

Data Protection Act 2002

Advice Note

CREDIT PROBLEMS?



OFFICE OF THE
Data Protection Supervisor

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Acknowledgement

Some of the information contained in this document has been extracted from guidance documents published by the UK Information Commissioner. The Data Protection Supervisor gratefully acknowledges the permission of the UK Information Commissioner to copy this material.

Are you a good credit risk?

The Data Protection Supervisor regularly receives queries from people who have had problems obtaining credit. Such problems may arise when attempting to borrow money from a bank, a finance house or a building society, when trying to obtain a credit card, store card, or a loyalty card, when trying to obtain a mail order catalogue, etc.

It should be remembered that no one has a right to credit and a lender can always refuse to give credit. For example, the lender may take the view that you may not be able to meet the repayments for the size of loan requested and therefore decide that you are an unacceptable risk.

Many lenders use credit scoring systems which give points to various pieces of information given on your application form, such as your age and whether you own your own home.

They may also give points to information provided by firms known as **credit reference agencies**. Most lenders make checks with these agencies to obtain details about you and your credit history.

These points are then added up to produce a **credit score** which helps the lender predict whether you are an acceptable risk. A high score is likely to help you get credit while a low score means you are more likely to be turned down.

What information does a credit reference agency hold?

Credit reference agencies in the UK are bound by the Consumer Credit Act 1974 to provide accurate information about you to lenders. They do not keep "blacklists", nor do they give an opinion regarding your credit worthiness. An agency will not know why a particular lender has refused to give you credit.

A credit reference agency usually holds the following information:

- **Public Record Information**, including:

Electoral Register.

This provides proof of where you live and how long you have lived there.

Court Judgements.

If you have had a money judgement made against you in Court details of the judgement will have been passed by the Court to an organisation called Registry Trust Ltd, who provide this information to credit reference agencies. Registry Trust Ltd holds details of all money judgements in the British Isles with the exception of the Bailiwick of Guernsey. A judgement will normally remain on file for 6 years.

If a judgment has been made against you, there are particular rules, which differ depending upon the jurisdiction of the court, on how to have the judgment marked as "satisfied" once the debt has been paid.

If a judgement was made against you in the Isle of Man you should contact: The General Registry, Isle of Man Courts of Justice, Deemsters Walk, Douglas IM1 3AR, telephone 695265. For judgments in other jurisdictions, please contact the relevant court.

Bankruptcies or Administration Orders.

If you have been made bankrupt or had an administration order made this information will be on your file. This information is normally retained on file for 6 years.

- **Details of your current and previous credit accounts**

Many lenders provide information to credit reference agencies regarding your credit history. This information may include whether you have kept your payments up-to-date or whether you have been or are in arrears. It should be remembered that a good credit history is likely to help you obtain credit.

- **Other Information**, including:

Record of Searches.

Your credit reference file may contain a record of the searches made by lenders.

Council of Mortgage Lenders' Repossession Register.

Only members of the Council of Mortgage Lenders can see this information. If you have had property repossessed this will show on the register.

Credit Industry Fraud Avoidance System (CIFAS) Reports

This scheme is intended not only to warn lenders of a potential fraud but also to protect people from fraud. CIFAS members record information when a fraud or an attempted fraud has been detected. The information may not directly relate to you but may, for example, indicate that someone has tried to impersonate you. Lenders will not refuse credit due to a CIFAS report but may need to take extra steps, such as proving the identity of the person who has applied for credit.

Gone Away Marker

Members of the Gone Away Information Network (GAIN) provide reports when they cannot trace a person whose credit repayments are not up-to-date and who has moved house without providing a forwarding address. This information is only provided to GAIN members.

What problems can arise?

Problems can arise for a number of reasons, including:

- Someone who *in the past* lived at your address had a bad credit record;
- Someone living at the *same address*, either in a separate apartment or as a lodger in your household, has a bad credit record;
- Another member of your *family* has a bad credit record;
- Someone with a *similar address* has a bad credit record;
- Someone with a *similar name* has a bad credit record;
- Someone living at a *previous address of yours* has a bad credit record;
- There is an error in the information given to the credit reference agencies by the lender;
- You have paid off the debt, but that information has failed to reach the credit reference agencies' files;
- You are not on the Electoral Register.

I have been refused credit, what can I do?

Firstly, you should ask the lender why you were refused credit, whether the lender used a credit reference agency and, if so, the name of the agency. The lender may ask that you put your request in writing.

If the lender indicates that there was a problem with your credit reference check, you can write to the credit reference agency to find out what credit record information they hold about you. You do not have to have been refused credit to exercise this right.

You have the right to obtain a copy of your file and, in certain circumstances, to make corrections to and/or add comments to your file.

The main credit reference agencies are:

Equifax Plc
Credit File Advice Centre
PO Box 1140
Bradford
BD1 5US

www.equifax.co.uk

Experian Limited
Consumer Help Service
PO Box 8000
Nottingham
NG1 5GX

www.uk.experian.com

Callcredit Plc
Consumer Services Team
PO Box 491
Leeds
LS3 1WZ

www.callcredit.plc.uk

More information can be found on these agencies' web sites.

You must provide the credit reference agency with the following information:

- Your full name
- Date of Birth
- Current address (including postcode)
- Any previous addresses you have held in the past six years, and the length of time at these addresses
- Any previous names you have been known by
- Your signed authority
- The statutory fee of £2, either in the form of a cheque or postal order

The agency may ask for more details to help them find all the information they hold about you and, before sending the file out, to check that you are whom you say you are. Otherwise they must send you your file within 7 working days from the receipt of your letter or tell you that they hold no information about you.

You should keep copies of any letters you write and have a proof of posting or recorded delivery number. These may be useful if there is a disagreement about your file.

The following is a typical letter that you may wish to use:

<Your address>
<Credit Reference Agency's Address>
<Date>
Dear Sir
I wish to receive a copy of the file (if any) you keep relating to me and enclose a postal order/ cheque for £2 as payment for the statutory fee.
My name is <enter your full name> and I have lived at the above address since <enter the date you commenced living at your current address> . My date of birth is <enter date of birth> .
In the past 6 years I have lived at the following addresses:
<enter the approximate dates when you lived at each previous address> <enter the full address of your previous residence>
I understand that I can expect a reply within 7 working days of you receiving this letter.
Yours faithfully
<Your name>

Your right to amend your file

If the details on your file are correct you cannot expect the agency to remove them just because they may be embarrassing or create difficulty when applying for credit.

You can ask for your file to be amended if:

- **it contains information about other people with whom you have no financial connection**
- **it contains information which is incorrect.**

The procedures are different in each case. Please read the following notes carefully and follow the steps that apply to you.

INFORMATION ABOUT OTHER PEOPLE

Agencies are only allowed to give information about:

- you
- people with the same name, or a very similar name, living at your address
- other family members living in your household
- people with the same name, or a very similar name, who have, in the past, lived with you at your current or last address
- other people who have, in the past, lived with you as part of your family at your current or last address.

Agencies must not report financial information about other people if:

- they have not lived at your current or last address as a member of your family at the same time as you
- the agencies have information which makes it reasonable to believe that you have no financial connection with them.

However, agencies can supply the names of other people (whether or not members of your family) who are or have been listed on the electoral roll at your addresses.

Disassociation

If there is information on your file about people with whom you have no financial connection, you can write to the agency to disassociate yourself from them. You need only write to the agency that sent your file, since **disassociation** information will be shared between the agencies.

Unless the agency has good reason to believe that an association still exists then they must not continue to give lenders information about the people that you have mentioned when your file is searched.

Other family members, for example, your husband or wife, can also use this procedure to disassociate themselves from others with whom they have no financial connection.

The following is a sample Notice of Disassociation:

<i><Your address></i>
<i><Credit Reference Agency's Address></i>
<i><Date></i>
Dear Sir
Notice of Disassociation for File Reference: 12345/67890*
Thank you for sending me my file. The information on it about <person's full name> relates to my adult son. He has now left home and I no longer have any financial connection with him.
Please create a disassociation between us, so that his financial information no longer appears on my file, and information about me does not appear on his.
Yours faithfully
<your name>
<small>*ensure correct file reference is provided</small>

If a credit reference agency refuses to do this or includes information on your file about other people and this falls outside these rules, then please contact the Data Protection Supervisor. The Supervisor will require copies of all correspondence between you and the credit reference agency, and may be able to progress your complaint via the UK's Information Commissioner.

INCORRECT INFORMATION

If any entry in your file is incorrect, you are entitled to have it corrected, removed or to have a note put on the file which explains why you think the information is wrong.

Please note the following steps.

1. Write to the agency requesting the agency to either remove or change the entry that you think is wrong. Explain why you think the information is wrong and send any evidence you have which proves the information is incorrect, for example:

<Your address>
<Credit Reference Agency's Address>
<Date>
Dear Sir
File Reference: 12345/67890*
Thank you for sending me my file which shows that I fell into arrears with a loan I obtained from
<Enter lender's name> .
I have since paid this debt and I enclose a copy of a letter from the lender that confirms this.
Please amend my file to show that this debt and been cleared.
I look forward to receiving your reply within 28 days of receipt of this letter.
Yours faithfully
<your name>
<i>*ensure correct file reference is provided</i>

Under the Consumer Credit Act 1974 the agency has to tell you within 28 days of receiving your letter if the information has been corrected, removed or if they have done nothing. If the information has been corrected, you will be sent a copy of the new entry.

2. If the agency does not reply or tells you they have done nothing or makes a correction, which you do not think is satisfactory you can, within the next 28 days, send them a **notice of correction** to be added to your file. This means that if the agency did not write back, you have to send your notice of correction within 8 weeks of the date of your letter to them which asked them to correct or remove the information.

A **notice of correction** is a statement of up to 200 words written by you. It should give a clear and accurate explanation of why you think the entry is wrong. If the information is factually correct but you think it creates a misleading impression you can explain why. The agency can reject your notice if it they think it is incorrect, defamatory (affecting someone's good name or reputation), frivolous or scandalous, or is for any other reason unsuitable for publication.

The following letter is an example of a notice of correction that should be acceptable.

		<Your address>
<Credit Reference Agency's Address>		
		<Date>
Dear Sir		
File Reference: 12345/67890*		
Thank you for your letter of <enter date of letter> from which I note that you will not remove the entry from my file.		
Please add the following notice of correction to my file:		
NOTICE OF CORRECTION		
I, <insert full name and address> would like it to be known that the judgment recorded against me for £200 relates to a bill which I could not pay because I was made redundant in 2001. I paid the bill in full after I got a job in 2002. I would ask anyone searching this file to take these facts into account.		
I look forward to receiving confirmation from you within 28 days of receiving this letter that you have added this notice of correction to my file.		
Yours faithfully		
<your name>		<i>*ensure correct file reference is provided</i>

- If the agency does not reply to your letter enclosing your notice of correction within 28 days of receiving it, or the agency has refused to add it to your file, you can appeal to the UK Information Commissioner. Please contact the Data Protection Supervisor for further advice.

The following details will be needed:

- Your full name and address
- The name and address of the agency
- Details of the disputed entry in the file. Say why you think it is wrong, and why you think you are likely to suffer because it is wrong. It will help if you enclose any evidence you have which shows that the information is incorrect
- The dates you sent the notice of correction to the agency; if you cannot remember, give an approximate date
- Copies of all correspondence between you and the agency, as well as a copy of your notice of correction.

What happens next?

If an agency does not want to add a notice of correction to your file because they think it is wrong, or because they think it is defamatory (affecting someone's good name or reputation), frivolous or scandalous, or is unsuitable for publication for some other reason, they must apply to the UK's Information Commissioner for a ruling.

An agency can only refuse to include your notice of correction if the Information Commissioner agrees with them.

If the agency amends your file or adds the notice of correction you have sent in, they must send the details to any lender who has searched your file in the 6 months immediately before the agency received your request for your file.

If you were refused credit, you should then ask the lender to reconsider your application based on the amended information

If the notice of correction relates to a judgment, the agency will pass it to Registry Trust Limited. Although Registry Trust has no control over what the notice of correction says they will pass it on to the other credit reference agencies

If the notice of correction relates to information that is not about a judgment, but refers for example, to a credit account, you may want to request a copy of your file from the other agencies to check whether they hold the same information. If they do, you can also send them the notice of correction.

Need further help?

The Office of Fair Trading regulates your right to information under the UK Consumer Credit Act. Although this Act does not extend to the Isle of Man, the Isle of Man Office of Fair Trading may be able to offer further assistance.

**Contact: Office of Fair Trading, Lord Street, Douglas, 1M1 1LE.
Telephone 686500.**

The UK Information Commissioner's address is:

**UK Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.
Telephone 01625 545745**

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