

FS15: How do I change my credit report?

Use this factsheet if you:

- Have a copy of your credit report; and
- Want to know your rights to change or correct your credit report.

How do I get a copy of my credit report?

It is important that you know what is on your credit report before you complain. Don't automatically accept what a lender tells you.

To get a copy of your credit report refer to Consumer Action Factsheet '*How Do I Get a Copy of my Credit Report?*'

What is a credit report?

Not everyone has a credit report. However if you have applied for a loan in the last 5 years you are likely to have one. You are also likely to have a credit report if you have had a telephone, gas or electricity service in your name. A credit report is held by a private company, called a credit reporting agency, and contains some of your personal and financial details.

What can be on my credit report?

Among other things, the following can be on your credit report:

- Two previous addresses,
- applications for credit or utilities in the past 5 years,
- drivers license number,
- employer's name,
- defaults,
- serious credit infringements ("clearouts"),
- court judgments for debt,
- bankruptcy,
- debt agreements (agreements under Part IX of the Bankruptcy Act),
- agreements under Part X under the Bankruptcy Act, and
- company directorships.

A lender will usually access your credit report when you apply for credit. The lender is unlikely to receive a printed copy that looks the same as the credit report you receive.

The lender decides what information on your credit report they want their computer system to access. For example, the lender's system may identify that you have a payment default, but not identify the default is paid, or that you dispute the default.

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What information from my credit report do lenders use in a credit assessment?

All information in your credit report can be used in a credit assessment, when lenders decide whether or not they will give you a loan. This information includes the number of times you have changed address, the suburb you live, the number of applications for credit you have made and the types of lenders to whom you have applied. Therefore, it is important to ensure that *all* the information in your credit report is accurate, not just the information about payment defaults.

Are my credit applications reported?

Each application for credit you make will be listed on your credit report. Too many credit applications can lead to any further application for credit being declined.

One way of avoiding having too many credit application listings on your report is to ask the lender to give you some indication of whether or not you are likely to get credit *before* you put in a credit application.

Information about credit applications you have made should show the date, the name of the credit provider and the amount you applied for or state that the amount was unspecified.

What rights do I have to correct mistakes in my credit report?

The Privacy Act 1988 sets out the law in relation to information held about you on your credit report. The Federal Privacy Commissioner has responsibility for ensuring these laws are followed.

Under the Privacy Act you have the right to:

- obtain a free copy of your credit report. The credit reporting agency cannot charge you a fee for giving you your report, unless you ask for your report to be delivered before 10 working days.
- obtain a correction of any incorrect information.
- have a dispute about a debt noted on your file.
- be informed by a lender that a loan refusal is due to details on your credit report.
- know that only the credit reporting agency and lenders, including utilities, are accessing your file.

What is a clearout?

The term “clearout” is sometimes used on a credit report. The process for reporting a clearout is much simpler than that for reporting a default. There is no requirement that the debt be 60 days or more overdue or for any demand to have been made. A clearout listing remains on a report for seven years and it is likely that you will be unable to

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obtain more credit while the listing remains on your report, especially from any mainstream lender such as a bank.

A lender can only list a clearout if it is reasonable to believe that your actions indicate an intention to no longer pay the debt. However, some lenders may make a clearout listing simply because you have changed address without providing contact details.

Examples of where the clearout listing might be considered to be unreasonable:

- if you have simply been on holiday and the lender could not contact you during this time
- if your last payment debt was a while ago, the debt has been sold and the new owner has only sent demands to your last known address

If you can show that a clearout listing has caused you embarrassment, inconvenience and inability to secure further finance, and the lender who listed you is a member of BFSO, you might be able to get some compensation for the embarrassment etc.

When can defaults be listed on my credit report?

A default should only be listed on your report if:

1. you were at least 60 days in arrears, and
2. the lender has made a written demand for payment, and
3. the lender notified you (at or before the time you entered into the agreement) that personal information would be given to a credit-reporting agency. *
4. the lender warned you of its intention to list at the time it made its demand for payment **
5. the amount listed is limited to the amount which can be demonstrated to have been overdue for 60 days**

*Warning re point 3 above: We believe that the Privacy Commissioner might not accept that it is necessary for a lender to notify you that personal information would be given to a credit reporting agency *at or before the time you enter into an agreement with the lender*. We believe that the Privacy Commissioner might have the opinion that lenders can advise you of this much later (about a few weeks before they lodge a default). So while we maintain that our interpretation of the law is correct, you might not be successful if you get to the stage where you have to argue this point with the Privacy Commissioner.

** Warning re points 4 & 5 above: These points state the Banking & Financial Services Ombudsman's view as set out in page 10 of its Bulletin 54, however you might need to provide a copy of this page of Bulletin 54 when you are making your complaint unless

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you are complaining directly to BFSO. (You can get a copy of Bulletin 54 from the BFSO website.)

Who can put a listing on my report?

Only a business that allows you at least 7 days to pay an account is allowed to list a default on your credit report. Other businesses should not list failure to pay bills or debts. However all court judgments are listed on your report regardless of the type of debts or bills.

What about court judgments & bankruptcy information?

Credit reporting agencies obtain court judgment and bankruptcy information directly from the Courts and the Insolvency & Trustee Service Australia records. If this information is incorrect, you will need to resolve the problem with the lender to have the Court and the Insolvency & Trustee Service Australia records changed before your credit report will be amended.

What if I have paid the debt or dispute the debt?

If you have paid a debt that has been listed on your report as a default, the lender is obliged to advise the credit reporting agency to have the listing noted as “paid”. However, default listings are not removed just because you pay the debt.

Having “paid” noted on your credit report does not “fix” your report. A lender might still refuse to lend to you because the default listing remains. Depending on the type of debt that the default relates to, the lender may agree to approve your application if the debt is paid. You will need to discuss this with the lender. If you have advised the lender that you dispute a debt that has been listed as a default, the lender is obliged to inform the credit reporting agency & this should be noted on your credit report.

If you dispute a listing that comes from the public record, such as a judgment or bankruptcy, you would need to have the public record details changed, eg) the judgment set aside before the information can be changed on your credit report.

Are there “Bogus” credit reporting agencies?

Veda Advantage (previously known as Baycorp Advantage) and Dun & Bradstreet are the major consumer credit reporting agencies. Some debt collection firms have been known to threaten to list with other, unknown “credit reporting agencies”. Most lenders do not use these “credit reporting agencies” to assess credit applications – the threat of listing with these agencies may simply be used to force payment of a debt.

What do I need to check in my credit report?

- Was the loan 60 days overdue at the time of listing?
- Did the lender demand payment?

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- Is the amount of the debt correct?
- Was the debt listed more than 5 years ago?
- Did you have dealings with each lender listed?
- Are any of the overdue accounts listed more than once?
- Are you listed as a “clearout” when the lender knew how to contact you?
- Was the debt more than 6 years old at the time it was listed?

How do I get my credit report changed?

If the lender has an established industry external dispute scheme you can often get a good result if you:

- Step 1 complain to the lender
- Step 2 complain to the relevant industry external dispute scheme. You only need to take this step if you are not happy with the result of step 1. Refer to Consumer Action Factsheet ‘*How Do I Make a Complaint About a Debt Collector?*’ for details of industry external dispute schemes.

If the lender does *not* have an established industry external dispute scheme write to the credit-reporting agency – Veda Advantage or Dun & Bradstreet and send a copy to the lender. Remember to date, sign and keep a copy of your letter.

Veda Advantage is a member of the Banking & Financial Services Ombudsman Scheme (“BFSO”), so if you do not get a positive response from Veda Advantage you can complain to BFSO, even if the lender is not a member of BFSO. However BFSO will only consider actions of Veda Advantage, it will not be able to consider the acts of a non-member lender.

If none of the above resolves your dispute, you can complain to the Privacy Commissioner. Note that the Privacy Commissioner requires you to complain to the lender first.

Credit repair companies

There are a number of credit repair companies operating in Australia. These companies may ask you to pay a fee for their services, however all the information you need to query your report is provided in this factsheet and you can also get free assistance from external dispute resolution schemes and from the Privacy Commissioner.

Sample letter to lender or credit report agency

The sample letter on the following page can be used as a guide to ask a lender or credit-reporting agency to remove a listing from your credit file. You will need to rewrite the letter choosing the paragraphs that are applicable to your situation.

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Sample Letter

Date

Dear Sir/Madam

Complaint about my Credit Report (Account No if you are writing to a lender)

I recently obtained a copy of my credit report. My identity details are as follows:

Full name:

Date of birth:

Sex:

Drivers Licence:

Current Address:

Previous Address: *(Only include this if you have moved in the last 5 years)*

Employer: *(Note that you will only need to include the above identity details if you are writing to a credit reporting agency.)*

The following is listed as an overdue account on my credit report: Eg: on 30/6/0X TelcoA advised that a Telecommunication Account reference number XXXX was overdue. They reported the amount overdue as \$XXX due to a payment default. *(Choose one or more of the paragraphs below if they apply to your situation.)*

I was not informed (before, or at the time that, I entered into the agreement) that personal information might be provided to a credit-reporting agency. Therefore, this listing is in breach of section 18E(8)(c) of the Privacy Act 1988 and also in breach of the Credit Reporting Code of Conduct (see Commissioner's note 29)

* I was not 60 days overdue in making a payment at the time the default was listed. Therefore, this listing is in breach of section 18E(1)(b)(vi)(A) of the Privacy Act 1988.

* I did not receive a written notice advising me of the overdue payment and requesting payment of the debt prior to the listing. Therefore, this listing is in breach of Clause 2.7 of the Credit Reporting Code of Conduct. I note that I have not changed address/ I have informed the creditor of all change of addresses

* The debt was statute barred at the time it was listed; therefore this listing is in breach of section the Credit Reporting Code of Conduct (clause 2.8) - (see *Factsheet 2* for information about statute barred debts). Please remove this listing from my credit report immediately.

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Yours faithfully

.....
Print your name under your signature

Copy to:

The Privacy Commissioner

GPO Box 5218,

Sydney NSW 1042

Creditor (insert creditor's name and address here if you are writing to the credit reporting agency and not to the lender)

Financial Services Ombudsman

GPO Box 3

Melbourne VIC 3001

(if you are complaint about Veda Advantage and/or a member of BFSO)

Contacting Veda Advantage and Dun & Bradstreet to dispute your report

Veda Advantage

www.vedadvantage.com

Ph: 1300 762 207 (ask to be connected to the Public Access team)

Address for written complaints:

Team Leader, Public Access team

Level 5

90 Arthur Street

NORTH SYDNEY NSW 2060

Fax: (02) 9951 7880

Dun & Bradstreet

www.dnb.com/au

Ph: 13 23 33 and ask Customer Service to send you a Consumer Credit File – Update Form or download the form from the Dun & Bradstreet website.

Send the completed form to:

Dun & Bradstreet (Australia) Pty Ltd

Attention: Public Access Centre

PO Box 7405

St Kilda Road VIC 3004

Fax : 03 9828 3118

Email pac.austral@dnb.com.au

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Free Advice & Assistance:

Consumer Action Law Centre

www.consumeraction.org.au

Ph: (03) 9629 6300 Mon – Fri 10am-5pm

Free telephone advice about consumer law matters.

Consumer Affairs Victoria

www.consumer.vic.gov.au

Ph: 1300 55 81 81 Mon – Fri

Consumer Affairs can help you resolve a dispute with a trader by informing you of your rights or by conciliating with the trader. They can also help you find your local financial counsellor who can give free advice and assistance with credit and debt problems, negotiating with creditors and budgeting.

Victoria Legal Aid:

www.vla.vic.gov.au

Ph: (03) 9269 0120, or 1800 677 402 for country callers

Mon – Fri 9am – 5pm. VLA publishes a useful series of pamphlets on credit & debt issues that it will send to consumers free of charge.

Federation of Community Legal Centres:

www.communitylaw.org.au

Ph: (03) 9654 2204

To find your local community legal centre.

Insolvency and Trustee Service of Australia

www.itsa.gov.au

Ph: (03) 9272 4800

ITSA is not an advice service but it can send information about bankruptcy and forms.

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Dispute Resolution:

Victorian Civil & Administrative Tribunal (VCAT)

www.vcat.vic.gov.au

Ph: (03) 9628 9700, or 1800 133 055 for country callers

Credit List ph: 9628 9790

Civil List ph: 9628 9830

Federal Privacy Commissioner

www.privacy.gov.au

Ph: 1300 363 992 (Privacy Hotline)

To complain about credit reporting or other breaches of privacy.

Financial Ombudsman Services

www.fos.org.au

Ph: 1300 780 808

To complain about credit reporting or other breaches of privacy in relation to Veda Advantage or member lenders.

Industry Dispute Resolution Schemes:

Financial Ombudsman Service:

<http://www.fos.org.au/>

Ph: 1300 780 808

A central telephone number to the appropriate scheme, for disputes with:

- banking
- credit
- insurance
- insurance broking
- credit unions
- finance brokers
- investment advisors
- stock broking
- superannuation

Energy & Water Ombudsman (Victoria) EWOV

www.ewov.com.au

Tel: 1800 500 509

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Telecommunications Industry Ombudsman (TIO)

www.tio.com.au

Ph: 1800 062 058

Regulators:

They investigate industry conduct & are unlikely to assist with individual complaints.

Australian Securities & Investment Commission (ASIC)

www.asic.gov.au

Ph: 1300 300 630

Complaints about conduct of financial services, including debt collection of consumer credit.

Australian Competition & Consumer Commission (ACCC)

www.accc.gov.au

Ph: 1300 302 502

Complaints about conduct of businesses including debt collection complaints. (Not complaints about credit or financial services).

Telephone Services Telephone interpreter service:

Free to callers. Available 24 hours,

Ph: 13 14 50.

Hearing & Speech Impaired Access

National Relay Service All free calls (within Australia) 1800 555 677

Speech to Speech Relay

All local and chargeable calls (within Australia): 1300 555 727 All free calls (within Australia): 1800 555 727

You can obtain more information about the National Relay Service on their website at

www.aceinfo.net.au/Services/NRS/