

## Debt Collection & Default Guidelines

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

- a) Not use oppressive or intrusive collection procedures.
- b) Not bring unreasonable pressure to bear on the debtor in default of payment.
- c) Not act in a manner in public intended to embarrass the debtor.
- d) Be circumspect and discreet when attempting to contact the debtor by telephone, SMS, email or by personal visit, with due regard to the Data Protection Act and OFT Guidance.
- e) Ensure that all attempted contacts with debtors are made at reasonable times and at reasonable intervals.
- f) Unless instructed otherwise, accept all reasonable offers by debtors to pay by instalments, provided acceptable evidence of non-ability to pay is given.
- g) Not use improper\* means to obtain the telephone number and address of a debtor and treat all information supplied as private and confidential unless specific authorisation has been given by the debtor to disclose information to third parties. (\*Improper in this connection would refer to actions in breach of relevant legislation or in breach of the Association's code.)
- h) In respect of 4g above, have specific regard to Section 55 of the Data Protection Act 1998.
- i) Not pressurise debtors to sell property or to raise funds by further borrowing.
- j) Not falsely imply by written or verbal means that criminal proceedings will be brought, nor that civil action has or will be instituted where members are unable to do so due to legal restrictions.
- k) Ensure that collectors who use pseudonyms can be identified within the members organisation.
- l) Have due regard and deal sensitively with individuals where evidence has been given, or is apparent, that the individual is incapacitated by mental or physical disability.
- m) When dealing with fee charging debt advisory services, follow the Office of Fair Trading Guidelines on debt management.
- n) Offer maximum co-operation with the debtor's nominated or chosen Third Party. Where the Third Party is an accredited advisory service, and at first appointment and upon request, give a period of up to 30 days 'grace' before re-commencing collection activity.
- o) Encourage debtors in financial difficulties to inform members of their difficulties and then respond sympathetically and positively on the evidence provided.

- p) Take into consideration before determining whether to enforce repayment, all information supplied in relation to the reason for non-payment, which may include The Common Financial Statement, or the debtor's future ability to repay. If the debtor has disclosed multiple debt problems, inform them of the availability of accredited advisory services. Where available, provide in all relevant correspondence the name or designation of a specially trained member of staff who may be contacted regarding financial difficulties.
- q) Where a debt or the sum owed is disputed, as soon as is practicable, supply information to the debtor in support of the claim. Where no information has been supplied by the creditor, obtain the required support, or failing that cease collection action.

## 5. Trace Guidelines

Each member shall:

- a) In all contact, be circumspect and act with full regard to the Data Protection principles.
- b) Take all possible steps to verify that the person traced is in fact, the debtor.
- c) Verify data relating to a debtors whereabouts via one or more of the following methods:
  - I. Public databases.
  - II. Sending soft letters.
  - III. Contacting other people.
  - IV. Investigative/Field enquiries.
- d) Cease contact should it become apparent that the located person is not the debtor, and carry out further checks.

## 6. Purchased Debt Guidelines

Each member shall:

- a) Timely advise the consumer that the debt has been assigned.
- b) Adhere to all relevant requirements under the Consumer Credit Act 2006 and any other relevant legislation.
- c) In debt collection or trace activity comply with all the principles of this code.

## 7. Conduct Regarding Clients

Each member shall:

- a) Ensure fairness and transparency of contracts made with clients.
- b) Inform their clients of the true rates of charges for services rendered.
- c) Safeguard the security of collected monies.
- d) Account and remit to their clients at least once a month, or as otherwise agreed all monies collected.
- e) Ensure that by prior arrangement clients are able to visit their premises for the purpose of auditing and checking their accounts.
- g) Not approach, induce or persuade staff in the employment of a client to join the Member's organisation, although nothing in this clause will prohibit the engagement by a member of such an employee where a bona fide application is made.

**1. General Conduct**

Each member shall act responsibly and with integrity in the day-to-day conduct of its business. For example:

- a) Conduct its business lawfully, comply with all relevant UK legislation, regulation and judicial decisions and trade fairly and responsibly.
- b) Conduct its business under a name, title or style which will not confuse or mislead clients, creditors, debtors or members of the public, or which will not imply any association with other organisations or persons, which do not exist.
- c) Comply with this Code of Practice and follow any guidance notes issued by the Board of the Association.
- d) Comply with Debt Collection Guidance as Published by the Office of Fair Trading from time to time.
- e) Where appropriate, comply with guidance issued by OFCOM, with particular regard to 'silent calls'.
- f) Follow where appropriate any requests conveyed to members by the Board of the Association or the enforcement authorities.
- g) Provide adequate training for members of its staff, bringing to their attention the principles of this Code and requiring them to carry out their duties in accordance with it. Also, ensure continuous and appropriate training of staff in respect of current legislation and best practice.
- h) Use plain English in all communications.
- i) Show on all letters, postcards and forms the full business address, telephone number and email address, where used.
- j) In all contacts by staff or agents, ensure that the member's identity is clearly disclosed.
- k) Ensure by continuously examining debt collection procedures, and those of any third parties employed, that they conform to the highest ethical standards.
- l) Ensure that their agents, sub-contractors and subsidiaries comply with the Association's Code and Guidelines.
- m) Comply with all reasonable requests by debtors, clients or their appointed representatives for information concerning their agreements and accounts.
- n) Ensure the Association's Code is available on their own website where they have one. They shall further ensure that a copy of the Code is supplied promptly upon request.

**2. Confidentiality**

Members must keep in strict confidence any information supplied by the debtors or their chosen third party, except where disclosure is authorised by the debtor or others permitted or required by law.

**3. Complaints**

- a) Each member shall have in place adequate processes to deal with debtors or client complaints, this must contain the following minimum procedure:
  - I. The Management level at which complaints are handled.
  - II. The time frame in which complaints are handled.
  - III. The remedy, if the complainant is not satisfied.
  - IV. Complainants must be advised that one of the remedies is referral of the complaint to the Association where appropriate.
- b) Members shall deal with complaints speedily, responsively, in a user-friendly fashion and at an appropriate management level.
- c) Member's complaints procedures must be made available to the complainant or his/her advisor on request.
- d) For Consumer Credit Regulated Complaints, Members must follow the DISP Rules set by the Financial Ombudsman Service.
- e) If a complaint is made to the Association in relation to dealings with a member of the Association, the Association will deal with the complaint in accordance with the published complaints procedure.

**4. Debt Collection & Default Guidelines**

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

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

*Guidelines overleaf*