

Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies

Foreword by the Information Commissioner's Office

The Information Commissioner's Office (ICO) published Data Protection Technical Guidance: Filing defaults with credit reference agencies in 2007. This guidance now needs updating to take into account developments in the methods used to file arrears, arrangements and defaults. However, rather than updating our own guidance, we thought it best for this 'principles' document to become the main source of advice for the public on the reporting of arrears, arrangements and defaults with the credit reference agencies (CRAs).

The principles in this document have been drawn up by the credit industry in collaboration with the ICO. The ICO will continue to work with the industry to ensure that these principles remain up to date and that the privacy rights of individuals are respected.

ICO will retain a keen interest in how personal data is processed within the credit industry, given the significance for individuals of decisions based on CRA information. A record lodged with a CRA must be a reliable reflection of an individual's credit standing. The Data Protection Act 1998 is likely to have been breached where, for example, inaccurate, out of date or excessive personal data is being used to assess your credit-worthiness.

Where there is a problem with the content of a CRA record, you should contact the organisation concerned to give it an opportunity to put things right. If that fails, you can contact the ICO helpline on 0303 123 1113. Please note though that we can only deal with issues to do with the accuracy etc. of your record, not with lending decisions based on it.

Introduction

Credit Reference Agencies (CRAs) hold databases of debts and payments on products offered to consumers and businesses that relate to financial commitments. These will include credit agreements such as mortgages, loans, credit cards or current accounts, and commitments such as telephone agreements, energy and water utilities.

Information about the limits, balances and how these agreements are managed, are shared by the provider with CRAs. They in turn can provide a copy of your credit reference file to other organisations to be used by them to help make decisions about you or your business (if you have one). Your credit reference file may only be used for agreed and specific purposes.

You can see a copy of your credit file on request and on payment of a minimal fee. There is specific legislation which sets out what must be supplied and how quickly the file must be sent to you.

The operation of CRAs in the UK is regulated by the Financial Conduct Authority but the day to day activities are governed by several laws that cover aspects of credit referencing such as:

- The Data Protection Act
- The Representation of the People Act
- The Consumer Credit Act
- The Companies Act

However, the main legislation is the Data Protection Act 1998 and the regulator is the Information Commissioner's Office (ICO).

How CRAs operate is agreed with the ICO and the purpose of this document is to set out the principles under which information about **arrears, arrangements and defaults** are filed with the CRAs.

These principles will be of interest to regulators, lenders and consumers and their representatives.

The principles set out in this document have been reached after extensive consultation with the ICO, lenders, CRAs and trade associations. Adherence to these Principles will be periodically reviewed in line with the credit industry's data sharing governance procedures.

You, as a customer, will be told in the terms and conditions of your credit product how your information may be used by your credit provider, CRAs and others.

The Principles

1. Data that is reported on your credit file must be fair, accurate, consistent, complete and up to date.

Lenders that supply data to the CRAs are required to ensure that the data is accurate, up to date and meets agreed quality standards.

The types of product that are reported all relate to forms of credit, but the features of one product type may be very different to another. Rules are in place to ensure that arrears information from different providers, but on the same product type, has the same or a similar meaning.

Rules are also in place to require that the reporting of information on different products is provided in such a way as to mean the same, irrespective of type.

For each product type there are required levels of data (mandatory fields) that must be supplied in order for the data to be loaded and/or updated.

Whilst most credit products are repaid monthly, some are not, such as home credit¹. In these cases, the information will be adapted to meet the monthly reporting standards of the credit reference industry.

Should your account be sold or referred to another lending organisation or a debt collection agency, the record(s) provided to a CRA by the creditor/and or purchaser must still be accurate and up to date. In all instances you should be told whether and how the information will be reported on your credit file.

2. Should a payment not be made as expected, information to reflect this will be recorded on your credit file

If you do not make your regular expected payment by the agreed time and/or for the agreed amount according to your terms and conditions, the account may be reported to the CRAs as being in arrears.

If this continues over time, the level of reported arrears will increase, which may result in the lender taking some form of action. This could include notification of their intention to report the account as “defaulted” (see Principle 4 below).

¹ Home collected credit includes informal flexibility as standard to help debtors cope with unexpected budget pressures. In effect, the home credit agent can - during the weekly home visit - agree missed or part payments on the spot (normally at no extra cost). These informal variations are not themselves reported. However, when the debtor has - in aggregate - missed to the value of 4.33 weekly repayments (equivalent to one month's arrears), that is reported (as arrears). Only the larger home credit companies use the reporting agencies.

Calculating and reporting arrears

In general, the reporting of arrears indicates that the account has not been maintained according to the terms and conditions.

The purpose of reporting arrears is to indicate at the earliest reasonable opportunity that a customer is showing signs of potential financial difficulty or inability to manage his/her finances.

Conduct outside the terms and conditions are reported through status codes such as 1, 2 etc which are based on the monthly performance of the account.

Status can be based on missed payments, months past repayment date and in the case of a current account it can be calculated as continual unauthorised excess over the agreed overdraft.

Generally, by the time the account is at least three months in arrears the lender may be taking further action such as reporting the account as defaulted (see Principle 4 below).

Status codes may continue to rise and be reported up to a maximum of 6. On some products this may continue to show as 6 until either the lender takes action and reports the account as being in default or the consumer brings the account back in order.

Current balance

This information relates to the amount owed at a given point in time.

It may be made up of a combination of the amount borrowed, interest and charges depending on the terms of the product.

Due to the nature of some revolving products, the current balance (owed) may show as zero even though the account is still active e.g. mobile phones, credit cards and mail order.

Reporting of arrears over time

Arrears should generally only increase by one month at a time e.g. status code 1 to 2, 2 to 3 etc. There can be exceptions to this such as fraud, bankruptcy, county court judgments (CCJs), returned cheques or direct debits.

In the event that repayments are made and the arrears reduce, the change in arrears status should be recorded in the next monthly update.

In contrast to the reporting of increasing arrears, reducing arrears may legitimately “jump” status codes if significant payments are made and/or capitalisation occurs (see Principle 3 below).

3. If you offer or make a reduced payment, how it is reported will depend on whether it is agreed with the lender.

Agreed reduced or revised payments

If, due to financial difficulty, your lender agrees a reduced or revised payment with you, this will be reflected on your credit file. How revised or reduced payments are shown on your credit file will depend on whether it is a temporary or permanent change to the agreement. The account may or may not be in arrears at the time of the change.

Should a *permanent* change in the payment terms be agreed by the lender, there will normally be a new agreement signed and the revised terms will be reported going forward.

This may mean that a new limit, account and/or term is shown on your credit file and performance will be reported against that going forward.

As long as you comply with the revised terms, arrears will not accrue further or be shown although any arrears reported under the previous terms will stay on your credit file.

Should a *temporary* reduction in the payment amount be jointly agreed between you and your lender, this 'arrangement' will be recorded at the CRAs.

This may also occur if there is a temporary change in terms (that is not part of the product) such as a payment holiday or change to interest only.

An arrangement may also be provided when a customer has agreed with the lender to make overpayments to clear historic arrears

Depending on the period and amount of the arrangement, arrears may continue to be reported. Such temporary arrangements may last for some time but are generally expected to revert to the contracted terms at some future point. For such accounts arrears may continue to be calculated in accordance with the contracted terms.

The record must show that the account is the subject of special terms. The reporting of this fact may be different depending on the product and the CRA.

It is important that you are made aware, when such an arrangement is made and maintained, that it will show on your credit file and that whilst arrears may accrue and increase a default will not be recorded.

Following a satisfactory period of payments under a temporary arrangement, and if the lender agrees, the status on your account may be set to zero; although the history will remain. This can be described as capitalisation, re-scheduling or re-aging. Depending on the product this could result in adjustments to how your account is reported on your credit file e.g. the payment amount, repayment period as well as the status. Should you make full payments from this point onwards your account will be classified as being up to date.

If after a period of time a permanent change in terms on an account occurs then if appropriate, the revised terms should be recorded at the CRAs and payment performance calculated against the new terms; in such circumstances there will no longer be an arrangement in place.

If your lender agrees to give you a temporary arrangement, but you fail to make the agreed payment against the new terms, they may still file a default (see Principle 4 below) as soon as a payment is missed, as long you were at least 3 months in arrears on the original agreement.

If you are subject to a debt management programme managed by a third party (such as StepChange) this will be shown on your credit file so that lenders know you are subject to this type of arrangement.

Debt Management Programme

A debt management programme (DMP) is when a third party debt adviser negotiates a repayment schedule for all or a number of a consumer's credit agreements.

If the plan is accepted by the lender, the record filed at the credit reference agencies must reflect that the consumer is on a DMP. For such accounts arrears may continue to be calculated in accordance with the contracted terms, but the account marked as under a DMP.

Unacceptable or Token payments

If your lender does not agree a reduced or revised payment with you because the amount you offer to the lender is not acceptable, for example, a very low or token payment, the account will not be reported as an arrangement or a DMP negotiated by a third party.

Any payments you make will be reflected in the current balance, arrears will continue to accrue and a default may be recorded.

4. If you fall into arrears on your account, or you do not keep to the revised terms of an arrangement, a default may be recorded to show that the relationship has broken down.

As a general guide, this may occur when you are 3 months in arrears, and normally by the time you are 6 months in arrears.

There are exceptions to this which may result in a default being recorded at a later stage, such as secured or long term loans e.g. mortgages, or if the product operates in a more flexible way e.g. current accounts, student loans, home credit.

If an arrangement is agreed (see Principle 3 above), a default would not normally be registered unless the terms of that arrangement are broken.

Apart from being 3 or more months in arrears there are other circumstances which may lead to the recording of a default:

1. Property such as a house or vehicle has been repossessed or handed back with no indication to pay a remaining balance.
2. The provider takes steps to cut off a service.
3. The account is in arrears and the provider receives an indication that you have left your address without notifying them.
4. Evidence of fraud.

5. The account is or has been included in a bankruptcy, CCJ, Individual Voluntary Arrangement (IVA) or similar.

The lender must have notified you of their intention to register a default against you at least 28 days before doing so, in order to give you time to make an acceptable payment or reach an agreement with them on an arrangement. This also applies in cases 1 - 3 above. However, in 4 - 5 the lender or provider does not need to provide a notice and can file a default as soon as they become aware of the situation.

Lenders will report the default amount and the default date to the CRAs.

The current balance then shows the actual amount due (which may include interest and charges) and must be updated over time until the account is satisfied (settled).

A default will remain on your credit file for 6 years from the default date.

A default should not be filed:

- If you make a payment, in time, that fully meets the terms set out in the default notice
- If jointly with the lender an agreement is reached for an arrangement and you keep to the terms of that arrangement
- If the amount outstanding is solely made up of fees or charges
- If a lender is given evidence that a customer is deceased (for example a verifiable death certificate, probate or letter of administration)

The date of default recorded on the file would normally be the date on which a decision to file a default becomes effective, e.g. 28 days from the date of the default notice.

The default amount filed should normally be the balance amount as quoted on the default notice. However, if any payments or charges apply in the interim period, the default balance reported may reflect the outstanding balance at that time.

The current balance should be updated regularly and reflect any charges added and/or subsequent payments received whether direct to the lender or via a third party organisation (debt collection agency) or, for example, as a result of the sale of a repossessed asset.

Relationship of defaults to CCJs, decrees, bankruptcies, IVAs and similar arrangements

A default can be registered for debts which the lender has also tried to recover through a CCJ or decree.

In normal circumstances lenders will be notified when the debt that is owed to them is to be included in an insolvency e.g. bankruptcy, IVA or similar and should be marked as included in that by filing a default as soon as is practical.

The default date must be consistent with that of the CCJ/bankruptcy or IVA; therefore a default should be filed as being no later than the date of the insolvency order. In circumstances where the lender is not immediately aware, the default can be filed at that point in time. If evidence of the insolvency date is provided, the default date recorded at the CRA will be aligned.

If a default has already been filed and a CCJ or other insolvency or similar is subsequently registered, no further action is needed.

Where there is joint liability and only one party is the subject of an insolvency order, then the account should not automatically be marked in default if it is being maintained by the other party.

5. When an account is closed, the record should properly reflect the closing payment status of the account and any agreement between the parties

If you make a full or part payment and no further money is expected, the account should be closed unless you have agreed with your provider to continue your relationship.

If the account is to be closed, your record should be marked as fully paid if:

- You have paid the money owed in full
- A CCJ or decree was granted and you have paid in full the money owed as determined by the court

Your record should be closed and marked as partially settled if:

- The lender accepts final settlement of the account for less than the balance outstanding
- Your account is included in an insolvency such as a bankruptcy or IVA which is discharged / completed and less than the full amount is paid

The fact that the account was previously in default will remain on your credit file for 6 years from the date of default. If the account was not in default, the record would remain on your credit file for 6 years from the date of closure.

APPENDIX

Any product which relates to the provision of goods or services before they are paid for can potentially be included in your credit reference file. The list below is not meant to be exhaustive but is designed to give an indication of the types of product that can be shared, including information about them for the benefit of those who might not be familiar with them.

Budget/Revolving accounts	An account or facility for the purchase of goods up to an agreed credit limit. Revolving accounts may involve numerous purchases and repayments, whereas a budget account is repaid by constant regular amounts. Interest is charged on the credit taken.
Credit and store cards	A card allowing credit up to an agreed limit and on which a monthly bill will be generated requiring payment by a set date. Repayments are made either in full, or as a proportion of the balance owed – a minimum amount will be set by the lender and advised on the monthly statement Credit cards may be used in any outlet that accepts the type of card but store cards can only be used in the issuing store.
Current accounts	There are several types of current account but in general this refers to your typical bank account. They may or may not include an overdraft facility. A current balance will only be reported if you are overdrawn.
Communications <ul style="list-style-type: none"> • Internet services • Cable • Satellite TV • Telephones <ul style="list-style-type: none"> • Mobile • Fixed line 	This will cover all communications services which are paid for under contract or subscription. Pay as you go type products will not be included.
Utilities <ul style="list-style-type: none"> • Gas • Electricity • Oil • Water 	Utility accounts that are paid monthly, quarterly or annually may be included on your credit reference file. Pre paid metered accounts are not generally included.
Factoring (business only)	A way of obtaining credit against payments expected on outstanding invoices.
Home collected credit (consumer only)	Small-sum, fixed-term credits. Repayable weekly. An agent will call on the customer each week in the home to collect repayments and, where required, issue further credit. Home collected credit includes informal flexibility as standard to help debtors cope with unexpected budget pressures. In effect, the home credit agent can - during the weekly home visit - agree misses or part payments on the spot (normally at no extra cost).
Lease and hire purchase	Lease agreements such as those for cars or machinery (business) where the item is subject to monthly payments over an agreed term. Generally the goods do not belong to the individual until all payments are made.

Loans	Personal and business loans are paid over a set period usually with a fixed payment amount. This can also cover loans for retail purposes and insurance premiums.
Mail order	Mail order credit is generally in respect of goods purchased through a catalogue or the internet. Repayments are made either in full each month or as a percentage of the balance owed.
Mortgages <ul style="list-style-type: none"> • Commercial • House purchase • Buy to let • Second mortgages 	<i>A loan, secured against property (which can be residential, buy-to-let or commercial) commonly used to purchase the property, but can also be used for a variety of other purposes including home improvements, or to raise finance for either personal or business use.</i>
Pay day loans (consumer only)	A small, short-term loan that is expected to be repaid on the borrower's next pay day.
Retail credit	These are deferred payment accounts e.g. buy now pay later. These are generally paid over 12 or 24 months.
Student Loans (consumer only)	Loans to pay for further education.