

BCCA

british cheque cashers association

newsletter

Issue 39 – Autumn 2006

The Quarterly Newsletter of the British Cheque Cashers Association

“GOING FOR GOLD”

This is the title of this year's BCCA AGM and Conference and, yes, it is meant as a pun, albeit admittedly a rather feeble one, as the inspiration for it came from one of our pawnbroking members. Every year, we include in our delegate packs a feedback form and occasionally we do indeed receive some completed forms. Analysis of these has led us to the remarkable conclusion that the most important aspect of the conference seems to be the quality of the lunch. However, some of last year's delegates also commented that, although the “compliance”- based themes of recent conferences were of interest and relevant to their businesses, what they would really like to see was more on business development, or, as one diplomatically put it, “Tell us how to make more money!”

In other words, we've covered a lot of compliance and legal issues in previous conferences and now it's time to look at ideas which will help members to expand their businesses. So it was with this in mind that we have designed the 2006 conference. Hence the title.

The AGM and Conference will take place on **Wednesday 29 November 2006** and we've once again decided to hold the event at the Marriott Forest of Arden Hotel and Country Club, near the NEC in Warwickshire. This is one of the UK's most popular conference venues and rightly so. Although everyone would like the conference to be on their own doorsteps (Dewsbury Rugby League Club was one delegate's suggestion), this is as good a compromise as we can find. It's easy to get to and there's ample, free, on-site parking. Lunch (yes, that again) will be a seated buffet in the main restaurant, as this arrangement received favourable comments last year.

As for the format, we've expanded the B2B trade exhibition which will now be held in a much larger area. There will be around fifteen trade stands with companies offering a wide range of products and services in attendance. We also realise that members enjoy meeting and talking to each other so, with this and the trade exhibition in mind, we've cut down on the number of speakers, reduced the time they'll actually speak and increased the time available for networking.

We've also moved the time of the BCCA's Annual General Meeting, the day's formal business, so that it will now begin the event. Speakers will address delegates for just twenty minutes each, with the exception of the BCCA's Chairman and the Chief Executive, who will have twenty minutes between them.

We could not run this event if it were not for our sponsors. This year, we are once again grateful to Advanced Payment Solutions with “Cashplus” and also to Transax, who are the Conference's joint main sponsors. Delegates' lunches are courtesy of Speedloan Finance Ltd and afternoon tea is provided by our long-time supporter, Business Insurance Services.

Specialist speakers include Richard Perry, who has spent his highly successful career selling financial products and training financial advisers. Richard's theme will be based around “understanding your customers and their needs” and is aimed at helping members to increase business and customer loyalty. We also have Paul Mildenstein, Managing Director of Dollar Financial Group (UK) and The Money Shop.

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Paul has over twenty years' experience in high street retailing and franchise operations and his theme will be 'Growing Business'. Paul will be sharing some of the retail & marketing success stories for Dollar and The Money Shop that have helped the company to increase 3rd Party Cheque revenues continually over the last few years.

However, we haven't completely abandoned legal issues and as such David Millington, of the Financial Ombudsman Service, will be speaking to delegates. David's address will be of specific interest to BCCA members who offer delayed presentation services ("pay day advances") and, indeed, any regulated consumer credit product, as new rules kick in on 6 April 2006 (more of this later in this edition). David is an excellent speaker and originates from the same neck of the woods as the BCCA's Chief Executive, a fact which, alone, gives him impeccable credentials.

For all this, the cost to BCCA members is a rock-bottom £39.95 including VAT and £117.50 for non-members. To put that in perspective, one of our sister trade associations is charging its members £305.50 for its one-day conference at a venue no better than ours.

We fully appreciate that all BCCA members run retail premises and therefore can find it difficult to get away for the day. However, we have tried this year to put together an event which we hope you'll see as an investment in your business and which will therefore make it worthwhile for you to attend. We look forward to meeting you on the day and you will find a booking form on page three.

Also, for those wishing to stay at the Forest of Arden overnight, we have a limited number of rooms available at a special delegate rate. Please ring Lindsay at the BCCA office for details of this or indeed any other aspect of the conference – 01244 505904.

BCCA CHEQUE ALERT SCHEME

In our Summer edition, we wrote about the launch of the BCCA's revamped Cheque Alert Scheme, which is aimed at preventing fraud and hence financial loss. We're pleased to report that take up by members has been excellent and we have received nothing but positive feedback. Members have suggested a couple of alterations to the configuration and we will be looking at these to assess their value and the feasibility of implementing them. In July, following a request by H M Revenue and Customs, we demonstrated the scheme at a Money Service Business Forum, which is itself hosted by HMRC and received positive feedback on this initiative due to its ability to reduce crime.

So far, more than 50% of BCCA members have signed the agreement and indemnity which we require before issuing a user name and password. We suggest that members who have not done so should give participation serious consideration. After all, as we advised in our last edition, several members who have done so have already saved more than the cost of their annual subscription. Dave Carver, BCCA Chairman, will be demonstrating the Scheme at the AGM and Conference so that you will be able to see for yourself how effective and straightforward it is. Another good reason to attend on 29 November.

BCCA MEMBER BENEFITS

Increasing the value of BCCA membership is a top priority for the Executive. After all, they're all members themselves and have to fork out the cost of their subscriptions every January just like everyone else. In fact, in reality BCCA membership costs Executive members more than others as they receive no expenses or compensation for attending Exec meetings, usually held here in Chester four times per year, although we do

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provide a light lunch. Neither do the Chairman, Vice-Chairman or Treasurer receive any sort of honorarium. They also all pay their own delegate fees to attend the AGM and Conference.

We are therefore pleased to report that we are currently looking at a variety of additional benefits which will be exclusive for BCCA members, which we hope will eventually more than repay the cost of annual membership. One such existing example is the Cheque Alert Scheme (see above) and we are also in discussions with other organisations over a variety of products ranging from car hire to H R advice. One interesting area we are exploring involves systems for on-line document and identity verification.

OFFICE OF FAIR TRADING AND CONSUMER CREDIT ADVERTISING

In our Summer edition, we mentioned that the OFT was due to publish the results of its survey on national consumer credit advertising, as well as a second survey on regional advertising conducted on its behalf by local trading standards offices. Well, we're still waiting but are just as downbeat about it as we were three months ago. It may well be that publication will take place towards the end of September, meaning that the results will be based on data which is getting on for a year old, which is hardly helpful.

We also outlined our criticism of the OFT's own interpretation of the Consumer Credit (Advertisements) Regulations 2004 and said that we would give a more detailed assessment in this edition. Coincidentally, we were discussing the OFT's somewhat fundamentalist approach to its "guidance" with Jeanette Harwood of Leeds law firm Walker Morris and were pleased, in a strange sort of way, that our views coincided to a great extent with those of Jeanette. Even better (from your editor's point of view), Jeanette offered to write an article for the Newsletter on this subject, which we print below.

OFT GUIDANCE ON THE CONSUMER CREDIT (ADVERTISEMENTS) REGULATIONS 2004

Gold standard or gold plated?

The Consumer Credit (Advertisements) Regulations 2004

came into force in October 2004. The OFT's first year compliance review (28 September 2005) claimed that over 60% of advertisements in regional newspapers and 68% in popular car magazines failed to fully comply. The most common breach was failure to state the typical APR for products in those adverts to which the 'APR triggers' apply.

In reality, however, there is still a great deal of uncertainty about how the Regulations should be implemented. This is fuelled by the fact that, on some key provisions, the OFT guidance in the form of 'Frequently Asked Questions' (FAQs), reissued in September 2005, appears to go much further than the Regulations themselves. Such 'gold plating' has led to undesirable uncertainty.

The preamble to the FAQs clearly state that they are not definitive, they are simply the OFT's view of what the Regulations mean. The court will provide the ultimate interpretation of the Regulations mean. The problem is that the Trading standards officers who enforce the law day to day are relying heavily on the OFT's guidance in deciding how to establish whether there has been a breach. They are likely to take it into account in determining whether to prosecute. So unless and until a case comes before the courts, the OFT's interpretation of the law will prevail. Even then, there is a risk that a lay bench will be persuaded that the OFT's interpretation is the correct one.

Those of you who are familiar with the Regulations will no doubt be aware of some of the key areas of contention under the OFT guidance as set out opposite:

Scope

The interpretation of 'advertisement' in the OFT guidance includes 'oral representations to individuals by telephone or in person' (paragraph 1.7). This is extremely wide, and unlikely to be enforceable in a practicable sense. Oral negotiations or enquiries must be distinguished from adverts. The guidance does say that each case must be considered on its own facts, but rather than providing clarity for business, this merely fuels uncertainty.

AGM and Conference: Reservation Form

If you would like to attend the BCCA AGM and Conference, please complete the form below and return it, together with a cheque for £39.95 or £117.50 as applicable (inclusive of VAT), per delegate, to: BCCA, PO Box 3414, Chester, CH1 9BF. Please reserve place(s) at the BCCA Conference and AGM on Wednesday 29th November 2006. I enclose a cheque, payable to British Cheque Cashers Association, for £ (£39.95 per BCCA member delegate, £117.50 per non-member).

The name(s) of our delegate(s) is/are

.....

.....

Company Name

Address

Post Code Telephone Number

N.B. Please inform us if you have any special dietary requirements. Please note that, due to our contract with Marriott, we cannot provide refunds for non-attendance unless we receive 14 clear days' notice prior to the conference. A VAT receipt will be sent in acknowledgement of all reservations. If you do not receive one within 14 days, please contact us on 01244 505904.

Meaning of 'publication'

The OFT's view of 'publication' is extremely wide ('The OFT considers that an advertisement is 'published' each time it is communicated or made available to the public or to a section of the public' paragraph 2.1). This is highly prescriptive. Common-sense must be applied to when it is reasonable for publication to be a continuing event and when it is a one-off. For example, a newspaper advert is clearly a one off, intended to be seen on the date of publication. It would be most unfair to hold that publication continued whenever someone accessed a library record of the newspaper. Similarly, if a poster campaign is current, it is reasonable to assert that publication is continuing, but not once it has ended, even if the poster remains wholly or partly exposed (eg due to vandalism).

The guidance states that 'the assessment of the 'typical APR' must apply on each occasion the advertisement is published. This means that advertisers must keep APRs under review in the light of responses to any advertising campaign, and be prepared to adjust the typical APR as necessary.' An assessment cannot practically be made each time the advertisement is published, on the basis of the definition of published at 2.1. How can an assessment of the typical APR be made before each and every individual looks at a poster or accesses a website, for example? An assessment can only reasonably be made before a poster, leaflet etc, is issued.

Triggers for the inclusion of a 'typical APR' - non-status and comparative information

The FAQs take an extremely expansive view of the application of Reg 8(1)(c) and (d);

A credit advertisement shall specify the typical APR if the advertisement -

(c) indicates in any way, including by means of the name given to a business or of an address used by a business for the purposes of electronic communication, that -

(i) credit is available to persons who might otherwise consider their access to credit restricted, or

(ii) any of the terms on which credit is available is more favourable (either in relation to a limited period or generally) than corresponding terms applied in any other case or by any other creditors, or

(d) includes any incentive to apply for credit or to enter into an agreement under which credit is provided.

The OFT asserts that descriptors such as 'fast' or 'low' credit or rates are comparative triggers under Regulation 8(1)(c)(ii); 'If rates or charges are stated to be "low", it is implicit that this must be relative to something else or the generality. They cannot be "low" in the abstract. In the OFTs' view this triggers the typical APR.' (FAQs paragraph 8.11).

So on the OFT's interpretation, an **express** term of comparison (eg 'faster' or 'less than') is not required. Any descriptor 'must be relative to something else or the generality' and so will trigger the APR requirement. It is very hard to imagine any advert which would not trigger a typical APR on this basis. The examples in paragraph 8.10 of the FAQs bear this out "low cost loans", "reduce your monthly payments", "save money" or "have cash to spare".

In fact, this interpretation makes very little sense. If any statement about the quality or attributes of the product is a trigger, then all adverts would be caught, or at least

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WHO SHOULD ATTEND?

This Conference is recommended to all those within the creditor industry in its widest sense working with and working to assist those individuals experiencing genuine financial hardship. We aim to achieve a balance of delegates from debt advice and creditors and their ancillary services.

Regulators and other interested parties are always welcome. We hope you will assist us to achieve this balance.

MORNING FOCUS ON IRRESPONSIBLE LENDING AND BORROWING

Chair for the morning Ashley Holmes, Head of Legal Affairs & Policy Development, The Finance & Leasing Association

"Feckless or Reckless; debt can seriously damage your health."

Speaker - Martin Lewis, money saving expert

AFTERNOON FOCUS ON MENTAL HEALTH ISSUES AND DEBT

Chair for the afternoon - Robert Skinner, Chief Executive, The Banking Code Standards Board

The good practice recommendations resulting from the work of the MALG Mental Health Working Party Speaker - Colin Trend, Manager Money Advice Plymouth (a project of Plymouth & District MIND) and a member of The MALG Mental Health Working Party

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those that were not would not be adverts in the real sense, assuming all adverts necessarily imply that the product advertised is better than any of its competitors. On this interpretation, 8(1) would be superfluous, as all adverts would be required to state the typical APR.

However, if this was the intention of the Regulations, they would surely have said that all adverts must show a typical APR. The fact that they were drafted in this way means that there must be (in theory at least) some categories of credit advertisement which do not come within Reg 8(1). It would seem logical that paragraph (c)(ii) is directed at a favourable comparison of the product with other products (whether those of the advertiser or someone else): if there is no express or necessarily implied comparison, paragraph (c)(ii) does not apply.

The OFT takes a similarly wide interpretation of 8(1)(d) "any incentive to apply for credit or to enter into an agreement under which credit is provided". On the basis of the dictionary definition of 'incentive', i.e. "that which incites to action", the OFT take the view that it "could include any inducement to apply for the credit in question or to do so in preference to other products"

Yet, taken to its ultimate conclusion, this must mean that all adverts fall within section 8(1)(d) – because all adverts are incentives intended to invite customers to use the product advertised in preference to others. This is implicit – an advert for a Ford Focus is incentivising me to buy a Ford Focus in preference to a Vauxhall Astra or any other comparable car. Once again, however, it makes no sense to hold that this is the meaning of 'incentive' – otherwise all adverts would require typical APRs and Regulation 8 would have no purpose.

Paragraph (d) must logically, therefore, require something more than this. For example an *explicit* incentive to use that particular form of credit.

Wider implications

In October 2004, the Better Regulation Task Force published a study entitled 'Regulatory Creep.' This identified that guidance can be a form of regulatory creep because it can 'stray beyond the requirements and indeed the intention of the legislation.' *It continued; 'But it is how guidance is enforced that is often the determining factor that encourages regulatory creep. We came across a number of examples where enforcement activity led to what effectively amounts to enforcement of guidance.'*

This is already happening with the OFT guidance on the Advertising Regulations. Trading standards officers are requiring advertisers to withdraw adverts that do not meet the OFT's interpretation of the law, under threat of criminal enforcement. Such 'regulatory creep', leading to undesirable uncertainty. Legislators, not regulators, are empowered to make law. The reality is that because the OFT issue a warning on first breach of such regulations, credit providers have to decide whether to toe the OFT line, notwithstanding they may believe it to be misconceived, or go to court on a point of principle. Most will choose the former option, given the costs and risks associated with defending a case which would probably have to go to appeal.

And these are not the only risks. Within the scope of its new powers under the Consumer Credit Act 2006, the OFT will soon be able to take a positive decision to penalise a commercial creditor that it considered to be in breach of relevant regulations by threatening to suspend or revoke their licence. It will be a brave credit provider who is prepared to put their head above the parapet.

Over-prescription of detail risks undermining the spirit of the legislation and ultimately disadvantaging, rather

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than assisting, consumer understanding. In the Consumer Credit White Paper of December 2003, which heralded these changes, the Government promised 'measures to ensure greater consistency and transparency in credit advertising' to eradicate the old 'highly technical and complex regime creating confusion for lenders, enforcers and consumers'. The anticipated gold standard has yet to materialise; unfortunately, until such time as the knotty issues highlighted above are resolved by the courts, the new regime will continue to be every bit as uncertain and inconsistent as the old.

Jeanette Harwood is Director and Head of the Regulatory Services Group at Walker Morris, Kings Court, 12 King Street, Leeds, LS1 2HL. She can be contacted on 0113 283 2632 or by e-mail at jeanette.harwood@walkermorris.co.uk

BCCA Comment

We agree fully with Jeanette's opinions, particularly the final section on "regulatory creep". In fact, the OFT has published another consultation document which gives guidance on how it intends to interpret the "Unfair Relationships" provisions contained in the Consumer Credit Act 2006. This is THE classic example of "regulatory creep" and is a rewrite of the law, rather than an interpretation. It would be interesting to hear how the OFT feels that it has complied with the Cabinet Office's policy relating to "better regulation". In fact, we intend to address the whole issue of Messrs Brown and Blair's so-called "better regulation" initiative in our next edition.

HEALTH 'N SAFETY NEWS

Talking about abysmal regulation and enforcement, the Health and Safety Commission and the Health and

Safety Executive, the organisations which are chiefly responsible for interpreting and enforcing the UK's health and safety laws (mainly originating in Brussels) with fundamentalist zeal seems to have had a change of heart. We came across this press release recently:

The Health and Safety Commission (HSC) today urged people to focus on real risks – those that cause real harm and suffering – and stop concentrating effort on trivial risks and petty health and safety. To help take this forward the Health and Safety Executive (HSE) today launched a set of key principles: practical actions that we believe sensible risk management should, and should not, be about. The principles can be found at Risk website.

Launching the principles at a children's sailing centre in north London, Bill Callaghan, Chair of the HSC, said: "I'm sick and tired of hearing that 'health and safety' is stopping people doing worthwhile and enjoyable things when at the same time others are suffering real harm and even death as a result of mismanagement at work.

"Some of the 'health and safety' stories are just myths. There are also some instances where health and safety is used as an excuse to justify unpopular decisions such as closing facilities. But behind many of the stories, there is at least a grain of truth – someone really has made a stupid decision. We're determined to tackle all three. My message is that if you're using health and safety to stop everyday activities – get a life and let others get on with theirs."

Lending support to the principles, author and adventurer Ben Fogle said: "Children encounter risk everyday and its important that, through activities like those being carried out today, they learn how to enjoy themselves but also stay safe.

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"I probably take more risks than most – and I wouldn't want my life to be any other way. No one wants a world where children, in fact anyone, is wrapped in cotton wool, prevented from taking any risks and scared of endeavour. "That's why I'm supporting HSE's launch and am happy to endorse these principles."

Sensible risk management **IS** about:

- Ensuring that workers and the public are properly protected;
- Providing overall benefit to society by balancing benefits and risks, with a focus on reducing real risks – both those which arise more often and those with serious consequences;
- Enabling innovation and learning, not stifling them;
- Ensuring that those who create risks manage them responsibly and understand that failure to manage real risks responsibly is likely to lead to robust action; and
- Enabling individuals to understand that as well as the right to protection, they also have to exercise responsibility.

Sensible risk management **IS NOT** about:

- Creating a totally risk free society;
- Generating useless paperwork mountains;
- Scaring people by exaggerating or publicising trivial risks;
- Stopping important recreational and learning activities for individuals where the risks are managed; and
- Reducing protection of people from risks that cause real harm and suffering.

Commenting on the principles Jonathan Rees, HSE Deputy Chief Executive, said: *"We want to cut red tape and make a real difference to people's lives. We are already taking action to put the principles into practice. Last month we published, straight-talking guidance on risk management, but we cannot do this alone. That's why I welcome the broad alliance of support for this*

initiative – organisations representing employers, workers, insurers, lawyers, volunteers, health and safety professionals and many others who have made positive contributions to our approach.

"These principles build on all of this and will hopefully drum home the message that health and safety is not about long forms, back-covering, or stifling initiative. It's about recognising real risks, tackling them in a balanced way and watching out for each other. It's about keeping people safe – not stopping their lives."

By one of those strange quirks of fate, this was released the same week as a story that a new fire station had been built without the traditional "firemans' pole", as it had been deemed a potential safety hazard. Instead, firefighters will have to saunter (NOT run) down flights of stairs instead on their way to pull people from burning buildings etc. To check if the traditional pole really is such a danger, we asked our in-house expert, BCCA Chairman Dave Carver, who was a fireman for fifteen years. "No", said Dave. In all his time in the fire service, he could not recall a single serious ankle sprain caused by sliding down the pole, but could recall accidents caused by falling down stairs.

Then, as we were writing this Newsletter, we heard that Bristol City Council had banned doormats from Council premises as they had been deemed a tripping hazard. Not, of course, that there had been any actual incidents caused by these killer doormats, just that there might be.

Whilst the HSC and HSE's initiative is to be welcomed, we just get that feeling that it will be impossible to get the genie back into the bottle. But the next time the "Ladder Hit Squad" raids your premises (see page 3 of our Winter 2005/6 edition), try fending them off with a copy of this press release. Bet it won't have any effect whatsoever.

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BCCA CODE OF PRACTICE

You may recall that, in our Spring edition, we wrote that we would be carrying out a twelve month project to develop the BCCA's Code of Practice, which related to third party cheque cashing, and also the Best Practice document, which covers delayed presentation. By now, many members will have received a letter from Lindsay at the BCCA's office giving pre-notification of a visit to their premises by Jim Appleton, who is carrying out the project.

We are pleased to say Jim has reported that he has received a warm welcome at every shop he has visited so far and that he has been pleasantly surprised at the co-operative attitude of BCCA members. We are also pleased at the overall high level of compliance with the existing Code but would point out that the main reason for Jim's visits are to assess the relevance of the existing documents, which were drafted some time ago, to current business practices and the market in general.

Jim has now written a new Code which we believe satisfies the requirements of the OFT's "Consumer Code Approval Scheme", at least on paper. However, we are not considering submitting the Code for what is known as "part 1 approval" until we are confident that we could go all the way and gain full approval. The problem here is the OFT Scheme's requirements for monitoring, which we knew right from the start would be an issue. We now estimate that this would cost the BCCA (i.e. the members) in the region of £50,000 per year, even if we could actually find someone with the right qualities who is willing to live out of a suitcase. Quite simply, we can't afford it and there are probably better ways of spending the money that we do have for the benefit of members, such as the "URU" initiative (see above). Having said that, we still intend to publish a rewritten and consolidated Code at some stage in the near future.

The OFT's Scheme itself was dealt a blow recently when the Association of British Travel Agents (ABTA), which gained full approval only twelve months ago, withdrew from the scheme. This followed a change to its financial protection arrangements which meant the ABTA code then failed to comply with the OFT's requirements.

This leaves just four codes that have full approval, none of which cover genuinely problematic trade sectors. One of the successful codes is that operated by our friends at the Direct Selling Association, which will come in really handy when you're on the receiving end of severe grief dished out by the Avon lady.

A READER WRITES – PROBLEMS WITH BANKS

Following our request for contributions to the Newsletter, an e-mail has flooded in, detailing a member's problems with banks when presenting cheques within the three-day guarantee period specified in APACS' Cheque Guarantee Card Scheme. The details are as follows, although we have refrained from disclosing the member's name at our own discretion.

Difficulties with 3-Day Pay Day Advances (i.e. "guaranteed" cheques that are presented for payment on the 3rd banking day)

On 25th April 2006 a "guaranteed" £100 cheque from one of our customers was returned unpaid giving the reason: payment stopped. We wrote to the branch of the paying bank, Nat West, and informed them that the cheque in question was drawn and presented in accordance with the cheque guarantee scheme, so it cannot be stopped. We said we would re-present the cheque again and asked them to make sure it would be paid. We also made a claim for £10 costs for the letter and our bank costs for returned cheques.

On 27th April, a second and a third cheque from the same customer were returned unpaid for the same reason: payment stopped. We wrote to NatWest again and informed them that the cheques in question were drawn and presented in accordance with the cheque guarantee scheme, therefore they cannot be stopped. We said we would re-present them again and asked them to make sure they were paid this time. We also claimed £20 costs for the letter and our bank costs for returned cheques.

On 3rd May, the first £100 cheque was returned again. We wrote to NatWest and informed them that we would not re-present the cheque again. Instead, we made a direct claim in the letter for the face value of the cheque

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- New customers will be attracted to your branch to exchange currency, resulting in better awareness of the services you currently offer.

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plus our costs of £50, i.e. £150.

On 18th May, having received no response at all, we wrote to the NatWest Customer Relations Department claiming the face value of the cheque, £100, plus our costs of £60 now, i.e. £160. At this date we felt it safe to assume that the second and third cheques had been paid.

On 23rd May we received a letter from NatWest Customer Relations Department in Borehamwood, London, stating: "Unfortunately we cannot provide you with payment of the outstanding cheque as this is an agreement between you and (your customer) and as such contact will need to be made direct with him regarding payment." We telephoned the writer of the letter to point out that the cheque was written and presented for payment in accordance with the terms of the Cheque Guarantee Scheme, therefore it was perfectly proper and correct for us to make a claim from the paying bank and not from our customer. The NatWest employee said that there was nothing more the Bank was prepared to do and its decision was final. We said we would be contacting the Financial Ombudsman Service.

On 12th June we wrote to the Financial Ombudsman Service and on 24th June we received a complaint form which we completed and returned on 4th July.

On 8th August the FOS asked us to fax a copy of the cheque in question to them. The FOS said that strictly speaking they couldn't act for us because we were not a customer of NatWest. However, they were willing to give it a try, but if the Bank refused to pay us there was nothing more the FOS could do.

The next day the FOS telephoned to say that NatWest has agreed to pay our claim in full (£160). The caller confirmed that the NatWest would be charged a case fee by the FOS. Two days later we received an "acceptance form" from the FOS which we signed and returned.

On 16th August we received a letter from the FOS saying that we will receive settlement direct from NatWest.

On 24th August we received a cheque for £160 from NatWest Bank. It came from a Customer Relations Manager based in Edinburgh.

This is a good example of how the Financial Ombudsman Service approaches issues which are brought to its attention i.e. it does its best to help, even if the matter is strictly outside its remit. However, we must point out that FOS will only get involved once the "victims" have made every attempt to remedy the problems themselves. We are pleased that our member received the money to which he was rightfully entitled.

THE INSTITUTE OF CREDIT MANAGEMENT

Earlier this summer, Philip King, Director General of the Institute of Credit Management, visited us in Chester. The ICM is the largest professional credit management organisation in Europe. It represents the credit profession across trade, consumer and export credit, as well as in related activities such as collections, credit reporting, credit insurance and insolvency. During our meeting, Philip offered to write a piece for this Newsletter, which explains what the ICM does and how it supports its members, which we print below.

As any Institute or Association body will tell you, it is imperative to keep the members happy. That means being constantly aware of what is happening in your industry, and being innovative in the way that you think and act. It means in short that members shouldn't just be 'satisfied' with their membership, but actually 'delighted'.

It was against this context that earlier this year The Institute of Credit Management (ICM) commenced a major drive to ensure it remains relevant and credible to credit professionals in the 21st Century, providing its members with the practical tools, qualifications, guidance and support they need to compete in an increasingly demanding business environment.

Uniting behind a new strapline - Empowering the credit profession - the Institute began rolling out a series of initiatives to build on the existing benefits to members in five key areas: education; recruitment; advice; training; and information. It undertook a 'root and branch' review of its structures and grades, looking specifically at anomalies within certain grades but also taking the opportunity of giving more professionals working in the

Are You Worth £700 per Hour ?

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(and don't forget - when the claims settlement cheques come through you can cash them for your Customers too!)



industry a route to membership.

Getting its act together in such a way is about getting it fit for purpose for the 21st Century, and the several and many issues that the credit manager faces today and in the future. BCCA members share many such issues, not least of which is the increasing prevalence of fraud, money laundering, and the various 'scams' that continue to plague our industry.

Being fit for purpose also means having a credible voice in government, influencing relevant departments in their decision-making processes, understanding the need for regulation and control but not at the expense of unnecessary bureaucracy and red tape. It is sometimes a fine balancing act.

There are difficult times ahead. Interest rates are set to rise, insolvencies will continue to increase, and the UK credit cycle is heading for rising bad debt. Fraud will continue to be a significant concern. But it is not all bad news: business volumes are expected to grow, confidence in the UK economy is up, and those working in the credit industry - specifically our members - believe their own strategic importance in building a successful business is at an all time high.

The ICM, as with the BCCA, must continue to look at how they can best serve the interests of their members and their industry, and that means delivering benefits that are directly relevant to empowering them to succeed.

We look forward to working with the ICM for the mutual benefit of our members. More information on the ICM can be found on its website, www.icm.org.uk or by phoning on 01780 722912.

NEW DIRECTOR AT THE CCA

The BCCA has close ties with the Consumer Credit Association (CCA), which represents around 500 companies in the UK home credit industry. Indeed, there are many businesses which are members of both associations. We are pleased to report that the CCA has recently appointed Jack Bennett as its new Director. Jack will head a team based at the association's headquarters in Chester, and report to the CCA's National Executive.

In addition to managing member services, he will represent the home credit industry's interests with the European Commission; UK Government departments such as the DTI, Home Office and Office of Fair Trading; other trade associations within the credit sector; credit reference agencies and consumer groups.

Born and raised in South Devon, Jack is a business graduate of the University of Plymouth. He has enjoyed a diverse career with experience of large and small organisations within both the private and public sectors. Before joining the CCA, Jack held the position of chief executive of the Jeddah Marketing Board based in Saudi Arabia for six years. The Board was established in 2000, to promote Jeddah internationally as a world-class centre of business and cultural excellence, and so stimulate the economy and create new employment opportunities. Prior to that, he was the chief executive of the Bahrain Promotions and Marketing Board.

In the UK, Jack has managed a venture-capital funded, high tech start-up, Xaar plc, and held senior marketing and general management positions with Citizen, Epson and Texas Instruments.

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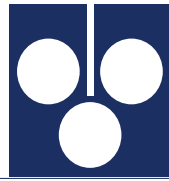
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We at the BCCA look forward to working with Jack and wish him every success in his new role.

FINANCIAL OMBUDSMAN CASE REPORT

Forged Signatures on Cheques

In our Spring edition, we featured the Financial Ombudsman Service's policy on forged signatures on cheques and promised to print some case studies in the Summer edition. However, we had to hold this over until now but we hope you find them of interest. If you'd like to read the original item, you can download a copy of the Spring Newsletter from our website – www.bcca.co.uk. You'll find it on page 15.

case studies – forged signatures on cheques

1. Customer allows family members to 'sign' his name on his cheques – when he stops this arrangement, firm refuses to refund the amount of some of the cheques already paid

Mr B had a current account. His parents and his two brothers did not. For a long time he let them write cheques on his account and 'sign' his name. But after a family argument Mr B decided to stop to this arrangement. He also went back over his bank accounts, and identified three cheques that he thought had been drawn by family members without his approval. He asked the firm to refund the amounts of these cheques but it refused, even though it accepted that he had not signed the cheques himself. Mr B then complained to us.

complaint rejected

We said that the firm did not have to refund the amount of the cheques in question, because Mr B had known about (and indeed tolerated) the family members 'signing' his name on cheques.

2. Customer says signatures on some of his cheques were not genuine – firm suspects him of collusion in the forgery

Over a period of two years, Mr D reported numerous incidences of lost cheque books and credit cards to the firm. He also said that certain cheques had been signed by a fraudster, and that he should not be liable for them. When the firm rejected his complaint, he came to us.

complaint rejected

The signatures on the cheques varied, and they were not particularly good matches for Mr D's signatures. But Mr D's true signatures also varied widely.

Overall, in the light of the evidence, we thought it most likely that although Mr D had not signed the cheques himself, he had colluded with the fraudster. We rejected his complaint.

3. Customer's former partner steals one of her cheques and forges her signature – bank refuses to refund the amount of the cheque

Miss C contacted the firm after receiving a copy of her bank statement and finding that there had been a cheque withdrawal of £1,000. When the firm showed her the paid cheque, she saw that it had been signed with her name by her former partner, Mr H.

Mr H had moved out of her flat some months earlier, but had apparently taken a cheque from her cheque book before leaving. Miss C very rarely wrote cheques, so had not noticed that anything was wrong.

When she asked the firm to refund the amount of the cheque it refused. It told her that she should have kept her cheque book locked up and it suggested that she should pursue a claim against Mr H. Miss C thought this was unreasonable, particularly since she no longer had any contact with Mr H and did not know his current whereabouts. However, the firm refused to change its position, so Miss C came to us.

complaint upheld

We did not consider it realistic to expect a customer to keep their cheque book under lock and key at home. And we did not agree that Miss C should have realised that the cheque had been stolen and alerted the firm before it was paid, as the firm had suggested.

We were satisfied that Miss C had not owed Mr H any money at the time he moved out. And it was clear that the payment of the cheque had caused a loss for Miss C. We therefore required the firm to refund the £1,000 to her account.

autumn 06