EDR Response Guide

Credit enquiries

This guide has been prepared to assist financial firms in preparing a quality external dispute resolution (EDR) response for complaints about credit enquiries. This is a **guide only**.

It is important to note the following:

* All issues raised in a complaint should be addressed. If there are multiple issues, please refer to the additional EDR response templates available or consider addressing them in a separate section, as it is important that all issues are addressed.
* This is your EDR response. As such it is to be sent to both AFCA and the complainant. It is to the benefit of all parties for the complainant to understand the reason for your position.
* AFCA will generally seek more information if a complaint does not resolve at Registration & Referral, and we expect a detailed response to any subsequent requests for information.
* Providing a substantive EDR response to the credit enquiry complaint with the supporting information outlined below will assist AFCA in providing a timely and fair outcome.

This guide may change over the time to reflect any feedback.

To ensure a comprehensive response for credit enquiry complaints, an EDR response should include the sections outlined below.

## Dispute details

Name of the complainant(s): [consumer or business name]

Name of the financial firm:

Financial firm reference:

AFCA reference:

## Summary of complaint

Summarise all issues raised by the complainant: [include necessary background information]

If the financial firm has taken steps to attempt to resolve include details: (e.g., the financial firm provided a response to the complainant, offering to [ ]. The complainant rejected the offer and said [ ].)

## Financial firm’s position

Outline how you have considered all the issues raised in the complaint and set out the reasons for your position, noting what information you have considered to reach this view. It is important you consider your obligations and whether you have met them.

If a complainant (or their representative):

* + appears to have little understanding of the financial firm’s obligations and/or why an enquiry has been made, it is helpful to provide a narrative response, outlining what has happened, and if you have acted in accordance with the relevant legislation, privacy policy and codes (and if so, why)
  + has raised a specific issue(s) with an aspect of the legislation, privacy policy and/or code, you should outline your response to the specific issue(s) raised.

The financial firm has an obligation to show:

* the complainant made, or authorised the making of, the credit application and
* the financial firm notified the complainant that it would disclose to a credit reporting body that the complainant had applied for credit and that the credit reporting body would include this information as part of the complainant’s credit report (or words to that effect) when making the credit application.

## Complainant’s response(optional)

[If necessary, outline the complainant’s response to the financial firm’s position].

## Jurisdictional issues

Include the details of any jurisdictional issues you wish to raise. Ensure you refer to the AFCA Operational Guidelines and any relevant approach documents.

Full details of the section of the AFCA Rules you are seeking to rely on must be included to ensure that AFCA and the complainant understand the jurisdictional issue(s) being raised.

## Proposals to resolve the complaint

Set out any action the financial firm is willing to take or accept to resolve the complaint.

[If you require further information before you can offer a resolution, please provide details of what information is required].

## Supporting information

Provide a list of all the supporting information included with your response. For a complaint about a credit enquiry, the information set out below is usually required.

Information relevant to the date of the credit application(s) must be provided, not information as at the current date. For example, if the financial firm made its credit enquiry on 28 June 2017, we will require the process and privacy documentation current as at 28 June 2017.

The financial firm should consider retaining this information in a single ‘library’ or database, which records the date of that information. This may assist the financial firm to provide AFCA the relevant documentation current at the time of the dispute in a timely way.

*For all applications which resulted in an account being open (and if relevant to the circumstances of the case)*

* Credit contract
* Recent account statements

There may be some circumstances in which this is not relevant – for instance, where the complainant acknowledges applying for the loan but claims they were not notified about information being shared with the CRB.

*For applications submitted online*

* A full copy of the application form (either as a series of screen shots current as at the time of the application/ responses or in a single form, depending on how the financial firm retains this information)
* The dated notification provided to the complainant which meets the financial firm’s notification obligations under section 21C of the Privacy Act and paragraph 4.1 of the Privacy (Credit Reporting) Code (Code) or 4.2 of the Code. (notification requirements information)
* Information to show the credit application could not continue without the complainant acknowledging the notification requirements information. This could take the form either of a screenshot of the contemporaneous online application process, or (where a screenshot is not available), information that establishes the required notifications were made at the time.
* Policy and procedures for processing applications (current as at the time of the application).

*For applications submitted in person (branch or retail partner)*

* A full copy of the signed and dated application form
* The information and supporting documents to show the financial firm gave the complainant the information required to meet its notification obligations at the time of the application.
* Contact notes
* Policy and procedures for processing applications (current as at the time of the application).

*For applications submitted by a broker*

* A full copy of the signed application form
* Information and supporting documents to show the financial firm or broker gave the complainant the information required to meet the financial firm’s notification obligations.
* Broker notes
* Policy and procedures for processing applications by brokers (current as at the time of the application).

*Where the complainant says they did not make the application*

* Any identification documents received with the application
* Any other information showing that the complainant made the application.

If other issues are raised, you may wish to refer to the range of resources offered in the member resources section of the Secure Services portal. These include other EDR response guides, specific complaint topic guides and the Complaint Information Documentation guide.

## Privacy Act and Privacy (Credit Reporting) Code

The table below sets out the matters of the Privacy Act and the Privacy (Credit Reporting) Code requiring that a financial firm should generally disclose:

|  |  |  |  |
| --- | --- | --- | --- |
| Privacy Act | Privacy (Credit Reporting) Code | Requirement |  |
| 21C(1)(a) |  | the name and contact details of the credit reporting body | **Notifiable matters** |
|  | 4.1 | At or before the time a credit provider collects personal information about an individual that the credit provider is likely to disclose to a credit reporting body, the credit provider must notify or otherwise ensure the individual is made aware of the following matters in addition to the matters specified in Section 21c(1)(a) |
|  | 4.1(a) | the credit reporting body may include the information in reports provided to credit providers to assist them to assess the individual’s credit worthiness |
|  | 4.1(b) | that if the individual fails to meet their payment obligations in relation to consumer credit or commits a serious credit infringement, the credit provider may be entitled to disclose this to the credit reporting body |
|  | 4.1(c) | how the individual may obtain the credit providers policy about the management of credit-related personal information required by section 21B of the Privacy Act and the credit reporting body's policy about the management of credit-related personal information required by section 20B of the Privacy Act |
|  | 4.1(d) | the individual's rights to access the information from the credit provider, to request the credit provider to correct the information and to make a complaint |
|  | 4.1(e) | the individual's right to request credit reporting bodies not to use their credit reporting information to be used for the purposes of pre-screening of direct marketing by a credit provider |
|  | 4.1(f) | the individual’s right to request the credit reporting body not to use or disclose credit reporting information about the individual, if the individual believes on reasonable grounds that the individual has been or is likely to be a victim of fraud |
|  | 4.2 | a credit provider may comply with the obligation in Section 21C(1)(a) and paragraph 4.1 of this Code to notify or ensure an individual is aware of specified matters (the notifiable matters) by: |  |
|  | 4.2 (a) | publishing a clearly expressed statement of the notifiable matters on its website |  |
|  | 4.2(b) | making the individual aware that the credit provider’s website includes information about credit reporting, including the credit reporting bodies to which the credit provider is likely to disclose the individual’s credit information |  |
|  | 4.2(c) | providing details of the credit provider’s website and ensuring that the notifiable matters are prominently displayed on the website |  |
|  | 4.2(d) | making it clear to the individual that they can request to have the statement of notifiable matters (available on the website) provided in an alternative form – such as a hard copy |  |