

Consumer Credit Act 1974

Licensing – your right to make representations



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Introduction

This booklet will help you decide what to do if you receive a notice under the Consumer Credit Act 1974 (the Act). Under the Act, the Office of Fair Trading (OFT) has the power to:

- refuse your application for a consumer credit licence, or
- grant a licence in terms that differ from those you have applied for, or
- impose a requirement on an applicant before issuing a licence or on an existing licensee, where it is dissatisfied with any matter connected to the applicant's or licensee's licensed business, or
- impose a financial penalty where any requirement has not been complied with by the licensee, or
- revoke, suspend or vary the terms of a licence you already hold.

You have been sent the notice by an adjudicator acting on behalf of the OFT. It is the adjudicator who decides, on behalf of the OFT, whether you are fit to hold a licence. The adjudicator does not have access to any information other than that which is sent to you.

What you should do when you receive a notice

When you receive a notice from the adjudicator, it is your legal right to decide whether to make representations or not.

If you decide not to make representations, the adjudicator will make a decision on the basis of the information and reasons given in the notice sent to you. In the absence of representations, it is likely that the proposed course of action in the notice (for example, to revoke or refuse the licence) will be carried out.

If, however, you do decide to make representations, you must choose whether you want to deal with the matters raised in the notice by making written representations, or oral representations, or both. In deciding how you should proceed, you may need the benefit of professional advice.

You will need to write to the adjudicator or the adjudication unit within 21 days of receipt of the notice, either to submit your written representations, or to ask for a hearing at which to make your oral representations, or both. If you are unable to meet the time limit, you should contact the adjudication unit at once to explain why and ask for an extension of time.

If you do not respond to the adjudicator's notice within the 21 days, it is likely that you will lose the right to make representations, unless you have a good reason for the delay.

You may use the detachable representations form at the back of this booklet to respond to the adjudicator. If you want more space, you can continue on separate sheets which should be individually signed and attached to the form. You are not obliged to use the form. If you want, you may write a letter or supply some other appropriate document signed by you.

Written representations

If you decide to make written representations, you should try to respond to each of the issues raised in the notice. You can support your case with other documents, such as business records, letters, sworn or unsworn statements and references.

You do not have to follow any particular order – but you should cover all the points you would like the adjudicator to consider. You can also make general comments and draw attention to any other factors you think should be taken into account in considering the matters detailed in the notice.

Oral representations

If you inform the adjudicator that you want to make oral representations, the adjudication unit will arrange a date, time and venue which suits you and the adjudicator. Unless you have specifically requested otherwise, information about the hearing will be sent to the same address as that to which the notice was sent. You will be given at least 21 days notice of the hearing of your oral representations, although you can agree to a shorter period.

The hearing will be in private. You can present your case yourself, or be represented by a lawyer or other professional adviser, or by somebody else acting on your behalf. You may also bring other people to the hearing to support your case or, if that is not possible, a letter or report from them. You should tell us in advance whether anyone else is accompanying you to the hearing. You should bring all the documents the adjudicator has sent you.

Please inform us in advance of the hearing if you or anyone attending the hearing with you has any disabilities, needs, or requests that need to be accommodated at the hearing or before it. We can arrange wheelchair access if we are given sufficient notice.

There is no formal procedure laid down for the hearing. You will not be required to take the oath or affirm, nor will you be subjected to formal cross-examination. No evidence will be excluded solely on the grounds that it would not be admitted in a court of law.

If at any stage of the process, the adjudicator becomes aware of any further information that is relevant to the matter(s) raised in the notice, that information will be made available to you in the form of a supplementary notice, and you will be given the opportunity to respond to it orally or in writing or both. If it is necessary to adjourn the hearing, you will be given notice of the date, time and place at which it will be resumed.

The adjudicator

The adjudicator's role is to consider your representations, whether written or oral or both, and to make a decision based on the information contained in the notice, and in your representations.

The adjudicator's decision will be given in writing. This is known as the notice of determination. If the decision is favourable to you, the adjudicator will provide you with a brief explanation of his or her reasons. If the decision is adverse to you, the adjudicator will provide a longer determination containing the full reasons for his or her decision.

Commencement, surrender and expiry of consumer credit licences

Prior to 2008, most consumer credit licences lasted for a stated period and expired at the end of that period unless revoked or surrendered before then. From April 2008 onwards, most licences issues have been on an indefinite basis and will remain in force unless revoked or surrendered. All licences may be surrendered at any time, and the adjudication unit can advise you about the correct procedure to follow if you wish to surrender your licence.

If you have applied for a licence for the first time, the adjudicator must reach a decision before it can be issued. You can not undertake the credit activities the licence is to cover until it has been issued to you. But if you have applied to renew an existing licence before its expiry date, then your licence will continue in force until a final decision has been taken as to whether to refuse or grant that application outright, to grant the renewal of the licence but in different terms to those applied for or to grant the renewal of the licence but subject to one or more requirements. Applications for consumer credit licences may be withdrawn at any time, even after a notice has been issued.

Appeals

If the adjudicator's decision is adverse, you have the right to appeal to the Consumer Credit Appeals Tribunal (CCAT). Your rights of appeal, and the procedures for doing so, are explained on the CCAT website at:

www.consumercreditappeals.tribunals.gov.uk

They can be contacted at:

CCAT
15 –19 Bedford Avenue
London
WC1B 3AS

Telephone: 020 7612 9700

Disclosure of information by the Office of Fair Trading

The OFT intends to use the information you supply for the purposes of these proceedings under the Consumer Credit Act 1974.

The information you provide will be processed in accordance with data protection principles. Whilst the Data Protection Act 1998 and section 237 of the Enterprise Act 2002 place restrictions on disclosure of such information, you should be aware that they also allow disclosure for a number of other purposes without your further consent. By way of example, the OFT may use and disclose the information in connection with enforcement or regulatory action under its own powers or may refer the information to another government department or enforcement authority in connection with the exercise of their functions.

Criminal offence

Your representations should be made honestly and accurately. It is a criminal offence to 'knowingly or recklessly' provide information to the OFT which is false or misleading in a material particular. The penalty may be a fine or imprisonment or both. The making of false representations may provide a basis for refusing or revoking your licence.

Consumer Credit Register

A notice of the adjudicator's decision will be entered in the Consumer Credit Register (the public register) that is maintained by the OFT in accordance with section 35 of the Consumer Credit Act 1974. The public register provides a history of licensing action including the following where relevant:

- the fact that a notice has been issued, together with an explanation that this is not a final decision
- the decision of the adjudicator with a summary of the reasons
- the details of any undertaking you have given where the decision is favourable
- the details of any requirements imposed upon you including details of any variation to these
- the details of any financial penalty imposed upon you
- the fact that an appeal has been made and the outcome of the appeal.

Publicity

Formal actions by the OFT, including adverse determinations and the outcome of any appeals against such determinations, may be published by the OFT. In addition, and subject to the disclosure provisions referred to on page 9 of this booklet, the OFT may issue a press release. Copies of notices and determinations are sent to your Local Authority Trading Standards Services.

Contact address

When writing to the OFT about any notice you have been sent, or to provide any representations, address your letters to:

Adjudication Unit
Office of Fair Trading
Fleetbank House
2–6 Salisbury Square
London EC4Y 8JX

Telephone: 020 7211 8832 or 020 7211 8833

Fax: 020 7211 8404

Email: adjudication@oft.gsi.gov.uk

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Representations under Section 34 of the Consumer Credit Act

Name of applicant/licensee.....

Application/Licence No.....

Principal place of business.....

Date of the OFT's notice.....

Please indicate what type of representations you wish to make by putting an X in the correct box and returning this page only to:

Adjudication Unit

Office of Fair Trading

Fleetbank House

2–6 Salisbury Square

London EC4Y 8JX

a written representations only

b oral representations at a personal hearing only

c written representations, followed by oral representations at a personal hearing

Signature..... Date.....

Name of person signing in BLOCK LETTERS.....

Address.....

..... Postcode.....

Daytime telephone No.....

Note Written representations may be submitted in the space provided overleaf. If you want more space, you can continue on separate sheets which should be individually signed and attached to this sheet.

Written representations

A series of 25 horizontal dotted lines for writing.

Continue on a separate sheet if necessary



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