



Financial Rights

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FACT SHEET



Financial Rights Legal Centre
ABN 40 506 635 273

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THERE ARE BLACK MARKS ON MY CREDIT REPORT – SHOULD I HIRE A CREDIT REPAIR COMPANY?

This fact sheet is for information only. We strongly recommend that you get legal advice about your situation.

Your credit report contains information about your current loans and includes negative information like judgments and defaults (see more on our Fact Sheet [Your Credit Report](#)). Having a default listing can be distressing, especially if you want to refinance or access further finance. But signing up to a Credit Repair Company who promises to “clean” it, “fix” it or remove listings for you may not solve your problem and could be an expensive waste of time.

This Fact Sheet gives you information about why Credit Repair Companies are harmful, suggests alternatives and also explains what to do if you find yourself already signed up.

CASE STUDY

Alice sought help from a Credit Repair Company to remove a telco default listing on her credit report. She agreed to pay \$2100 - half of that was an administration fee and the other half a success fee. The Credit Repair Company negotiated with the telco, who apparently agreed to remove the listing if she paid the full \$1300 owing within a reasonable time, but the Credit Repair Company left it up to her to negotiate repayments. She was working at the time but had a lot of other debt. When she contacted the telco she was told the debt had been sold to a debt collector who refused to honour the arrangement allegedly made with the telco.

Two years later, the debt to the Credit Repair Company had grown from \$2100 to \$6900. The Credit Repair Company had continued to direct debit her account unsuccessfully every 3-4 days for around one and a half years, and was adding on a \$50 dishonour fee each time. She then received a letter of demand from the Credit Repair Company’s solicitors.

WHO ARE CREDIT REPAIR COMPANIES?

Credit Repair Companies advertise that they will be able to “fix” or “clean” a bad credit report and “improve” a poor credit score. They claim that they are able to help consumers by updating and removing any “black marks” on their credit reports, but there are some fairly serious limitations hidden in the fine print.

The only entries on a credit report that can be removed are those that:

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Financial Rights

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FACT SHEET

- Are proven to be factually incorrect (money was not owed, debt belonged to a different person, payment was actually made on time);
- Procedurally incorrect – the consumer was not given the correct notices required by law before the listing was made: or
- Disputable for another reason, such as the loan was unjust or made in breach of responsible lending obligations in the first place.

A default listing cannot be removed just because it has been paid! It can however be updated to note that it has since been paid.

A Credit Repair Company will often include that it can only remove “disputable” listings in the fine print, but will not explain what this means before taking your money. The upfront fee is usually non-refundable, even if it turns out the credit report cannot be changed. Credit Repair Company contracts can also include vague wording to ensure they can charge you an extra success payment – such as that they can charge for any change to your credit report, even if the change is insignificant such as a minor adjustment to the amount outstanding.

Credit Repair Companies frequently make promises and guarantees without properly considering the individual circumstances of the consumer. They also generally demand a large upfront fee and they may obtain your bank account details over the phone to start debiting the fees immediately.

Some Credit Repair Companies act on your behalf and will contact creditors who have made a default listing on your credit report in an attempt to have negative information removed, but others will only supply you with written guides and expect you to do the whole dispute process yourself. All of the information provided is available elsewhere for free.

Some Credit Repair Companies might tell you to file documents in court and expose you to potential adverse consequences like costs orders. You should not file court documents without speaking to a lawyer.

Credit Repair Companies do not need to have an Australian Financial Services License or Credit License. They do not have to have any qualifications, skills or training. There are no industry standards as to best practice that are binding on these firms. Anyone can say they can clean your credit report and charge a fee for it, without any qualifications.

Credit Repair Companies do not have to be a member of a free external dispute resolution (EDR) scheme, such as the Credit and Investment Ombudsman (CIO) or Financial Ombudsman Service (FOS) that other financial services organisations must join. EDR schemes provide an important consumer protection role, as they provide you a free way to resolve disputes fairly. What this means is that if things go bad, you may have limited options to resolve your dispute.

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Financial Rights

LEGAL CENTRE

FACT SHEET

Credit Repair Companies advertise heavily on television, the Internet and in social media. They often provide other services, and might offer free debt “consultations” (See our other fact sheets on [Debt Agreements](#) and [Debt Agreement Brokers](#)) or free copies of your credit report.

HOT TIP! You can get a free copy of your credit report yourself if you are declined for credit because of your credit file. You are also entitled to 1 free copy per year without providing any reason at all.

SHOULD I SIGN UP TO A CREDIT REPAIR COMPANY?

Financial Rights strongly recommends that you DO NOT sign up with a Credit Repair Company. But if you are considering signing up you should think through the following:

1. Can you clean your credit report yourself for free?

- You can obtain a free copy of your credit report and see what is on it. You can apply for one over the Internet for free. The largest credit reporting agencies are Veda Advantage www.veda.com.au, Dunn & Bradstreet www.dnd.com.au or Experian Australia www.experian.com.au
- Read our [Fact Sheet Your Credit Report](#)
- If a listing is wrong or disputable you can try to fix it yourself for free. If you are on a low income and have trouble writing letters, a free financial counsellor or community legal centre may be able to assist you
- You can get free advice on the Credit & Debt Hotline on 1800 007 007.
- Contact your creditor first. Will they agree to remove the listing if you just ask them and pay the debt?
- Creditors who list on your credit file will ordinarily be members of the Financial Ombudsman Service Australia, the Credit & Investments Ombudsman, the Energy & Water Ombudsman and the Telecommunications Industry Ombudsman which can review disputed credit report listings for free.

HOT TIP! Find out when the listing is due to drop off your credit report. A default listing, for example, remains on your file for 5 years, so if it has already been there a while the best approach might be to wait until the listing is due to be removed and save yourself the time and money.

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2. Can you afford the services?

- If you do not have enough time and you want to pay someone else to do something for you, you can make that choice. But, you need to be confident that you are getting a quality service and you can afford the fee.
- Ask yourself whether the money would be better spent on paying the debt that is outstanding (if you don't dispute you owe it)?
- If you are in financial difficulty, signing up to a Credit Repair Company is likely to make your situation worse.

3. Will it make a difference?

- Are you sure that removing this default listing will make any difference to your credit report or ability to get credit? If you have 3 default listings and only 1 is removed, it will not make much difference to your ability to get credit.
- Credit providers look at your credit report, but also look at your ability to service a debt (make the repayments). If you are already in financial difficulty, paying for the removal of a listing on your credit report is not necessarily going to improve your ability to get a loan.

4. Are you prepared that you may lose your cash and still not be able to get credit?

- Credit Repair Companies don't guarantee they can remove your listing or improve your ability to get credit. Because of this, you should be prepared that you could pay a lot of money for no benefit. Your default listing (or listings) may not be removed, and even if it is, you still may not be able to get credit.
- Some Credit Repair Companies don't act on your behalf, all they will do is give you information about how you can try and remove a listing and you do the work yourself anyway. This information is available for free.

HELP! I HAVE ALREADY SIGNED UP

As a general rule, once you have signed up to a contract, you are bound by its terms. This means that if you have already made payments and received the service, you may not be able to get a refund.

Whether you can terminate the contract and pay nothing further, or seek a refund of the fees already paid, will depend on the individual facts and circumstances of your case. You could end up stuck in the contract with no way out.



Financial Rights

LEGAL CENTRE

FACT SHEET

You might be able to make a claim under the Australian Consumer Law, arguing that:

1. the services rendered were not fit for your stated purpose;
2. the CRC engaged in misleading and deceptive conduct or unconscionable conduct;
3. the contract included unfair contract terms.

All of these arguments are complicated and can be hard to establish. You should request from the Credit Repair Company:

1. A copy of your contract;
2. A copy of any recording taken when you signed up for the contract

Get advice: [Fact Sheet: Getting Help](#) for a list of additional resources.

If your Credit Repair Company is a member of the CIO or FOS

Your Credit Repair Company may be a member of either the Financial Ombudsman Services (www.fos.org.au, 1800 367 287) or the Credit & Investments Ombudsman (www.cio.org.au, 1800 138 422). You can search the members of each scheme on the relevant website or call the scheme and ask if the Credit Repair Company is a member.

If so, you should first write to the relevant internal dispute resolution contact – found on either the FOS or CIO website above – outlining the details of your complaint.

If you cannot resolve your dispute with the Credit Repair Company directly, the next step is to lodge a complaint in the relevant scheme. The easiest and quickest way to do this is to lodge a complaint online.

If your Credit Repair Company is not a member, your options are:

1. *Stop paying. They may sue you for the amount outstanding and you will have to lodge a defence.*

If you stop the direct debit for payment of the services to the Credit Repair Company, they may try to enforce the contract. This means that they may send you letters of demand (if you owe them any money) and charge you fees, meaning the debt will get bigger and bigger.

They may even threaten to take you to Court.

You should get urgent legal advice if you are threatened with Court action. If you are sued you may be able to file a defence. But, as stated above this could be tricky.

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Financial Rights

LEGAL CENTRE

FACT SHEET

2. Commence proceedings yourself in a low cost jurisdiction like the NSW Civil and Administrative Tribunal

You should seek legal advice before you do commence any action. Depending on your circumstances of entering into the contract, you may or may not have a strong claim.

Make a complaint to the regulator, ASIC

Although the Australian Securities and Investment Commission (ASIC) is only likely to intervene if a number of consumers are affected, it is still important to keep ASIC informed of problems. A complaint can be made at www.asic.gov.au

NEED SOME MORE HELP?

Need some more help? Call the **Credit & Debt Hotline** on 1800 007 007 for free legal advice or financial counselling help. See [Fact Sheet: Getting Help](#) for a list of additional resources.

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