



The voice of banking

THE
UKCARDS
ASSOCIATION



Legal Ombudsman

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BBA, FLA and UKCA Response to: Strategy and Business Plan consultation 2017-2020

The British Bankers' Association (BBA), the Financial Leasing Association (FLA) and the UK Cards Association (UKCA) welcome the opportunity to comment on the Legal Ombudsman's draft Strategy and Business Plan for 2017-2020.

Within our respective industries, firms have made good progress with respect to their own complaints handling processes, including how they engage with third parties such as Complaints Management Companies (CMCs) and Solicitors, progressing complaints on behalf of firms' customers. As Trade Associations, we all continue to work with our members to help customers and raise standards within our industry.

The BBA, FLA and UKCA are supportive of the Legal Ombudsman's (LeO) work with Complaints Management Companies towards higher standards of practice to date. We are also supportive of the LeO's mission and objectives as outlined in the above cited consultation.

In delivering these, we would also encourage LeO to focus efforts and resources on early intelligence gathering around possible Alternative Business Structure (ABS) and Solicitor malpractice, in a more targeted manner.

- The industry welcomes the series of consultations and announcements that have taken place since 2016 to improve conduct and practice in the CMC industry, including the proposals regarding a CMC Fee Cap and the transfer of responsibility for CMC Regulation to the Financial Conduct Authority (FCA).
- We feel however that the uncertainty and potential delay in the implementation of these proposals – coupled with the delays to the FCA's proposals for a timebar for Payment Protection Insurance (PPI) complaints - has enabled CMCs to disrupt our industries' attempts to improve customer service and importantly to explore the potential for avoidance of CMC regulatory reforms via the use of Solicitors and ABSs.
- Specifically we are concerned about changes in business structures which may come about and which would enable companies to continue profiteering from the pursuit of bulk complaints at the detriment of consumers.
- Banks are already experiencing issues with the timeframes normally associated with the processing of all customer complaints due to disruptive CMC communication, including a substantial volume of speculative complaints which take time to assess – time which could otherwise be spent dealing with genuine customer complaints. Increasingly, member firms are observing similar behaviours from solicitor firms.
- There is a further material risk that third party representative bodies such as Solicitors and ABSs may continue to be able to apply disproportionate fees to consumers for any compensation their clients might be entitled to receive – in some instances as much as 50% of their redress entitlement.

Our members are already seeing the above risks starting to materialise and the BBA has had several conversations with the Complaints Management Regulation Unit (CMRU), the Financial Conduct Authority (FCA) to which CMC regulation will shift to, and the Solicitors Regulation Authority (SRA) to alert them to these risks.

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We see it as vital therefore that your good work to improve CMC practices and customer outcomes via monitoring of complaints themes and potential malpractices continues to make progress with respect to any claims management activity, including that performed by Solicitors and ABSs, and that this is captured early on.

Our organisations have been arguing for an all-encompassing regulatory regime that covers the activity of claims management irrespective of the entity performing it. In this regard, and to put CMCs, ABSs and solicitors on an equal footing, we would support that the LeO complaints regime adopts a similar approach.

We anticipate that complaints activity against ABSs and Solicitors might be light in volume or touch, at least in the first instance and until regulatory and legislative announcements are made. Nonetheless, close collaboration between the LeO, MoJ, SRA and FCA to proactively identify areas of issues and apply learnings from the FCA/FOS regimes is vital, in order to avoid consumer detriment.

Should you have any questions on the above or would like to discuss further do not hesitate to contact us.

Sincerely,



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ADDENDUM

About the BBA

The BBA is the leading trade association for the UK banking sector with 200 member banks headquartered in over 50 countries with operations in 180 jurisdictions worldwide. Eighty per cent of global systemically important banks are members of the BBA. As the representative of the world's largest international banking cluster the BBA is the voice of UK banking.

About the FLA

The Finance & Leasing Association (FLA) is the leading trade association for the UK consumer credit, motor finance and asset finance sectors. FLA member companies include banks, the finance subsidiaries of major manufacturers and independent finance firms. They offer credit services to a wide range of customers from all social groups, via credit and store cards, personal loans, point of sale finance, mortgages, motor finance and a number of other consumer credit products. Together, FLA members provide just over a third of all consumer credit lending in the UK.

About the UKCA

The UK Cards Association is the trade body for the card payments industry in the UK, representing financial institutions which act as card issuers and acquirers.

The Association promotes co-operation between industry participants in order to progress non-competitive matters of mutual interest; informs and engages with stakeholders to shape legal and regulatory developments; develops industry best practice; safeguards the integrity of the card payments industry by tackling card fraud; develops industry standards; and co-ordinates other industry-wide initiatives such as those aiming to deliver innovation. As an Association we are committed to delivering a card payments industry that is constantly focused on improved outcomes for the customer.

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