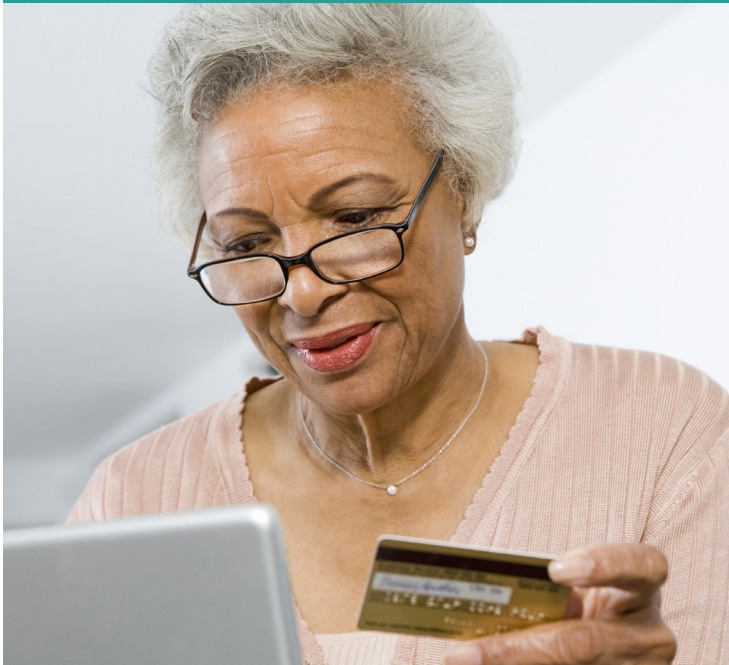




Energy & Water  
Ombudsman NSW

# Credit default listing and debt collection



## What does an energy or water provider have to do before it lists a default?

There are two codes that could apply depending on when the default listing was entered.

If the default listing was entered before **12 March 2014**, the Credit Reporting Code of Conduct applies:

1. The credit provider must write to the person at the last known address requesting payment of the outstanding amount and advising that:
  - a. the debt is outstanding, and
  - b. if the debt remains unpaid, a default listing may be applied.

If the default listing was entered after **12 March 2014** the Privacy (Credit Reporting) Code 2014 applies:

1. The credit provider must write to the person at the last known address requesting payment of the outstanding amount.
2. No less than 30 days after the first notification, the credit provider must write a second time (again, to the last known address) advising that if the debt remains unpaid, the person may be default listed.
3. The default must be applied to the credit file between 14 days and three months after the second notice is sent. If sent by post, a notice is taken to be received by a customer 2-6 days after being sent, depending on the location of the last known address.

A customer's last known address may include:

- sending the notices via post to a physical address, such as your place of residence, or
- sending the notices electronically to an email address.

If you move and don't provide a forwarding address or new contact details, you may not receive notification that you may be default listed for an unpaid debt

**Energy and water providers may take action to collect unpaid energy and water accounts. This can include sending unpaid accounts to debt collectors and credit reporting agencies.**

**Energy and water providers, debt collectors and credit reporting bodies must follow rules regarding collection action or default listing.**

**If you move and don't provide a forwarding address or new contact details, you may not receive notification that you may be default listed for an unpaid debt.**

## Credit default listings

Debts from \$150 outstanding for 60 days or more can be reported to a credit reporting agency and listed on a customer's credit file as a default.

A default listing is a record of failure to pay a debt placed on a customer's credit report by an energy or water provider or a debt collector.

### Types of default listings

A default may be listed under an individual's name or a company or business name. There are different default listing types for individuals and businesses.

The most common types of defaults listed are Payment Defaults, which remain on a credit file for five years. Serious Credit Infringements, normally for fraud or intentionally not paying, remain on a credit file for seven years.

## Debt Collection

Energy and water providers can refer debts to debt collectors for collection. Debt collectors need to adhere to the Australian Consumer Law.

A debt collector must not:

- verbally or physically abuse or threaten you
- contact you more than necessary or at unreasonable times
- make false statements about the amount you owe
- make false statements about what will happen if the debt is not paid.

Additionally, debt collectors need to comply with Australian Competition and Consumer Commission (ACCC) and Australian Securities and Investments Commission (ASIC) guidelines.

Under the guidelines, debt collectors are generally only allowed to contact you by telephone between 7.30am to 9pm Monday to Friday and 9am to 9pm on weekends. The guidelines also state that unnecessary or unduly frequent contact (more than three times a week) may amount to undue harassment.

### What is debt sale?

Sometimes energy and water providers sell debts to a third party – a debt purchaser. They usually sell debts for closed accounts (eg when you have moved out) or when they have been unsuccessful in recovering the debt from you themselves and/or through a debt collector. If a customer calls the energy or water provider about the debt, they may be advised to contact the debt purchaser who bought the debt.

### What can we do?

We can investigate all complaints about the actions of the energy and water provider and any agent acting on its behalf, such as the debt collector.

If the energy or water provider has sold the debt, we can investigate a debt that was in dispute prior to the sale of the debt. We do not investigate disputes in relation to the sale of the debt. Our ability to assist may be limited in circumstances where the debt has been sold to a debt purchaser and the debt purchaser has placed a default listing on your credit file. Contact us to discuss your complaint and how we can help you.

## Access to your free credit report

You can get a free copy of your credit report from a credit reporting body:

- once every year
- if you've been refused credit in the past 90 days
- if your request relates to a decision by the credit reporting body or credit provider to correct information in your credit report.

A free copy of your credit report can be obtained online by contacting one of the following companies:

- Equifax [mycreditfile.com.au](http://mycreditfile.com.au)
- Illion [checkyourcredit.com.au](http://checkyourcredit.com.au)
- Experian [experian.com.au](http://experian.com.au)

If you pay the overdue amount for which the default listing was applied, the listing won't be removed, it will be updated to 'paid' and remain on your credit report.

### What if you think there's a mistake on your credit report?

If you think your provider, its collections agents or the credit reporting body has made a mistake, contact your provider to raise your concern. If you are not satisfied with the response, contact EWON.



**EWON investigates disputed credit listings for free. We advise against using debt management and credit repair companies as they often charge a large fee.**

### More information

- The Office of the Australian Information Commissioner has information, factsheets and links to laws, codes & guidelines at [oaic.gov.au](http://oaic.gov.au)
- The ACCC has information about dealing with debt collectors and the rules about debt collection at [acc.gov.au](http://acc.gov.au)
- ASIC's Moneysmart website has information about dealing with debt collectors at [moneysmart.gov.au](http://moneysmart.gov.au)
- The Financial Rights Legal Centre has information, resources and factsheets at [financialrights.org.au](http://financialrights.org.au) and also runs the Credit and Debt Hotline on 1800 007 007.

## Make a complaint or enquiry

|                    |   |
|--------------------|---|
| <b>Freecall</b>    | 1800 246 545*<br>Mon - Fri, 9am - 5pm             |
| <b>Freefax</b>     | 1800 812 291                                      |
| <b>Freepost</b>    | Reply Paid 86550<br>Sydney South NSW 1234         |
| <b>Interpreter</b> | 131 450   |
| <b>TTY/Voice</b>   | 133 677   |
| <b>Online</b>      | <a href="http://ewon.com.au">ewon.com.au</a>      |
| <b>In person</b>   | Level 11, 133 Castlereagh St,<br>Sydney, NSW 2000 |

\* If you are calling from a mobile phone, let us know and we will call you back.