out her complaint without success, by this time her parents had told her she was liable for all the payments on the car.

# Case study: vehicle lease

## Resolving the dispute

- Was the contract regulated?
- Was the lending responsible?
  - Did it meet Jill's objectives and requirements?
  - Could she pay without significant hardship?
- Was the contract unjust?
- Internal dispute resolution
- External dispute resolution – Credit and Investment Ombudsman or Financial Ombudsman Service.

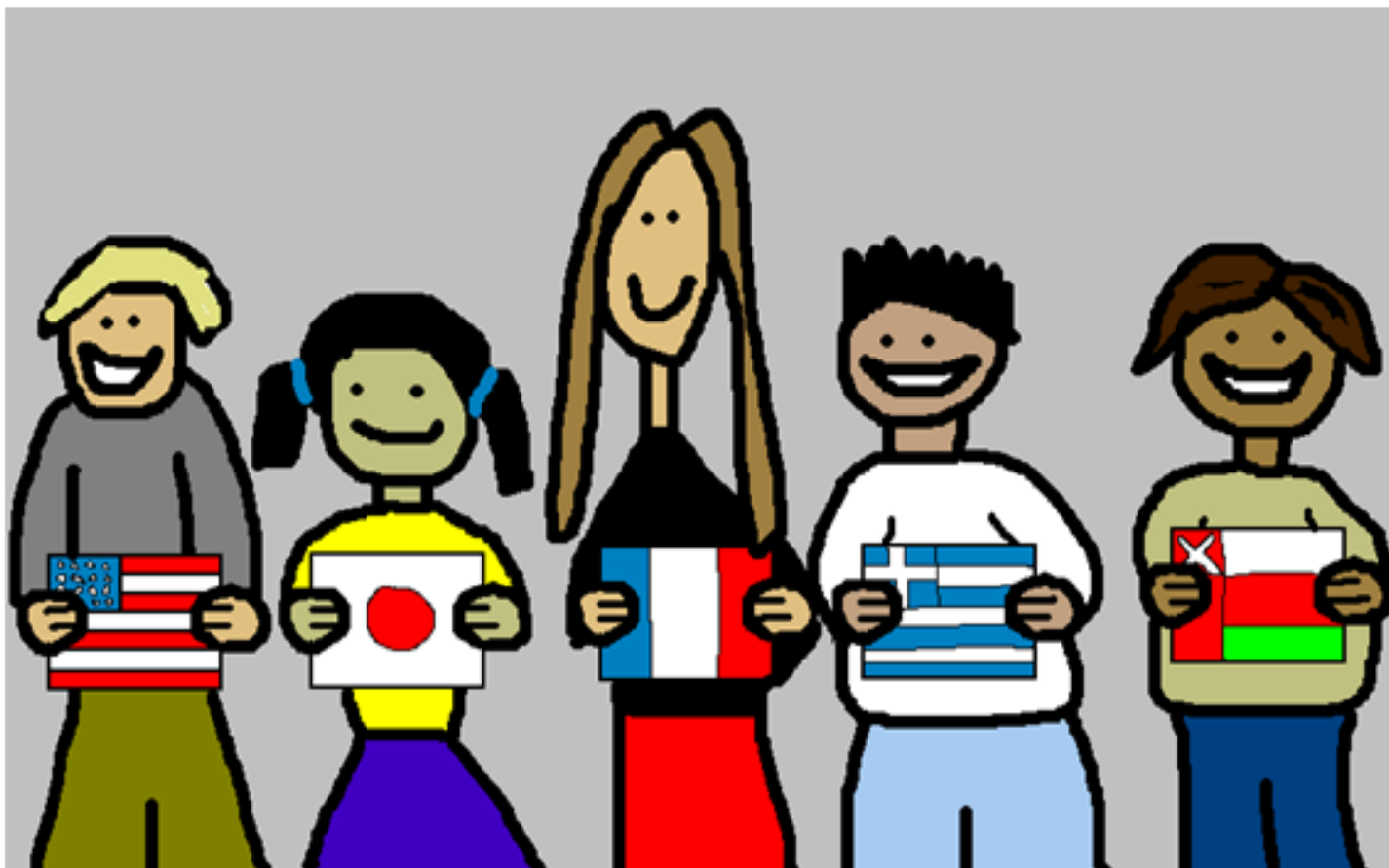
# Consumer lease issues

- High cost where effective interest rates on the products are over 100 percent
- Goods not suitable for leasing
- Avoidance of NCC
- Misrepresentation as to ownership
- Quality of vehicles leased
- Use of Centrepay to secure repayments
- Rental companies complaining to the police if goods are not returned or payments are not made.

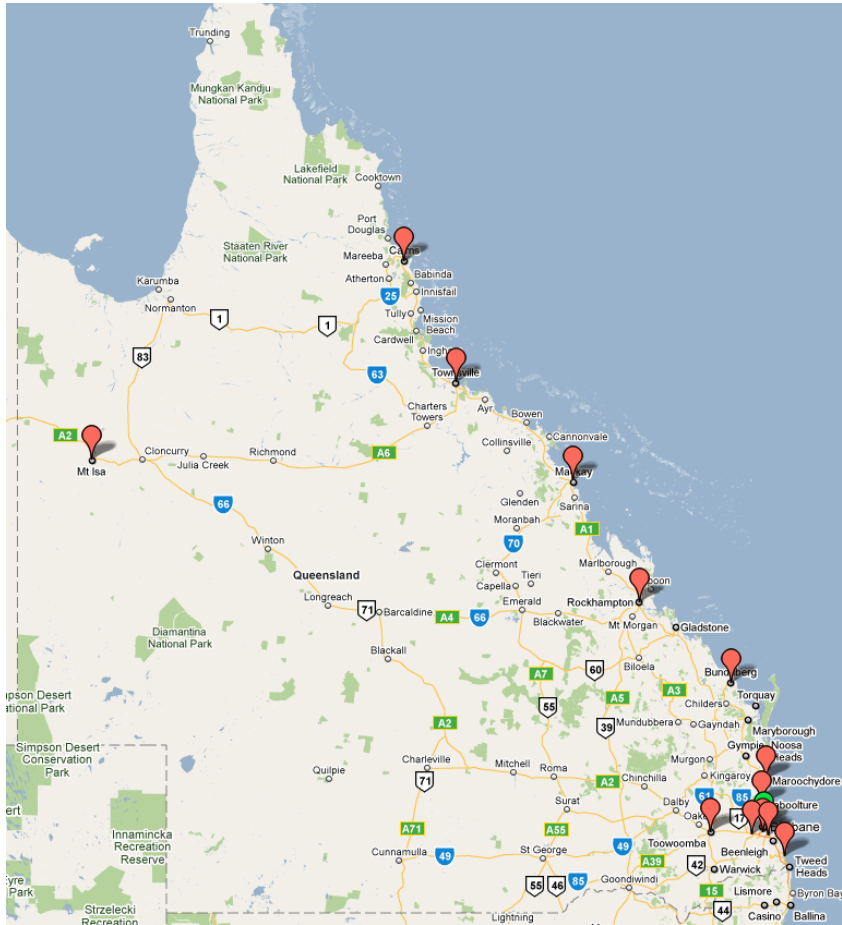
# Financial hardship and debt waivers

- When can the consumer obtain variations on grounds of hardship?
- What are legal entitlements to debt waivers on grounds of long-term hardship?

# Where to get legal help



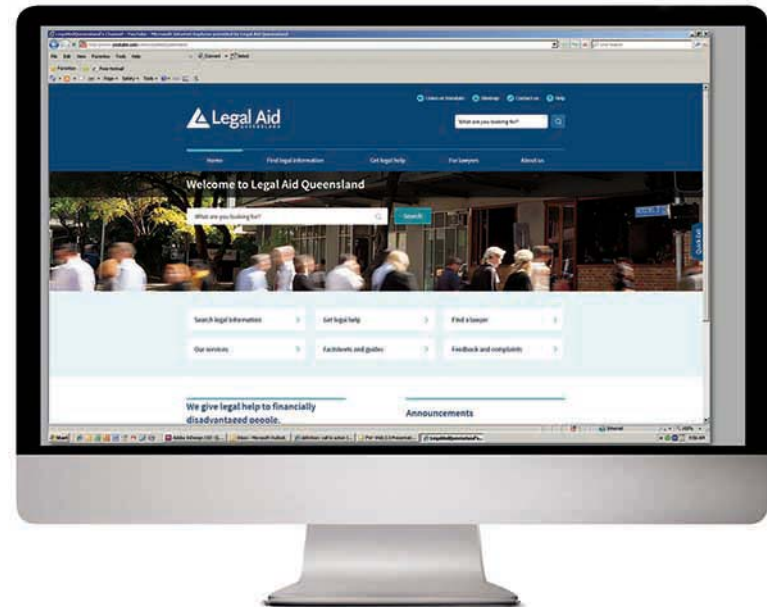
# Our office locations



- Brisbane (head office)
- Bundaberg
- Caboolture
- Cairns
- Inala
- Ipswich
- Mackay
- Maroochydore
- Mount Isa
- Rockhampton
- Southport
- Toowoomba
- Townsville
- Woodridge.

# Our website

- Great source of information on a range of common legal issues
- Free factsheets and publications
- Browsealoud translation tool
- [www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au)





# Contact us

**Legal information and referrals**

 **1300 65 11 88**

**Indigenous information line**

 **1300 65 01 43**

**Questions about an application for legal aid you have already submitted**

 **07 3238 3900**

Call Monday–Friday, 8:30am–5:00pm, for the cost of a local call from a landline.

# Questions?