



## *Honourable Banking Blue Star Awards*

11 May 2010

Consumer Credit  
Department for Business, Innovation and Skills (BIS)  
1 Victoria Street  
London SW1H 0ET

Honourable Banking  
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### **Re: Feedback and suggestions on policy development on *Irresponsible lending - OFT guidance for creditors***

Dear Sir or Madam,

We are a consumer advocacy group with a particular interest in protecting vulnerable people from unethical credit practises. We've read the Office of Fair Trading's impressive and comprehensive irresponsible lending guidance and we have some further suggestions to improve the consumer law on which it's based:

#### **Home repossessions:**

Where a lender repossesses a home as a last resort, we suggest that any families with children who live in the property would only be evicted after alternative, long-term accommodation has been fully arranged and made available. This would also apply to the homes of elderly people and any people considered to be 'vulnerable adults' under the *Care Standards Act 2000*, section 80(6). Bed and breakfasts and hotel rooms would obviously not suffice for alternative long-term accommodation.

The purpose of this initiative is to help lenders understand that they are dealing with real people and real families rather than just names and numbers on a report. This is particularly important for protecting children who face great upheaval and stress in their lives because of adult decisions and actions, which they have no power to influence. We also want lenders to recognise that even though it is the responsibility of local authorities to re-home families in financial hardship it is irresponsible to over-burden those local authorities unnecessarily. This is especially the case if they are already struggling to cope with high demand from other vulnerable and needy people for their services. Lenders must not take local authorities and housing services for granted as this is clearly not in the interests of society.

#### **Right of set-off advance warning**

We applaud the OFT's guidelines that a lender should not be allowed to use their 'right of set-off' to take money from a customer's basic account or current account to pay a debt without first checking the customer's circumstances. But we further suggest that the customer should also be given at least seven days advance warning before any offsetting is carried out. If a lender phones a borrower to establish their circumstances to decide to offset or not, there is always the very real possibility that the borrower will be under considerable stress and may forget to pass on important information. A week's notice should give the borrower sufficient time to assess their circumstances more objectively. That would also give them the chance to properly inform the lender in writing of



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their circumstances and reduce the likelihood of the lender taking any snap, ill-advised decisions to offset without all the facts.

If people in financial difficulties are not given this advance warning then there may be a risk that money that they expect to be available for necessities like rent and food, is suddenly made unavailable. In some cases landlords may react to missed rent payments by issuing a notice of eviction, thus putting such people at risk of homelessness. By giving at least seven days notice a person in financial difficulties should have at least some time to make whatever emergency arrangements are necessary to keep food on the table and a roof over their head. This is obviously even more vital if the borrower has dependents.

### **Consultation**

Banks and building societies would agree to consult with social welfare organisations and consumer protection organisations when considering the social costs of any decisions that may affect the wider public.

No-one expects banks and building societies senior managers and policy leaders to have the expertise of social workers when designing new policies and products that may have anti-social consequences. But it can do no harm for them to consult social welfare organisations and consumer protection organisations that do have expertise in assessing the potential social costs of new products and practises. For instance, penalty charges make good financial sense to banks and building societies as an easy revenue stream. Few of them would understand how penalty charges impact the vulnerable.

In using penalty charges in the past lenders have shown little thought and consideration for what might happen if a pensioner who has had a stroke and has difficulty managing his or her finances, accidentally overdraws their account. Nor did they apparently consider the potential effects the stress alone may cause such people when they suddenly end up with a rapidly ballooning debt.

In the past they have given little thought to people who may have sudden, serious mental-health breakdowns. Such people may have taken more money out of their account than they had in it, completely unaware of the ramifications of this. When they recovered a delicate grip on their sanity, the last thing they needed was a bank or building society trying to recover the money from them and much more on top.

Many banks and building societies even today give scant regard to the welfare of those who are unemployed and struggling to get by. Obviously the last thing such people need is the temptation of easy overdraft money through unauthorised borrowing that they can easily take, whilst blocking the full consequences out of their minds. Recovering that money plus substantial charges on top is only going to place more pressure on someone who already has enough to deal with.

Banks and building societies have consistently demonstrated a failure to consider what may result. If you heap enough pressure on some individuals, they can blow their fuse and take out their problems on the softest targets they know; their partners and children — sometimes even resulting in serious cases of domestic violence. To some families acute financial pressures lead to marriage breakdowns, family break-ups and even suicides. Some people suffer serious physical health problems from the stress of financial problems, whilst others take to substance abuse in a bid to gain relief.



### **Warnings from social welfare organisations and consumer protection organisations**

We recommend that if a consumer protection organisation or social welfare charity raises serious questions about the impact of a bank's or building society's policies or actions with regard to the possibility of potential harm being done to the public - especially vulnerable people - then the bank or building society must undertake a serious and timely review of the matter with the outcome being reported directly to senior management, the organisation concerned and the OFT.

### **Penalty Charges**

We recommend that all credit / debit cards would have default limits applied to them so that cardholders can't physically withdraw from cash machines any more than the amount of money they actually have in their account; or if they have overdrafts and / or credit facilities; they can withdraw no more than their agreed credit limits to prevent penalty charges arising. Unauthorised borrowing (or 'informal overdraft arrangements' as some banks are now calling it) that gives rise to significant new debt and charges will only be at odds with OFT guidelines for responsible lending anyway; especially concerning vulnerable people. Needless to say default limits to prevent unauthorised borrowing should also extend to point-of-sale facilities at retail stores and so on.

The previous three recommendations take on vital importance when considering the obvious tendency of many boards, senior managers and product designers to base policy, plans and decisions on what they can get away with in terms of profit-maximising without breaking the letter of the law, rather than what's morally right or wrong.

### **Reckless lending debt write-off**

Where a lender approves a credit application without borrowers having supplied reasonable evidence of their income and expenditure to prove they actually have the means to repay their loans and a customer is later unable to meet the repayments the loan must be written off.

This recommendation is meant to provide quick redress for vulnerable people independently of whether the worthiness of a lender's licence is called into question or not. That maybe more helpful in cases where a rogue sales person, for instance, acts outside their employer's policy and guidelines for personal gain.

With all this in mind, we would be very grateful if you would formally consider each of our recommendations and their potential to improve consumer laws, which the OFT use to form their guidance and requirements for lenders. If you need any further information or you have any queries please don't hesitate to contact us via our contact details on page one.

Yours faithfully,

Paul Sinclair  
Director

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