

BOCA

british cheque cashers association

newsletter

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The Quarterly Newsletter of the British Cheque Cashers Association

OFT LAUNCHES PROJECT ON “IRRESPONSIBLE LENDING”

Following an amendment to the Consumer Credit Act 1974 (section 25 (2B), as you ask), the Office of Fair Trading (OFT) may now consider business practices “*that appear to the OFT to involve irresponsible lending*” when determining if a licensee under the Act is fit to hold a licence. It is important to note that the word “may” and not “shall” is used here as this gives the OFT full discretion over the use of this power. More on this later.

There has been a lot of misreporting about this in the media along the lines of “*OFT Launches Investigation into Payday Lending*”, as if this very small niche sector has been singled out as a particularly troublesome child. Well it hasn't. In fact, the OFT receives very few complaints indeed (not far off zero) from payday loan customers. As usual, those who complain are people who don't actually use the product but, let's face it, we Brits are particularly good at sticking our noses into other people's business instead of letting them get on with it.

The reality is that the OFT has simply published a “scoping paper” for comment which, unsurprisingly, will determine the overall scope of its eventual “irresponsible lending project”.

Here's an extract from the scoping paper itself:

'The project will consider behaviour and practices around the decision to lend, or to extend an existing line of credit, and the nature and extent of any assessments of a borrower's ability to repay.

The project could be limited to the matters in [the paragraph above] or could also cover other aspects of consumer credit lending which impact upon lending and borrowing decisions to a significant extent or which may potentially cause consumer harm. These may include, but are not limited to, matters such as:

- advertising and marketing
- selling techniques
- product design
- use of credit scoring techniques
- appropriateness of product to borrower
- sale of associated products and,
- account management (including handling of default/arrears).

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Our initial view is that the wider scope would ensure that the outcomes of the project would be more useful for both businesses and consumers, as it would make clear our position across the range of matters listed as opposed to simply on the narrower issue of the lending decision itself.

The project will cover all main types of consumer credit lending. This will include, but is not limited to, unsecured personal loans, secured loans (second charge mortgages), credit cards, hire-purchase, payday loans and home credit.

The project will also cover all parties to the loan, including credit brokers and intermediaries.

Once the scope of the project has been settled we intend to adopt a fully consultative approach with all interested parties which will include bilateral meetings and roundtable discussions. It is also likely that we will produce an issues paper for discussion later in the project, and a report summarising the main findings. There will be a formal consultation on any guidance that is produced as a result of the project's findings.

The intention is to complete the project and publish initial guidance for consultation within a 12 month period. However, subject to the outcome of the project, we may undertake further sector-specific or product-specific work.'

We would be surprised if the eventual scope of the project did not include those bullet point items on page 1. Additionally, it may well be that current account overdrafts will be included in the project, which is important for payday lenders for obvious reasons. The BCCA will, of course, be submitting a full response to the scoping paper before the October deadline and will also be co-operating fully with the OFT as we always do.

Back to the wording of section 25(2B). In the scoping paper, the OFT states in paragraph 4.1:

*"The [amended Consumer Credit Act 1974], introduced two concepts which have a particular bearing on the issue of responsibility in lending. These are the consideration of credit competence in the assessment of fitness, and the explicit identification of evidence of irresponsible lending as a matter to which the OFT **must** (our emphasis) have regard in assessing fitness to hold a consumer credit licence."*

This is simply not the case. In Annex A of the scoping paper, the OFT itself reprints section 25 (2B):

*"..... the business practices which the OFT **may** (our emphasis) consider to be deceitful or oppressive or otherwise unfair or improper include practices in the carrying on of a consumer credit business that appear to the OFT to involve irresponsible lending.'*

WE ARE PROUD TO SAY...

Here at Transax Cheque Warranty, we are proud to say that we are once again a major sponsor of the BCCA Annual Conference. This will be our fourth year as a conference sponsor and we look forward to meeting old and new friends on 6th November.

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This means that “irresponsible lending” is in effect just an optional consideration for the OFT when considering the “fitness” of licensees — there are plenty of other factors listed elsewhere in section 25 that the OFT **must** consider (don’t worry — we’re not going to list them) so it does raise the question as to why the OFT is spending so much time and effort on what is simply an option.

So much for the Government’s policy on reducing the burdens on business and doing away with “gold plating”, but then the OFT’s got plenty of form when it comes to rewriting the law of the land. Which reminds us — it’s just reissued an amended version of its “guidance” on the Consumer Credit Advertisements Regulations but don’t get us started on that.....

BCCA CONFERENCE 2008: MISS IT, MISS OUT!!

This is just a quick reminder about the BCCA Conference 2008 that is being held at the Marriott Forest of Arden Hotel in Birmingham on Thursday 6 November.

The Conference this year has, in our view, a very strong agenda, tapping into issues that affect both third party cheque cashers and pay day loan providers. For example, we have confirmed speakers from the following; SOCA, Cheque and Credit Clearing Company, OFT, Trading Standards Institute, Walker Morris solicitors and PR consultant JLH PR. As you can see, there is a strong compliance theme to the Conference, but in many respects this is inevitable in light of the high regulatory environment that looks set to continue into the future with, for example, the implementation of the Consumer Credit Directive in 2010 and probably other pieces of legislation that we are yet to become aware of.

It is likely that most of our speakers will stay for the duration of the Conference, so if you have any burning questions, you should be able to catch them during lunch. For those who have attended the BCCA Conference before, the traditional panel sessions have been scrapped in favour of a lunch break which nearly runs to 2 hours so that delegates have the opportunity to network and make contacts.

Spaces at the trade exhibition are being snapped up quickly. If anyone would like to enquire about attending Conference as an exhibitor, please contact Rachael on 01244 505909.

In addition, if any members/non-members would like a copy of the latest draft Agenda, please contact Rachael. Members are advised to book early. The BCCA has already received booking forms from delegates following the last newsletter.

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 (members) or £176.25 (non-members) (inclusive of VAT), per delegate, to: BCCA, PO Box 3414, Chester, CH1 9BF

Please reserve place(s) at the BCCA Conference and AGM on Thursday 6th November 2008.

I enclose a cheque, payable to British Cheque Cashers Association, for £ (£39.95 per BCCA member delegate, £176.25 per non-member).

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

Company Name

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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 Lindsay on 01244 505904.

FOOLS AND THEIR MONEY.....

Lindsay, who looks after everything to do with membership at the BCCA's office, receives on average one enquiry per day from people who want to start a cheque cashing or payday loan business because they think it's a great way to make lots of money. Often, the BCCA's Chief Executive has a chat to them and points out that, in reality, it's a great way to lose lots of money if you don't get it right and that it isn't easy. We also provide them with a full "warts and all" information pack which also tells them about the regulatory obligations. Sometimes, we also point out that if cheque cashing really was so lucrative, we would be out there doing the business rather than working for the BCCA.

In addition, to keep up with events, we at the BCCA trawl the globe for stories about cheque cashing and payday loans (we get a LOT of these). Actually, we use a wide variety of information sources (all free, of course, in accordance with that fine BCCA tradition) as well as Google Alerts and a network of friends who pass on any items they come across which may be of interest to us. However, we recently came across this plea for help on a US website — we've not corrected the spelling as it adds to the flavour, so to speak:

"I just opened my check cashing business after I got the MD state check cashier license. But 4 out of 25 checks which I received has been bounced, some "REFER to MAKER", "NSF(insufficient funds)", "counterfeit(fraud)" checks...

I now really realized that doing check-cashing business is so so dangerous, not only losing BIG money, but could be robbery-target....

But I still would like to know why there are so many check-cashig stores out there and even local community grocery and liquor stores do the check-cashing as a auxulious business....

why they continue do this?

how they not lose money??

is there any "SECRET" doing this business?

What should I do when customer presents check to cash it in my store?

what information and identification check do I need to do?

I think, fundamentally, there is no 100% secure way not to lose money by cashing bad check, since the bad guy knows what and how check cashier do when they process check,so they already made fake ID and fake address and phone numbers on real check(maybe stolen check or virture company,etc), so even though I did check and copy their id and verified the check issued company and the person's id and they all appear to be good, but actually it's fake check or virtually fake company's check, so I know after I deposit that check in the bank...

then it's TOO late.

The bas guy already took cash and gone, the address on the check and on the his ID card are all fake, so how can I sue HIM??

1) Do you have any idea how can I protect my check-cashing business from this bad guy?

2) if check bounced, what can I do in ordee to get the money back??

3) DO I need to simply shut down my check cashing business now before I lose more money?

Any advise will be greatly appreciated...

Thanks"

If only he'd contacted the BCCA first. Still, never mind. Our advice is simple: Implement Option 3 immediately.

BUSTED!!!

The BCCA always keeps a close eye on fraud, from the latest scams to how enforcement agencies are trying to combat it. In earlier editions of the newsletter, we have given our readers some statistics on fraud and for the most part it makes pretty miserable reading. For every new measure introduced to combat fraud, there are reports of successful attempts by fraudsters to negotiate a way around it.

There's no question that some of the frauds that are reported are highly sophisticated and one wonders why the fraudsters don't put their intellect to better use! However that would probably mean hard work and most fraudsters just want to make a quick buck. What is reassuring though is that the enforcement agencies tasked to deal with the

fraudsters are equally as relentless in trying to combat it. It with great pleasure that the BCCA can report two such recent success stories both of international magnitude!

The first of those cases was reported on 5 August 2008 where US authorities managed to crack what has been described as the 'biggest ID fraud case' and this is no over exaggeration. Eleven people have been charged in connection with the theft of credit card details after being accused of stealing more than 40 million credit and debit card numbers before selling the information.

It seems they hacked into the computer systems of several US retailers which allowed the fraudsters to install software so they could access customers account details and passwords. Some of the shops believed to have been targeted included TJX Corporation which trades as T K Maxx and Barnes and Noble.

Poor TK Maxx. It seems that they had been a victim of a sophisticated fraud only last year after it was revealed that the identity of 45 million credit cards were at risk of being compromised following a breach of its computer systems which began in

2005. As a consequence, TK Maxx agreed with the banks which form part of the Visa or MasterCard network, to compensate them for the cost of replacing cards and dealing with fraud enquiries.

As BCCA members will know, often the real victims of fraud are businesses who are used by fraudsters to either obtain information (as the case above demonstrates) or for obtaining monies.

In another recently reported case on 13 August 2008, the DCPCU (Dedicated Cheque and Plastic Crime Unit) which is sponsored by the banking industry through APACS, raided a counterfeit card factory in Birmingham and two arrests were made. They were later charged with conspiracy to defraud. It would appear that the officers recovered equipment such as card readers/writers and fake magnetic stripe cards which are needed to steal card details and make counterfeit cards.

Early reports are that retailers Chip and PIN terminals had been tampered with by the criminals in order for information to be obtained. It seems that the fake cards are primarily used abroad where Chip and PIN has yet to be rolled out.

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Despite the magnitude of the two fraud cases, it is also worth noting that instances of 'small time' cheque fraud are being reported and those responsible are seemingly being brought to justice.

In a recent case heard at Swansea Crown Court, a carer was subject to a 12 month community service order and told to carry out 100 hours of unpaid work after admitting three offences of obtaining money by deception.

It seems the 'carer' had opened up a new bank account with HSBC after being paid her wages via cheque. After this time it appears she later removed three blank cheques from her patient, wrote them out to the value of £100, £150 and £750 and forged his signature. She allegedly paid one of the cheques into her bank account and two into her sister's account. Her sister was arrested and charged but later cleared when the 'carer' admitted the offence. It seems that the man who was the victim of the fraud was reimbursed by the bank.

EMPLOYMENT LAW FREEBIE

It's rare these days to come across anything that's free, and when you do, you automatically think, 'what's the catch?' Free legal advice is especially rare, but our friends at BERR are offering such advice on a number of employment law matters to make life easier for smaller businesses. Well, we're not going to have a moan about that!

According to BERR, you can, for example, use the link below to create a written statement of employment which, if filled in correctly, contains all the terms and conditions you legally have to give. It should be issued no later than two months after the beginning of a workers employment. The link is: www.businesslink.gov.uk/writtenstatementtool. According to the website it should only take you 25 minutes to complete which is a bit of gift if you're looking to take on a new member of staff quickly.

Other links which might be of interest is one regarding opt out agreements for staff that are happy to work longer than a 48 hour week see www.businesslink.gov.uk/optoutagreement. Other useful pieces of advice can be found at www.businesslink.gov.uk/employingpeople. However, BCCA members are also entitled to

speaking to an advisor about employment and other legal issues via the Croner Business Support Helpline. The number is **08445 618133**. All you need to do is quote the BCCA scheme number.

CALLING ALL BARCLAY'S BUSINESS CUSTOMERS.....

Yet another freebie to mention to our members who are Barclay's business customers. It seems that Barclays are now offering a free credit checking service following late payment issues that have had a significant impact on SME's. As we understand it, using the service should allow them to assess the credit risk of businesses that they are dealing with, and it could ultimately save them a bob or two.

It seems that Barclay's normally offers its business customers this service for £15 a month for an unlimited amount of checks. However it seems the free service won't offer full checking that paying customers receive. The amount of checks will be limited to 10 companies which are nominated by the Barclay's business customer, but which can be checked an unlimited number of times. It seems that Barclay's will also offer alerts and solicitors letters to use to chase payment.

CPR's – THE FIRST STRIKE!!!

The Consumer Protection from Unfair Trading Regulations 2008, often referred to as 'CPR's' or 'CPUT's', came into effect on 26 May 2008. After all the hype immediately before and after the commencement date, everything seemed to go a bit well, quiet. We all wiped our brows and thanked our lucky stars that the regulators did not seem intent on firing a round of bullets at unsuspecting businesses and to be fair, this has still proven to be the case.

However, we now have news that Wiltshire Trading Standards, with the support of the OFT has taken the first action under the new powers to obtain an Enforcement Order against a trader. What is reassuring though about this case is that it seems a reasonable approach was taken and that the action was proportionate.

The Enforcement Order was against handy men, father and son duo, Jimmy and Shane Stockwell. It seems the duo had generated a number of consumer complaints about their aggressive

behaviour and poor workmanship. The Enforcement Order, for example, stated that they must not act aggressively in persuading customers to sign contracts or make payments and mislead consumers by presenting false information.

So, it appears, for the time being at least, that the regulators are not just using the Regulations to crucify businesses that have a genuine interest in complying with the law; rather the legislation is being applied in the way we hope it was intended – to make action against rogue traders easier and simpler. Let's hope this ethos continues.

OFT ENFORCEMENT ACTION UPDATE

According to several press releases issued by the OFT, it would seem that they have had a particularly busy time of late. Below is a summary of some key enforcement action taken by them in recent months.

Revocation of Consumer Credit Licence

In June 2008, the OFT advised that they had taken action against a debt management company and

revoked the licence of Matthew St. John Crossley who traded as 'Debt Advisory Company'. It seems that he operated on two websites offering 'free independent and impartial debt advice' to debt laden consumers. However, this would not appear to be the case and the websites have since been closed down.

It seems that he told consumers that re-mortgaging was the best option to solve their debt problems. It seems that consumers followed this advice and released up to £30,000 equity in their homes, passing it to him to repay their creditors. Unfortunately for these consumers it seems that Mr Crossley did not, for example, return monies to consumers on request and failed to make all or any payments on the consumer's behalf to their creditors. As you might expect, this sort of conduct falls foul of the OFT's Debt Collection Guidance and would obviously have serious financial repercussions for those consumers who dealt with him. According to the OFT, one man lost his home and another was made bankrupt.

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If Mr Crossley continued to operate a debt management company after the revocation of his licence, he would be committing a criminal offence. However, it would appear that his whereabouts are at the present time unknown.

The OFT and the Claims Management Regulator at the Ministry of Justice have since issued a press release advising consumers to go to an independent advisor before signing up to companies like this and to think very carefully before making such a decision.

Misleading Mailings

A Dutch company called 'Best Sales B.V' trading as 'Best Of' and 'Oliveal' were sending misleading mailings to UK consumers. The mailings were misleading because they appeared to notify UK consumers of a big win, typically £5,900 or £10,000. According to the OFT, the mailings also led consumers to believe that in order to obtain their prize, or receive it faster, they had to buy something from the catalogue.

This is a landmark case as it is the first time that a court order by the OFT has been obtained in the Netherlands and only the second cross border injunction sort by the OFT. The injunction stops the Dutch company sending misleading mailings to UK consumers. A failure to abide by this could result in a whopping 1,000,000 Euro fine for each mailing sent. If that's not enough to deter someone, I don't know what is!!!

The OFT also sort assurances from a Latvian company that was sending misleading mailings to UK consumers under the name 'Reprohealth'. The company was selling an anti impotency product, with the tongue in cheek name of 'STIFF Strips'.

It seems that the claims made by the company could not be evidenced when the OFT approached them. As a consequence, the company agreed to stop selling and promoting the product in the UK. In addition, two websites that also sold the product which were making similar misleading claims were closed down.

According to research commissioned by the OFT, around 200,000 UK consumers fall victim to

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misleading miracle health and slimming cure claims every year costing UK consumers around £20 million. Hence the old saying in Trading Standards, 'if it sounds too good to be true, it probably is!!!'

VALIDITY OF DRIVERS' LICENCES FOR ID AND V

All BCCA members know and understand the importance of checking a customer's identity, particularly in relation to anti money laundering procedures as it's a legal requirement. However, what some members might not be aware of is that photocard driving licences must have the photo renewed every 10 years.

Below, Richard Cook from the British Bankers Association discusses this issue and the action that the BBA has taken regarding this.

'The BBA recently wrote to the DVLA to raise concerns about the way it was proposing to deal with the renewal of the photocard part of the

current drivers' licence. The DVLA first issued the photocard part of the drivers' licence on mainland UK in July 1998. However, what is not widely known is that there is a legal requirement on the licence holder for the photograph to be renewed every 10 years. Failure to do so constitutes a criminal offence.

The first photocard licences started to expire in July. When the photograph expires, the holder's entitlement to drive remains valid but the photocard part of the licence is deemed by DVLA to no longer be fully compliant. This has implications for how banks, financial institutions and other bodies are able to deal with people on an everyday basis. Under UK money laundering laws, before anyone can open a bank account or buy any financial product or service, a bank has to obtain proof of their identity. This means only current and valid documents can be accepted by the bank. If the photograph has expired on the photocard licence, this invalidates the driving licence as a document banks are able to accept as

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proof of identity. In our letter the BBA expressed concern that DVLA had no plans either to raise awareness among the general public of the issue of photograph expiry or of the implications this could have for the provision of other services.

Although DVLA is writing to licence holders in advance of their individual photograph expiring, there is every chance some people will not act or receive the reminder. This could mean the first some people will know about the issue is when a bank refuses to accept the photocard part of the licence as a valid form of identity. This creates the prospect of confrontations within branches with dissatisfied customers who are unable to produce a different form of identification, leading in turn to increased letters of complaint to the banks.

To mitigate the issue for banks, members of the BBA Money Laundering Advisory Panel agreed to adopt a voluntary six-month moratorium until the end of 2008 for accepting photo-expired licences. The purpose of the voluntary moratorium is to provide banks with a degree of flexibility should they wish to avail themselves of it. But the moratorium is not mandated across the industry as some banks do not wish to participate. Individual banks must decide whether they wish to utilise the moratorium or not, depending on their assessment of the risk associated with individual products, for example car finance. To help consumers, the BBA placed a statement on its website advising them of the issue and the industry position. In its reply the DVLA has asked BBA members to let it know of any problems caused by out-of-date photo-licences submitted as ID verification.

Richard Cook is a Director in the Financial Policy & Operations Team at the British Bankers' Association, which he joined in September 2005. His portfolio includes all aspects of financial crime against the banking industry, including fraud, identity theft, physical security issues and proceeds of crime issues. Richard also manages the BBA's relationships with the police, law enforcement agencies and Government on financial crime and related issues.

LONG LIVE THE CHEQUE!

Recently the BCCA attended an Industry Update Seminar in London held by the Cheque and Credit Clearing Company on, quite unsurprisingly, the cheque! The meeting was very well attended with

delegates coming from various organisations that will all be affected, directly or indirectly by the proposed closure of the cheque clearing system in the UK in 10 years time. There was representation from, for example, the HM Treasury, The Bank of England, some of the major banks and businesses that print cheques.

What was interesting is that one of the first comments made was that the Payments Council was looking to close the cheque clearing system in the UK (10 years) but not get rid of the cheque! Scratching my brow and dipping my eyebrows, it did seem like a contradiction in terms but I understand that other European countries operate something like a cheque without a centralised system. Don't ask us how it works because we don't know!

What we do know is that the business community, in particular SME's are very supportive of the cheque. However, it was generally accepted that consumers are moving away from cheques to e.g. debit cards as a result of major retailers refusing to accept cheques as a method of payment.

The Cheque and Credit Clearing Company recently commissioned research for the first time into business cheque usage etc. In addition they also commissioned a second round of research into consumer's use of cheques. The last consumer research into cheques was just last year.

The research covered 500 businesses that were big enough to be VAT registered but did not e.g. include large corporates such as BT.

Some of the findings are as follows:

- Nearly all businesses make and/ receive payments by cheque
- 89% of businesses had made payments by cheque in the previous month
- 88% had received payments by cheque in the previous month
- 4% had neither made nor received payments by cheque in the previous month

This drastically conflicts with figures for consumer use. It is reported that:

- Only 36% write and receive



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- ✓ Payday Loan
- ✓ Installment Loan
- ✓ Auto Equity Loan



Product Strength

- ✓ 6000+ store Implementations across UK and North America
- ✓ 6 of the top 15 players in the world are QFund users
- ✓ Largest workforce for a software provider in the industry
- ✓ Unparalleled domain experience & business understanding
- ✓ Intuitive user interface - Fast, hassle-free and easy to train
- ✓ Reliable, Available, Scalable, Secure and Modular Technology Platform
- ✓ Analytical reporting to supplement transactional reporting



Internet Application Features

- ✓ Paper-less / Fax-less loans
- ✓ Customized score card with internal & external scores
- ✓ E-signature Management
- ✓ Fax Management with Bar code
- ✓ Internet CSR interface providing enhanced customer support
- ✓ Integrates easily with third party systems
- ✓ Comprehensive Collection Engine
- ✓ Configurable Business Rules Engine
- ✓ Single database to work in conjunction with store front application

Product Highlights

- ✓ Multi product environment - Products Tailored to suit UK Market
- ✓ Dual Instance - Solution for Store & Internet Businesses
- ✓ Configurable Business Rules Engine - Manage Regulatory / Corporate change
- ✓ Centralized Control of Store Operations and Monitoring
- ✓ Multi-lingual & Multi-currency support
- ✓ Minimizes Storefront Decision
- ✓ Seamless Integration with Third Party Applications
- ✓ Web-Based application
- ✓ Greater security of access with help of static IP's
- ✓ Easier, Faster and hassle free customer registration and transactions
- ✓ Improved Tracking of NSF / Bad Cheque
- ✓ Comprehensive reporting
- ✓ Encrypted code for any voids / Rollback transaction
- ✓ Innovative means of collection and collections management
- ✓ Comprehensive collections and Call management
- ✓ Flexible and customizable applications
- ✓ Intuitive user interface
- ✓ Effective and hassle free Cash management

Interface & Integration

- ✓ SSL - VeriSign Certified
- ✓ BACS and CHAPS payment enabled
- ✓ Real Time Debit Card payment to process transactions
- ✓ QuickAddress Search
- ✓ Cheque Printing & Scanning
- ✓ Web Cam Integration
- ✓ Direct Debit
- ✓ Third party risk assessment
- ✓ Third Party collection
- ✓ Third party accounting packages
- ✓ Electronic document management with sign-pad integration
- ✓ Customized risk assessment



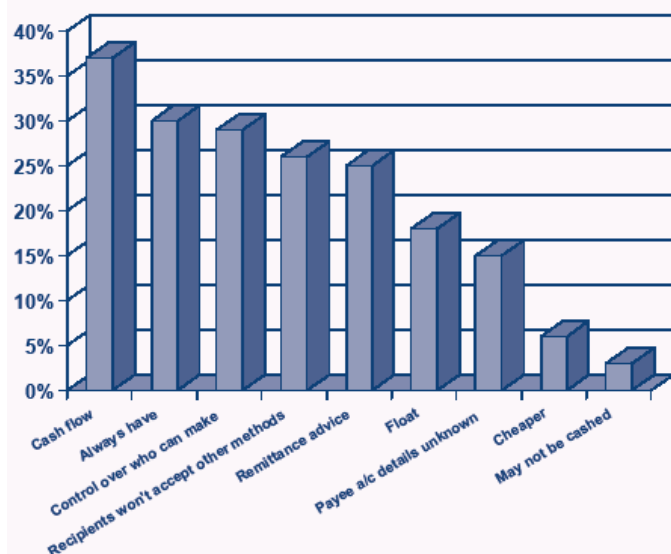
Visit our Stall
at the upcoming
BCCA Conference

- 22% don't write or receive
- 17% write but don't receive
- 13% have no relevant account
- 12% receive but don't write

However, it would appear that for those consumers that do still write cheques, the main reason is to pay bills, whilst the research determines that for small businesses the main reason they use cheques was for cash flow. Please find below a chart detailing the reasons why businesses use cheques.



WHY BUSINESSES USE CHEQUES



Base: all businesses

It seems that consumers who tend to write cheques are 35 or over, with the 65 and over's writing the most cheques. This is, in many respects unsurprising, as cheques are perceived as a traditional method of payment and whilst younger people seem to receive a similar proportion of cheques to older users, they write far fewer. They are more likely to use electronic payments having been brought up on this new technology.

Some very interesting statistics that came out of the research concerned fraud.

- Only **4%** of consumers had experienced cheque fraud in the past 5 years
- **10%** businesses have experienced fraud on their cheques in the past 5 years
- Only 19% of businesses stated that the chance of fraud on their own cheques deterred them from using cheques
- With regards to the impact that potential fraud has on consumers, the research stated that '*concern about fraud has little affect on consumers use of cheques for payments they make.*'

It's clear that the cheque is an important method of payment for older consumers and SME's in particular. It will be interesting to see just what the Payment's Council proposes to replace the cheque with, as Brian Pomeroy, Chairman of the Payment's Council Board states in his Foreword to the National Payments Plan, '*I want to reiterate that alternative ways of making all the types of payments which are currently made by cheque have to be available before closure of the cheque clearing system can be seriously contemplated.*'

FINANCIAL OMBUDSMAN UPDATE

As you're no doubt aware, since April last year, consumers who cannot resolve disputes that they have with lenders over their credit agreements have been able to refer their complaint to the Financial Ombudsman Service (FOS). Initially, this only applied to loan agreements concluded from April 2007 onwards but this now applies to all consumer credit agreements, no matter when they were signed. At the same time, the BCCA introduced a revised complaints procedure for its members to adopt and this was drafted to try to ensure that no complaint would end up on the desk of the financial ombudsman. Put simply, the BCCA would take a fresh look at the unresolved issue and then attempt to negotiate a settlement before the customer went to the FOS.

Well, over a year later, we're pleased to report that, as far as we are aware, the FOS has not been troubled by a single complaint about a payday loan from a BCCA member and certainly not one that has been reported to the BCCA. In fact, we receive very few complaints from consumers — well fewer than one per week on average, and the vast majority of these are still being investigated by the member concerned so aren't "in deadlock". Even in these circumstances, we contact the member to find out what the issues are to help to resolve the matter as quickly as possible.

However, the need to treat complaints expeditiously and sympathetically has been highlighted in a recent edition of the imaginatively titled "Ombudsman News", (published by the FOS every couple of months or so). Make a mess of it and, not only could you pay your customer the financial loss but also an additional amount as compensation for distress and inconvenience. Additionally, the Office of Fair Trading monitors FOS decisions so you could also be in hot water with regards to your "fitness" to hold a consumer credit licence.

We reprint below the item from "Ombudsman News" so that you can see how the FOS's policy on this subject works in practice.

'Compensation for distress, inconvenience or other non-financial loss

Where we uphold a complaint — whether wholly or in part — we will require the business concerned to recompense the consumer for any financial loss it has caused. In certain situations, we may consider that the business has also caused the consumer such a degree of distress, inconvenience or other non-financial loss that it should pay an additional amount as compensation.

The approach we follow when considering whether such compensation may be warranted in a particular case is set out in our technical note, "Compensation for distress, inconvenience or other non-financial loss".

This note covers a number of issues including:

- *what is meant by 'distress', 'inconvenience' and 'pain and suffering';*

- *whether this was the fault of the financial business;*
- *the types of situations where we consider compensation for distress or inconvenience;*
- *whether the degree of distress or inconvenience was material; and*
- *how we assess any compensation.*

The following examples reflect some actual decisions made in cases referred to us — and provide a broad illustration of our approach. Further examples are given in the technical note on our website. Assessing the appropriate amount to be awarded in any particular case depends on the individual circumstances of that case.

cases where the ombudsman awarded modest compensation (less than £300)

- *Mrs G contacted her bank to say it had made an error when transferring funds into her current account. The bank apologised and said it would put things right immediately, but the problem persisted. Mrs G had to phone the bank on a number of occasions, and to write twice to the head office, before the mistake was finally sorted out.*
- *After a fire caused serious damage to their house, Mr and Mrs N and their young family moved into alternative accommodation, paid for by the insurer. Unfortunately, the insurer gave the contractors inaccurate information about the extent of the repair and redecoration work needed on the house. As a result, the family had to stay in the alternative accommodation, paid for by the insurer, for three weeks longer than should have been necessary.*

cases where the ombudsman awarded significant compensation (£300 — £999)

- *Mr B's spending on his credit card was well within his credit limit. So when he tried to use the card in his local supermarket, he was surprised to learn that the payment had not been approved. The card company apologised for the 'technical error' — and told him the problem had been put right. However, Mr B continued to have difficulties with his card, causing him repeated embarrassment in local shops, over several months.*

- *Mrs D was caused considerable distress when her insurer persisted in addressing all its queries to her deceased husband – not to her. Mr D had died in a car accident only a couple of days*

after he had submitted a claim for flood damage under their buildings insurance. When she received an acknowledgement of the claim, Mrs D phoned the insurer to let it know her husband had died. However, the insurer continued to address all letters about the claim to Mr D. It even rang Mrs D at home on one occasion and asked to speak to her husband about the claim.

cases where the ombudsman awarded exceptional compensation (£1,000 or more)

- *Mr J owned a small factory that was one of the main employers in the town. The bank wrongly 'bounced' a cheque he had sent to one of his chief suppliers. The cheque was eventually paid, several weeks later. By then, however, Mr J had been caused a great deal of embarrassment within the local community. He spent a significant amount of time contacting his suppliers and customers – to try to stop the adverse effects of a whispering campaign.*
- *Mr T had only recently retired when it came to light that the investment business had made a significant error in connection with his pension policy. He had to consider starting work again to make up for the resulting shortfall in his personal pension.*
- *When Miss J left her partner, Mr C, who had a history of violent behaviour, she moved to a different town and asked her bank not to let Mr C know where she was living. The bank was fully aware of her difficult circumstances and assured her it would keep her details confidential. However, it disclosed her new address to Mr C. He subsequently broke into her home and assaulted her, causing her to spend several days in hospital.'*

So there you have it. What all the above examples have in common are poor complaints handling and abysmal customer service. Not only have they caused financial loss to the companies concerned but the reputational damage would be even

greater. This is bad enough for large businesses but most BCCA members rely on local trade and the good will of their customers. Lose that and you're doomed. You have been warned!

ATTENTION CHEQUE CASHERS: THE SARS REGIME

All BCCA members are aware of the importance of anti money laundering legislation and the need to report suspicious activity. However, members often feed back to the BCCA that they never get any response from the Serious Organised Crime Agency (SOCA) following their submission of a Suspicious Activity Report (SAR) and feel as though it has fallen into a black hole.

We asked Steve Hardwick from SOCA (who is speaking at the BCCA conference) about the SARS regime to tell us just how important that information is and how well it is used.

'The UK Financial Intelligence Unit (UKFIU) sits within SOCA and is responsible for managing the SARS Regime in the UK (which is a central plank of the UK's anti-money laundering strategy). SOCA was established in April 2006 to reduce the harm caused to the UK by serious organised crime.

The UKFIU makes SARs available to all law enforcement and other agencies (end users) through a database called ELMER, for them to use in tackling crime, terrorism and money laundering.

The FIU also uses SARs to build knowledge and understanding of criminal finances, money laundering and terrorist financing which can influence the UK strategy in dealing with these problems.

Searching ELMER can provide investigators with new information relating to all kinds of investigations, for example telephone numbers, addresses and details of other associates, as well as the reason for suspicion i.e. why a report has been submitted. In addition, it has traditionally been used to help trace assets and identify money laundering schemes. SARs are widely used in anti terrorism work and information contained in them has been used to assist in the prevention of further terrorist activity in the UK and overseas.

There are over a million SARs on ELMER, and the information of investigative and intelligence value is not available from other sources.

The 2007 SARs Regime Annual Report shows that between October 2006 and September 2007, 6,920 suspicions of money laundering were reported by cheque cashers and consent was sought in six cases.

The preferred method of reporting is via SAR Online, SOCA's web-based reporting system which provides a free secure method of reporting a SAR.

SAR Online provides reporters with an automated e-mail of receipt. SOCA does not acknowledge receipt of posted or faxed reports.

Registration for SAR Online is a simple process and can be accessed from the website www.soca.gov.uk. There is online help with registration and a telephone helpline during office hours.

BCCA members can help protect their businesses from being used for money laundering by:

- Establishing and implementing policies and controls to guard against products being used by clients to launder funds;
- Ensure the source of client's funds is identifiable;
- Ensure staff understanding and awareness of money laundering and the risks of committing a criminal offence;
- Train staff to recognise suspicious activity, and
- Have procedures in place to record suspicious activity and report it to SOCA.

Guidance on filing a SAR

- Be explicit – tell SOCA if you want consent;
- Provide a concise/linear narrative in your report;
- Specify criminal property (and value where known);
- Specify prohibited act(s);
- Provide a reason for your suspicion;
- Submit via SAR Online/fax – avoid using the post, and
- If you are requesting consent SOCA has seven days in which to consider a SAR and decide whether to grant you consent. During this

period you should make yourself available just in case SOCA needs to discuss a SAR with you. If you are unavailable make sure there is someone within your firm who can discuss the case intelligently with SOCA in your absence.

BCCA members can find further information on money laundering, along with case studies and typologies, at the following sources.

- Joint Money Laundering Steering Group. Their website www.jmlsg.org.uk contains approved anti-money laundering guidance for the financial services industry in the UK;
- Serious Organised Crime Agency. The website www.soca.gov.uk contains guidance on reporting suspicious activity and other useful information;
- Financial Action Task Force at www.fatf-gafi.org;
- HM Treasury at www.hm-treasury.gov.uk, and
- Home Office at www.homeoffice.gov.uk.'

Steve Hardwick works for the Serious Organised Crime Agency where he is part of the Dialogue Team of the UK Financial Intelligence Unit. His role is to enhance dialogue between all stakeholders in the SAR regime. Prior to this, Steve worked as a Police Officer for West Yorkshire Police. He was Detective Inspector of the Force Economic Crime Unit, managing teams investigating complex fraud, money laundering and banking instrument fraud. He headed a SAR intelligence development and consent investigations unit and managed a team of 30 Financial Investigators dedicated to removing the assets of criminals through extensive use of the Proceeds of Crime Act and previous confiscation legislation.

OFT CONSUMER CREDIT REGISTER GOES ONLINE

Most BCCA members offer loan products of one sort or another and hence are licensed by the Office of Fair Trading under the Consumer Credit Act 1974. It is not widely known that this legislation also obliges the OFT to "establish and maintain a register" of the details of all licensees and to make the information publically available. This has been known for over thirty years as, not surprisingly, the "public register" and the BCCA's Chief Executive can remember the days, long ago, when it was

entirely paper based and housed in a redundant hospital in Acton. Being paper based, things frequently could and did go wrong and any information provided by the OFT regarding licensing status always had to be treated with caution.

Fortunately, things have developed considerably since then and there has been an electronic version in use for many years but still it was not directly accessible to anyone outside the OFT itself, not even local trading standards officers. Now, at long last and at great expense, the OFT has launched an online version of the public register, making it quicker and easier for anyone to search for information. It's also got an imaginative new name - the "Consumer Credit Register", and it holds details of over 125,000 licence holders.

The Register provides details of applications for, and holders of, consumer credit licences, both past and present. It also gives details of OFT decisions to refuse an application or revoke a consumer credit licence, as well as information relating to any appeal against these decisions. The "Consumer Credit Bulletin" is also available online and provides details of licensing decisions on a week by week basis. The Bulletin allows readers to search for weekly changes to the register by criteria such as local authority area or postcode.

We have found the new system very useful and easy to use, unlike the main OFT website, which is notoriously difficult to find your way round (you know the information's in there somewhere — but where?) As this information is available to anyone and includes data such as the names of directors etc, we would suggest that members, who are licensed under the Act, check their details to make sure they're accurate.

You can view the register at:

<http://www2.crw.gov.uk/pr/Default.aspx>

BCCA MEMBER CATCHES ILLEGAL IMMIGRANT

BCCA members have to be very vigilant when dealing with new customers. As well as a legal obligation to comply with the Money Laundering Regulations, they have a commercial interest in

making sure that customers are who they say they are and live where they say they live. In any event, we all have a moral duty to do what we can to help prevent crime.

So well done to the staff of the Woolwich branch of The Money Shop for spotting a fake passport which had evidently fooled the immigration service (or whatever they're called these days) and other agencies as well. The police were called and a prosecution resulted. For those who are not regular readers of "The Bexley Times", which reported the story, we print the details below.

"An illegal immigrant was jailed for 15 months after he was caught using a female passport to cash his salary cheque. Michael Ogunro, 26, of Maida Road, Belvedere, faces deportation to South Africa after he finishes his jail sentence, which was passed down at Woolwich Crown Court last Friday.

Ogunro pleaded guilty to a single charge of possession of a false identity document, with intent. He managed to get through UK customs using the fake South African travel document last year.

He then got hold of a false National Insurance (NI) card and found work as a cleaner. It was only when he tried to cash in a cheque at The Money Shop, Greens End, Woolwich, on July 3 this year that he was found out by an alert member of staff.

Prosecutor Gary Pons told Woolwich Crown Court: "He was asked if he had any identification and he presented the cashier with a passport. She was able to see that it was a female version of a South African passport but with his photo inserted. The words 'South African' were written in the female version and the barcode was apparently different. She called police who arrested this defendant and at his address they found a false NI document."

Ogunro told officers that he had bought the passport for £260 in South Africa after being approached by a 'fixer' outside the Passport Office. He claimed he came to the UK and got the NI card after asking a man on a train for help.

Judge Douglas Marks Moore QC told him: "A passport is an important document and trust is being eroded by the acquisition and use of false documentation. Only an immediate sentence of custody is appropriate."

Quite right, too.

Cheque Guarantee Card Review

Regular readers may recall that the Payments Council's National Payments Plan, published in May this year, has a commitment to undertake an objective review of the Cheque Guarantee Card Scheme, and to report conclusions and recommendations to the Payments Council Board by no later than March 2009. The Plan says that this review will include a cost benefit analysis of potential changes to the scheme from the perspective of all stakeholders, and research among users of the scheme. Well, the consultation process has now started and the BCCA is fully involved so we thought that we'd give you some details of what's involved. Here's an extract from a briefing paper produced by the Payments Council for those of us involved in the consultation.

'Background to the scheme

Cheque Guarantee Cards were first introduced in the 1960s to provide a means of making cheques more acceptable for payment in retailers. The Cheque Guarantee Card Scheme was established in 1969 to provide consistency for acceptors of guaranteed cheques by providing easily identifiable design features and common procedures to enable cheque to be guaranteed for face-to-face payments.

The environment for face-to-face payments is now very different from when the scheme was set up. The use of cheques in retail outlets and for other face-to-face payments has been declining for 18 years, with the rate of decline increasing. Debit card holding and acceptance is now widespread. Over the past year most major supermarkets and petrol retailing chains, together with many other high street stores, have stopped accepting cheques. Latest figures show that guaranteed cheque volumes dropped by 43% in the two years up to 2007, and are expected to have fallen further in 2008 as more retailers have since stopped accepting cheques.

Nonetheless, around 40% of adults still use guaranteed cheque, if only occasionally, and they are accepted by a wide range of smaller retailers

and other traders who do not accept plastic card payments.'



Outline of the Review

It is envisaged that the review, and the final report to the Payments Council Board in March 2009, will have the following broad structure:

- *A description of the scheme and how it operates.*
- *Statistical Summary:*
 - o *Number of cheque guarantee cards in issue*
 - o *Holding of guarantee cards and frequency of use*
 - o *Volume of guaranteed cheques*
 - o *Fraud on guaranteed cheques.*
- *Customer understanding and value of the scheme (from market research)*
 - o *The benefits and value of the cheque guarantee card scheme to those who still use it, including an assessment of the impact if the scheme were to be closed.*
 - o *Understanding of the scheme, including any misconceptions about the way it operates.*
- *Retailer and other acceptors' attitudes, awareness and understanding of the scheme.*
- *Alternatives to guaranteed cheques*
 - o *Considering appropriate existing alternatives and any potential developments that may be required.*
- *Financial exclusion issues — for example, are any specific groups particularly dependent on the use of guaranteed cheques?*
- *Overall costs benefit analysis from the perspective of all stakeholders.'*

We have said in the past that we welcome such a review as long as it is indeed genuinely objective and we are pleased that this appears to be the case so far. Although March 2009 seems a long way off, it is in fact a pretty tight deadline, bearing in mind the work involved. We will keep readers informed of developments.

AUTUMN *2008*



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