

Each member shall comply with this Code and any other Guidance issued by the Association from time to time.

1) All transactions

- a. Each member shall conduct its business lawfully, comply with all relevant UK legislation and judicial decisions and trade fairly and responsibly.
- b. Each member shall also comply with Debt and Debt Collection Guidance as published by the Office of Fair Trading from time to time.
- c. Each member shall act responsibly and with integrity in the day-to-day conduct of its business. For example:
 - i. Provide adequate training for members of its staff, bringing to their attention the principles of this Code and requiring them to carry out their duties in accordance with it. Also, ensure continuous and appropriate training of staff in respect of current legislation and best practice.
 - ii. Follow where appropriate any requests conveyed to the members by the Council of the Association from the enforcement authorities.
 - iii. Follow where appropriate any guidance notes issued by the Council of the Association.
 - iv. Notify the Association of any matters, which might adversely affect the reputation of the industry or of the Association.
- d. Each member shall:
 - i. Comply with all relevant legislation revisions, updates and amendments. For example:
 - The Administration of Justice Act 1970 Section 40
 - The Consumer Credit Act 1974 (and regulations thereunder)
 - The Sex Discrimination Act 1975
 - The Disability Discrimination Act 1995
 - The Race Relations Act 1976
 - The Data Protection Act 1998
 - The Consumer Protection Act 1987
 - The Criminal Justice Act 1995
 - Unfair Terms in Consumer Contracts Regulations 1994
 - Business Names Act 1985
 - Companies Act 1985 (as amended 1989)
 - Human Rights Act 1998
 - Mental Health Act 1983
 - Money Laundering & Proceeds of Crime Act 2002
 - Debt Arrangement and Attachment Act (Scotland) 2002 and subsequent regulationsThis list is not exhaustive.
 - ii. Use plain English in all communications.
 - iii. All correspondence must show the full business address, telephone number and email address, where used.
 - iv. In all contacts by staff or agents, ensure that the member's identity is clearly disclosed.

- v. Ensure by continuously examining its debt collection procedures and those of any third parties it employs that they conform to the highest ethical standards.
- vi. All members have a duty to ensure that their agents, sub contractors and subsidiaries comply with the Association's Code and Guidelines.
- vii. Comply with all reasonable requests by consumers, clients, or their appointed representatives for information concerning their agreements and accounts.
- viii. All members shall ensure that the Association's Code is available on their own websites. They shall further ensure that a copy of the code is supplied promptly to any debtor on request.

2) Confidentiality

Members must keep in strict confidence any information supplied by consumers or others, except where disclosure is authorised by the consumer or others or permitted or required by law.

3) Debt Collection & Default Guidelines

The following list of guidelines is intended as an indication of procedures to be adopted by members. It is not intended as an exhaustive directive to members.

Moreover the effectiveness of collection techniques and procedures depends on the circumstances applying at the time collection is attempted and so cannot be regulated in an absolute manner. Nevertheless, the Association expects compliance with the guidelines and any member not so complying will have to give a justifiable reason for non-compliance in the event of a complaint being received by the Association.

In attempting to carry out collection in default of payment, members of the Association should:

- a. Not use oppressive or intrusive collection procedures.
- b. Not bring unreasonable pressure to bear on the consumer/debtor in default of payment.
- c. Not act in a manner in public intended to embarrass the debtor.
- d. Be circumspect and discreet when attempting to contact the debtor whether by telephone, or by personal visit, with due regard to OFT Guidelines.
- e. Ensure that all attempted contacts with debtors are made at reasonable times and at reasonable intervals.
- f. Unless instructed otherwise, accept all reasonable offers by debtors to pay by instalments provided acceptable evidence of non-ability to pay is given.
- g. Unless otherwise instructed by the debtor, not discuss with or disclose to any third parties especially neighbours, relatives, or employers the consumer's indebtedness.
- h. Not use improper means to obtain the telephone number or address of a debtor. (Improper in this connection would refer to actions in breach of legislation described in paragraph 1) d.i. above or in breach of the Association's Code.)
- i. Not pressurise debtors to sell property or to raise funds by further borrowing.

Continued overleaf

3) *continued*

- j. Not falsely imply by written or verbal means that criminal proceedings will be brought nor that civil action has been instituted in default of payment nor should members falsely state or imply that a judgement or document of debt (Scotland) has been obtained against the debtor.
- k. Ensure that collectors who use pseudonyms can be identified within the member's organisation.
- l. Take all possible steps to verify that the person being pursued is, in fact, the debtor.
- m. Have due regard to and deal sensitively with individuals where evidence has been given, or is apparent, that the individual is incapacitated by mental or physical disability.
- n. When dealing with fee charging debt advisory services, follow the Office of Fair Trading Guidelines on Debt Management.
- o. Offer maximum co-operation with local consumer advisers or other intermediaries consulted by the consumer/debtor.
- p. Encourage consumers/debtors in financial difficulties to inform members of their difficulties and then to respond sympathetically and positively on the evidence provided.
- q. Take into consideration before determining whether to enforce repayment all information supplied in relation to the reason for non payment, which may include The Common Financial Statement, or the consumer/ debtors future ability to repay. If the consumer/debtor has disclosed multiple debt problems, inform them of the availability of advisory services. Provide in all relevant correspondence the name or designation of a specially trained member of staff who may be contacted regarding financial difficulties.
- r. Where a debt, or the sum owed has been disputed promptly supply information to the debtor in support of the claim. Where no information has been supplied by the creditor promptly obtain the required support, or failing that cease collection action.

4) Conduct regarding clients

Each member shall:

- a. Safeguard the security of collected monies.
- b. Account to their clients at least once a month, or as otherwise agreed by their client.
- c. Inform their clients of the true rates of charges for services rendered.
- d. Ensure that by prior arrangement clients are able to visit their premises for the purpose of auditing and checking their accounts.
- e. Conduct its business under a name, title or style which will not confuse or mislead clients, creditors, consumers or members of the public, or which will not imply any association with other organisations or persons, which do not exist.
- f. Not approach, induce or persuade staff in the employment of a client to join the members organisation, although nothing in this clause will prohibit the engagement by a member of such an employee where a bona fide application is made.

5) Complaints

- a. Each member shall have in place adequate processes to deal with consumer or client complaints, this must contain the following minimum procedure:
 - i) The management level at which complaints are handled
 - ii) The time frame in which complaints are handled
 - iii) The remedy, if the complainant is not satisfied.
 - iv) Complainants must be advised that one of the remedies is referral of the complaint to the Association where appropriate.
- b. Members shall deal with complaints speedily, responsively, in a user-friendly fashion and at an appropriate management level.
- c. Members' complaints procedures must be made available to the complainant or his/her advisor on request.
- d. If a complaint is made to the Association in relation to dealings with a member of the Association, the Association will deal with the complaint in accordance with the published complaints procedure.

6) The Association

- a. Each member shall provide to the Council, on request, references and proof of financial solvency.
 - i) Members who are not required to file annual returns or accounts must provide the Association annually with a Certificate of Solvency based on their last available audited accounts and signed by their Auditor.
 - ii) Notwithstanding the above, each member shall have their accounts audited by a firm of qualified accountants.
- b. The Association shall monitor the compliance of members with the Code and shall each year publish a report of the number and types of complaints received.
- c. Any instance of non-compliance shall be drawn to the attention of the member concerned. In the event of continued non-compliance, or a serious breach, the Disciplinary Committee will take such action as it deems appropriate, including a warning or recommendation of expulsion of the member concerned from membership. In the event of expulsion the Association will send a report to the Office of Fair Trading.
- d. Membership of the Association entitles the member to display an approved trade association symbol thereby indicating their adherence to this Code of Practice.
- e. Each member must inform the Association of all Trading Names in use.