

REPORT OF THE INDEPENDENT REVIEWER TO THE SPONSORS OF THE BANKING CODES' REVIEW 2007

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INTRODUCTION

Methodology

1. The Banking Code (BC) has been in operation since 1992 and the Business Banking Code (BBC) since 2002. They have been reviewed regularly, with contributions sought from a wide range of stakeholders. This is the third such review that has been independently led.
2. As was the case with previous independent reviews, my remit was to consider what changes, if any, should be made to the Codes and to the documents containing their respective Guidance to subscribers. The BC covers subscribers' dealings with personal customers in respect of current accounts, savings and deposit accounts, payment services, cards (and PINs) and loans and overdrafts. It does not cover mortgages, investments, insurance, Premium Bonds or currency accounts. The BBC covers dealings with businesses with an annual income of under £1 million in respect of the same products and services as the BC but with the addition of merchant services.
3. Quite properly, I am not permitted to make recommendations on issues which would constrain Code subscribers' ability to set their own prices or which would otherwise restrict competition in the banking industry.
4. In response to my invitation in November 2006 to a large number of stakeholders to provide views, I received written submissions from 50 organisations or individuals. These came from 19 consumer organisations, 15 financial institutions, 8 regulators and government departments and 8 others (mainly individuals). One of the consumer organisations made a submission on behalf of 7 other bodies.
5. Once I had considered the written submissions I had bilateral meetings with 14 organisations that had submitted views, in order to clarify points that they had made and to seek some further evidence that I felt was necessary. I also had three meetings with groups of subscribers.
6. I then held two round table meetings on 28 March for groups of organisations that had submitted evidence at which I outlined four major areas where I needed further information – whether there should be an overarching fairness objective; credit assessment techniques; dealing with customers in financial difficulties; and a variety of accessibility issues.
7. Following consideration of the responses to the bilateral and round table meetings, I was able to outline 30 main recommendations that I was minded to make at two further round table meetings of stakeholders on 27 April.
8. At each stage of the process I have been helped by the time and effort that a number of people in a variety of organisations have put into helping me to understand

the issues and to come to my recommendations. I wish to record my sincere thanks to them all. I am particularly grateful to the Code Review Secretariat - Paul Ross and Stewart Dickey (BBA), Andrew Hopkins (BSA) and Rosalind Sellers (APACS) - for their patient support.

9. The next stage in the Review is for the sponsors to consider my recommendations and to decide what changes they wish to make to the Codes and to bring the revised Codes into operation by 1 March 2008.

MAIN CONCLUSIONS

10. The Codes and their respective Guidance for subscribers are valued by stakeholders, including consumer groups and regulators. For example, advice agencies make considerable use of the Guidance documents in particular when working with clients.

11. I found no major gaps in the Codes. That is, perhaps, not surprising, given their longevity and that this is the third review to be independently led.

12. However, there have been some major developments since the 2004 review, both in the industry (with innovation in products, business models and data sharing) and in the regulatory environment, notably:

- Increased focus by the FSA on ‘Treating Customers Fairly’ (TCF) and a move towards more principles based regulation;
- The Consumer Credit Act 2006 (CCA 2006);
- The Consumer Protection from Unfair Trading Regulations 2007 (CPR);
- The report of the Competition Commission on personal current accounts in Northern Ireland; and
- The agreements reached by the OFT’s Payment Systems Taskforce.

13. Most of the recommendations I have made reflect these developments, especially in the regulatory environment, together with what I feel would be some useful clarifications to the Guidance documents.

RECOMMENDATIONS

Overarching Fairness Obligation (BC and BBC)

14. A number of submissions made the case for an overarching fairness obligation (OFO). The arguments fell into four main groups:

- The BC should ensure a level regulatory playing field, taking into account the requirements of the CPR and the FSA’s requirements on non-Code products and services under TCF.
- Most subscribers already applied TCF principles to their Code products and services.

- Other codes included an OFO, such as the Finance & Leasing Association's Lending Code.
- An OFO would act as a 'safety net' so that, if the outcome of a subscriber's actions (or inactions) was manifestly unfair or unreasonable, even though they had complied with all the Code's provisions, the Banking Code Standards Board (BCSB) could still act. This was considered to be important in an innovative and fast developing industry like financial services.

15. In response, subscribers' main concerns were about the danger of 'double jeopardy' in compliance monitoring and/or enforcement. This would be where the BCSB set different requirements to, say, the OFT in their work on the CPR or the FSA under TCF; or both the BCSB and the OFT/FSA took enforcement action.

16. On balance, I believe that it would make sense to include an OFO in both the BC and BBC. Although the representations made to me were primarily concerned with personal banking, many submissions felt that the BBC should stay as closely aligned to the BC as possible, as the owner managers of small businesses covered by the BBC were also personal customers and that there is, consequently, a real advantage in consistency.

17. (R1) Therefore, I recommend that section 2 of both Codes is amended to read:

“We promise that we will act fairly and reasonably in all our dealings with you. Our key commitments to you are shown below:

[The existing key commitments]

[Add to end of existing six key commitments:]

- **We will lend responsibly.**
- **We will help you to switch your current account between financial institutions subscribing to this Code.**

The remainder of this Code sets minimum standards for fulfilling these commitments but at all times our promise to act fairly and reasonably is paramount. In return, we expect you to be fair and reasonable with us.”

18. The two new key commitments reflect the inclusion of “irresponsible lending” as an unfair or improper practice under the CCA 2006; and the focus on measures to facilitate switching in two reports from the Competition Commission¹.

19. Nonetheless, I do recognise the validity of the concerns expressed by subscribers about the dangers of 'double jeopardy'. I believe that memoranda of understanding are needed between the BCSB and the FSA and the OFT, to give the BCSB the primary role in monitoring compliance. My hope is that the FSA and OFT

¹ Competition Commission: *Personal current account services in Northern Ireland market investigation*: May 2007 and *Supply of banking services by clearing banks to small and medium sized enterprises*: March 2001.

would look to the BCSB's monitoring of compliance with the Code as the primary form of monitoring, rather than setting up their own systems. If that is not achieved and both the FSA and the OFT decide to do their own monitoring, then there may be little case for the continuation of voluntary self-regulation.

20. (R2) I therefore recommend that the inclusion of an OFO in the Codes is conditional upon the agreement of public memoranda of understanding between the BCSB and the FSA and the OFT on their respective roles in compliance monitoring and enforcement.

21. The Financial Ombudsman Service (FOS) can, effectively, make subscribers take on obligations beyond those required by the Codes. Therefore, it is important that there is regular liaison between FOS, the sponsors and the BCSB. Discussions between the BCSB and the FOS could also usefully address the feasibility of complaints data from FOS being an extra information feed to BCSB.

22. (R3) I therefore recommend that the BCSB and the FOS negotiate a public memorandum of understanding on their respective roles and interactions.

Credit Assessment (BC only)

23. The BC Guidance on what factors subscribers should consider in their credit assessments was tightened from July 2006. However, evidence from money advice agencies suggests some cases are still occurring where people are being given credit that they cannot afford. The BCSB's themed review on credit assessment also noted some evidence of inappropriate consolidation lending where there were financial difficulties. Finally, it is noteworthy that debt remains the biggest single problem raised by people who call Community Legal Services Direct; and that despite rapid expansion in recent years (largely funded by financial institutions) both National Debtline and the Consumer Credit Counselling Service struggle to answer all the telephone calls that they receive.

24. Improvements in data sharing do improve credit assessment. For example, one bank has pointed out that recent developments in data sharing showed that average unsecured debt for their customers was previously understated by 20-25% and that 40% more of their customers now met their 'highly indebted' criteria. Further data sharing developments are planned for later this year, on credit card use and repayments². However, for data sharing to be most effective in credit assessment, subscribers need to be able to get as full information as possible on an applicant's indebtedness and credit behaviour.

25. (R4) I therefore recommend that the BC Guidance s13 is amended to require all subscribers to share all positive data that may legally be shared.

26. This recommendation only applies where customer consent to data sharing already exists. I understand that the DTI is currently considering what, if anything, could be done on the so-called 'legacy accounts' which the customer signed before there was any agreement on data sharing. This is outside the scope of my Review but it would clearly be beneficial if data on these accounts could be shared; and also if the

² See APACS: *Annual review of policy initiatives by the UK credit card industry*: October 2006.

government would promote and facilitate wider data sharing from other sectors such as utilities and commitments to the public sector (eg council tax) and on student loans, which can be sizeable priority commitments for people.

27. I have also considered whether the July 2006 tightening to the Guidance is sufficient. With the developments in data sharing that are planned and with my recommendation to share positive data I believe that it would make sense to amend these slightly.

28. (R5) I therefore recommend that s13.1 of the Guidance should say that lenders are always required to consider Credit Reference Agency (CRA) data plus at least two of the five bulleted points below (as well as any other checks not listed that the subscriber feels are necessary to meet their commitment to lend responsibly). This recommendation should also apply before offers of credit limit increases.

- **Customer's income and financial commitments.**
- **How they have handled their accounts with the subscriber in the past.**
- **Internal credit scoring techniques.**
- **Any security provided.**
- **Why they want to borrow and for how long.**

29. I understand that it may not be possible to implement this recommendation by 1 March 2008, because subscribers will need time to assess the predictive powers of the new data being shared. If that is the case, I hope that it can be brought into effect as soon as possible and, in any event, by summer 2008.

30. Many submissions argued that consideration of an applicant's income and expenditure should be mandatory in all cases. I am not convinced by these arguments. The vast majority of customers handle credit sensibly and value the fact that, when necessary, they can get a speedy decision on a credit application, especially if they are shopping around for a loan. It would be costly to both borrower and lender to insist on the provision of verifiable data on income and expenditure. Moreover, under the CCA 2006 subscribers will have a general duty to lend responsibly.

31. However, where a customer is already in financial difficulties then I think that there is a case for requiring consideration of income and expenditure³. In their recent themed review on credit assessment⁴ the BCSB found, "Some [consolidation] loans were for second or subsequent consolidations and our assessment was that, in some cases, customers taking the loans were already to some degree in financial difficulties and affordability was doubtful at the time the loan was agreed."

32. (R6) Given this, I recommend that s13.1 of the Guidance is further amended to require that, where an applicant is in financial difficulties⁵, subscribers should always consider the customer's income and financial

³ In cases where the customer has submitted data on the 'Common Financial Statement', this information will already be with the subscriber.

⁴ See <http://www.bankingcode.org.uk/wpdocs/Credit%20assessment%20themed%20review.doc>

⁵ = where the customer has said s/he is in difficulties; or where the lender believes the customer is in difficulties, taking into account factors listed in Guidance s 14.1 or CRA data, such as bureau scores or indebtedness indices.

commitments and CRA data plus at least one of the other four other bulleted points in recommendation 5 above.

33. The Guidance (s 14.2) currently requires subscribers, “to take reasonable steps to reduce or pay off existing in-house borrowing that is being consolidated”. However, the BCSB’s themed review also concluded, “In cases where the customer already appeared to be in financial difficulties, there was not always any effort to clear in-house borrowing”. Where existing debts are not reduced or paid off, the purpose of a consolidation loan for someone in financial difficulties – to reduce their repayment commitments – is negated. I therefore believe that the Guidance should be tightened.

34. (R7) Where a consolidation loan is being provided and the subscriber considers the customer to be in financial difficulties⁶ the subscriber must use the consolidation loan to reduce or pay off existing in-house borrowing; and, where appropriate, use their best endeavours to see any remaining part of the loan is used to pay off external debts.

35. I received some representations to ban subscribers from raising a customer’s credit limit unless they had asked for an increase. The case was argued that such an increase in credit availability should be treated in the same way as a loan application, ie that it should be for the customer to take the first step; and that such unsolicited increases encouraged people to take on debt that they could not afford.

36. I was not convinced by these arguments, because improved data sharing should mean that such increases were not offered to those who could not afford them. Indeed, there is evidence that recent improvements in data sharing are leading to some customers having their credit limits reduced.⁷ Furthermore, banning unsolicited increases could prejudice the ‘low and grow’ business model that some subscribers adopt when dealing with borrowing applications from people with poor credit records. Under this model, a customer is first given a small credit limit (perhaps £200) and the subscriber monitors how the customer behaves with that limit. If all goes well after a few months, the limit may be raised; and if all continues to go well it may be raised again. In this way, a person with a bad credit record can re-establish themselves and, importantly, can access mainstream finance instead of being financially excluded. Such a business model would be cumbersome and more costly to operate if the customer had to apply repeatedly for increases that the lender might or might not be willing to grant.

37. Having said this, I do recognise that some customers are worried that increases in their credit limit might tempt them into debt that they cannot afford. The APACS Best Practice Guidelines, adherence to which the sponsors have already agreed will be a Code commitment, say that credit card issuers must allow customers to opt-out of receiving credit limit increases and to reduce their limit if they wish. I think it would be useful to go slightly further.

⁶ See footnote 5 above.

⁷ See <http://www.bankingcode.org.uk/wpdocs/Credit%20assessment%20themed%20review.doc>

38. (R8) The Guidance should make clear that, when they increase a customer's credit limit, subscribers must make clear on the first page⁸ of any notice of the increased limit that the customer can decline the increase and explain how the customer can do this, which should be by any reasonable means.

39. There are two other recommendations in the area of credit assessment. The first recognises that there is an increasingly ageing population, often with reasonable retirement incomes, and that they should not be discriminated against simply on the grounds of their age, even though current age discrimination legislation does not currently extend to the provision of goods or services. The second reflects the growth in the provision of balance transfers, which can be a way of securing good interest rate deals but which can lead to a spiralling of credit availability.

40. (R9) The Guidance should be amended to ban credit rejection simply on the grounds of reaching a certain age.

41. (R10) Subscribers should be required to review a customer's credit limits in accordance with recommendations 5 or 6 above as soon as possible after they have transferred an outstanding balance to another provider.

Financial difficulties (BC only)

42. In my letter inviting initial submissions to the Review I asked contributors what more, if anything, should be done to spell out what the 'sympathetic and positive' approach required by the BC actually means. However, there was a general recognition that, given the considerable variation in individual circumstances, it was difficult to be more specific. The view was expressed that, where there had been problems on cases, it was more to do with compliance with the BC and its Guidance, rather than the content being wrong or having serious gaps.

43. A useful suggestion that was made at one of the round tables was that sponsors could work with money advice agencies to compile examples of good practice that could be used by subscribers in their staff training. These would not form part of the Code or the Guidance. It is not part of my remit in this Review to make a formal recommendation to this effect but I do commend the idea to the sponsors, the money advice agencies and to Code subscribers.

44. Most lenders already make use of CRA data (which will be more informative by the time the new BC comes into force) to monitor changes in borrowers' creditworthiness. With the improvements in data sharing, they should be better able to identify customers approaching financial difficulties. There is no magic bullet indicator of this and subscribers would need to exercise their judgement, taking into account all the information they have. Nevertheless, I believe it could be done and that lenders could be pro-active in spotting customers who are getting into difficulties but who have not yet formally defaulted on an agreement. In such cases, I think it would be helpful to require lenders to take some action.

45. (R11) The Guidance s 14.1 should be strengthened to make clear it requires lenders to use their systems for pro-active spotting of customers who

⁸ In the case of screen based notification, it should be adjacent to the offer of the increase.

may be getting into financial difficulties. Subscribers should then contact such customers to emphasise that, if they are in difficulties, a ‘sympathetic and positive’ approach will be taken and to provide details of independent, free money advice agencies. In such cases they should suspend automatic offers of credit limit increases and weed out such people from credit marketing lists.

46. In recommending this I am conscious that lenders may sometimes get it wrong, either by missing someone approaching difficulties; or by contacting someone they think may be in that position but who is, in fact, not. However, I do think that lenders should use their systems to attempt to do this, because the benefits to both borrowers and lenders of encouraging people facing mounting indebtedness to talk to lenders and to seek advice as soon as possible are very clear.

47. Having made this recommendation, I want to emphasise that it does not diminish the customer’s responsibility to alert their lender(s) to any emerging difficulties and to discuss the situation constructively.

48. Recent changes in the law and some misleading adverts in the media about these changes have made it more difficult for many borrowers who get into difficulties to understand properly their position and the options available to them. The BBA leaflet ‘Dealing with Debt’ gives much useful information but needs to be updated. It is also necessary to ensure that borrowers who do get into difficulties get good, unbiased information on the options available.

49. (R12) Sponsors should work with advice agencies to develop an up-to-date information leaflet explaining borrowers’ rights and responsibilities. It should explain clearly all the options available for coping with debt problems and their advantages and disadvantages; and where customers can get free, independent advice. Subscribers should be required to send that leaflet to all customers who get into difficulties. The content would be mandatory, but the cover could be branded by individual subscribers.

50. Notwithstanding what I have said in paragraph 42 above I am satisfied that the following three adjustments to the Guidance s 14 would be helpful clarifications of what is already there. On the first of these, evidence suggests a need to strengthen and to clarify the Guidance in s 14.3. This is also needed because of the increasing tendency for state benefits intended only to meet day-to-day living costs to be paid direct into bank accounts.

51. (R13) The right of set-off must never be used to pay off non-priority debts to the detriment of either priority debts, as defined in the Guidance, or to the provision of reasonable day-to-day living expenses.

52. (R14) Where the customer is in contact with the lender and is constructively negotiating (either directly or through a money adviser), then subscribers should always consider waiving or reducing recurring default charges and / or interest unless they have clear reason to believe that the customer can make regular sufficient repayments to cover them and to pay off a significant proportion of the capital.

53. (R15) Where debts are sold to others or cases are transferred to outside debt collectors, subscribers should ensure that the contract with the third party ensures that they do not request a new statement of income, expenditure and assets if such information has been provided to the subscriber in the last 12 months, unless the debtor fails to maintain the agreed repayments.

Basic Banking Accounts (BC only)

54. Government and industry have jointly agreed to work to increase bank account penetration. People who have got into financial difficulties need a bank account in order to operate in the modern world. Although it is possible to get into a small overdraft on a basic banking account (bba)⁹ and for subscribers to suffer consequent losses, I feel that the benefits of promoting financial inclusion outweigh these costs. Indeed, almost all subscribers that currently offer a bba do not decline applicants on the basis of a bad credit record. Therefore, I am not convinced that such a record should be a sufficient reason to reject an application.

55. (R16) I recommend that the Code is amended to require subscribers offering bbas not to reject applicants simply on the basis of a past bad debt record.

56. Similarly, undischarged bankrupts need accounts. Some bba providers allow bankrupts to have accounts. Some argue that such accounts need special management and possible reporting to the trustee in bankruptcy and that their systems cannot cope with that. However, advice from the Insolvency Service leads me to conclude that it is extremely unlikely that banks would find themselves liable for any action or inaction on their part in operating an account for an undischarged bankrupt.

57. (R17) Therefore, I recommend that the Code is amended to require subscribers offering bbas not to reject applicants simply because they are undischarged bankrupts.

58. If there are genuine and significant concerns about the legal certainty of subscribers' positions, then the sponsors should commission and publish Counsel's opinion.

59. Some submissions have called for the banning of credit checks on bba applicants or for the restriction of such checks to a 'quotation' or 'inquiry' only search, as these do not leave a credit application footprint that other lenders can see. Behind these calls is a concern that a bba applicant's credit record could be adversely affected by a credit application footprint.

60. I am not recommending a ban or restriction on credit application checks for bba applicants for the following reasons. First, other subscribers' decision systems are only likely to reject an application if the applicant is borderline and there have been a lot of credit applications in a short period of time. I have seen no evidence that bba applicants are likely to do enough shopping around for an account to trigger this danger. Second, such credit application checks can provide important information to

⁹ For example, through the availability of a 'buffer zone', the imposition of default charges or because of the lack of real time payments.

aid the detection of fraudsters that inquiry searches cannot. Finally, recommendation 16 will mean that applicants can be assured by subscribers' staff that their application will not be rejected simply because of a poor credit record.

61. Recommendations 16 and 17 should mean that bba applications are only rejected on grounds of a past record of fraud or because of an inability to provide acceptable identity verification (after the subscriber has properly exercised the flexibility allowed). Some submissions have called for all rejected bba applicants to be given clear reasons for refusal and advice on how to overcome the problem. Even though the proportion of rejected applications should fall, I agree with those submissions on the grounds of helping applicants to understand the position they are in. However, it would clearly not be right to expect subscribers to help those making fraudulent applications (or where there is a past record of fraud) to get round the systems that subscribers rightly have to protect themselves.

62. (R18) Thus, I recommend that applicants for a bba who are rejected should receive a simple explanation of the reason for rejection.

63. Given the recommendations I have made and other evidence I have seen, together with the importance of bbas in promoting financial inclusion, there are three other recommendations that would be helpful in the Code. On the first, I note that the recent BCSB mystery shopping exercise on bbas found that compliance with the Code was generally good but that only just over half of branches had account information clearly on display. People seeking a bba may be discouraged from asking for information if it is not clear whether the subscriber offers them or not. I am aware that subscribers are keen to maintain control over the branding, marketing and advertising in their branches and on their websites. However, I do not think that a small window sticker would unduly distract from their marketing; and some already do carry the logo etc of other organisations on their websites.

64. (R19) Subscribers who offer bbas should display a small window sticker in the windows of their branches and on their websites to show that information on bbas is available there. The design of that sticker should be standard.

65. (R20) The sponsors should reorder the Code and the Guidance to bring together all the information on bbas into one section.

66. (R21) The Guidance should also be amended to require that access to bbas should be clear and transparent, without dissuasion and active 'upselling' of alternative products beyond the needs or wishes of the customer.

Identity verification (BC and BBC)

67. Rejection rates because of difficulties in providing ID & V documents appear to be very low. Subscribers have provided evidence that rejection rates for this reason are, for example, 1%, 2.5%, "minimal" or "very low". However, there is clear evidence that attempts are made to open accounts using fraudulent documents. For

these reasons I am not minded to recommend any changes to Code or Guidance on this, as they already provide the flexibility in documentation allowed by the Joint Money Laundering Steering Group.

Transparency (BC and BBC)

68. The Competition Commission's report on the personal current account market in Northern Ireland¹⁰ proposes seven 'remedies' to promote transparency and to enhance competition by facilitating account switching. These are:

- (a) Use of easy to understand terminology and descriptions of services.
- (b) Explanations of levels of charges and of interest rates at the marketing and account opening stages, on statements and on pre-notification notices.
- (c) Key account information on statements.
- (d) Annual summaries of charges and interest.
- (e) Pre-notification of charges and debit interest, including all authorised and unauthorised overdraft charges.
- (f) Annual 'rights reminder'.
- (g) Enhancements to the account switching process.

69. Some of these remedies (eg a, b and e) are clarifications of, or build on, what is already in the Codes. I have considered whether these remedies should be extended to personal current accounts throughout the UK and also to small business current accounts.

70. The main reasons that the Competition Commission used for adopting these remedies in Northern Ireland are summarised in paragraph 58 of the summary of their report. In considering these, I feel that items (a) to (j) probably also apply in the rest of the UK, including to the UK small business market. I am not in a position to judge whether items (k) to (r) also apply, though it may be that item (p) (costs and benefits of a branch network) also applies.

71. Overall, I feel that the improvements in transparency and switching likely to flow from the remedies should not be confined to Northern Ireland. I believe that it is particularly important to bring unauthorised overdraft charges into the current Code requirement for pre-notification. Without this, it can be difficult for customers to confirm that the charges are correct and to deal with the situation in time to avoid recurring charges.

72. However, I am not convinced that the annual rights reminder is useful. I believe that customers do know that they can switch their current accounts but they are concerned about the perceived difficulties of doing so. In terms of the information to be provided pre- and post-sale (remedies (b) and (c)), evidence from research into Summary Boxes by the BBA suggests that cheque clearance times are also information that customers would find useful.

¹⁰ Competition Commission: *Personal current account services in Northern Ireland market investigation*: May 2007.

73. I have also considered whether the remedies, except for the annual rights reminder, should also be extended to small business current accounts covered by the BBC. On balance, I believe that they should, because the great majority of small businesses covered by the BBC are micro-firms, very similar to personal customers. The DTI Small Business Service's data show that 73% of businesses in the UK are sole traders, partnerships or companies comprising only an employee director¹¹; and that, within this, sole traders are easily the biggest proportion. The UK SME Finance survey 2004¹² showed that 92% of all businesses in the UK had a turnover of less than £1 million. It is highly likely that almost all of these are sole traders, partnerships or companies with only an employee director. Thus, the vast majority of businesses covered by the BBC are likely to be one-man operations that would benefit from these improvements in the same way as personal customers.

74. (R22) Therefore, I recommend that the sponsors adopt the Competition Commission's remedies in both the Banking and Business Banking Codes and their supporting Guidance documents, except for the annual 'rights reminder', but with the inclusion of cheque clearance times in the pre- and post-sale information provided.

75. I recognise that there may be some overlap between the pre-notification requirements for overdraft charges in this recommendation and any notice requirements of the CCA 2006. It is not clear to me whether in all circumstances a default charge or an interest rate on an unauthorised overdraft would be covered by the Act. It is not my intention that the Code should duplicate any notice required under the Act and the detailed drafting of the Guidance should take into account that the aim of the pre-notification requirement I am recommending is that the customer should have time to address the situation.

76. I did consider recommending that the annual summary requirement included data on transaction volumes and 'interest foregone'¹³. That could have given customers particular information that would help them to shop around, perhaps using price comparison websites. However, the OFT's recent announcement of a market study into personal bank current account pricing¹⁴ has led me to conclude that it would be better to await its outcome.

77. Recommendation 22 above requires some key account information to be provided pre- and post-sale on current accounts. The APACS Best Practice Guidelines require key information to be provided pre- and post-sale in Summary Boxes on credit cards. Some subscribers also provide Summary Boxes for their personal loan products. My predecessor, Prof Elaine Kempson, in her 2004 review noted that a number of submissions to her had urged Summary Boxes for all current, savings and loan products and she recommended that research was commissioned on the possible content for such boxes.

¹¹ SME Statistics 2005, table 2 (see: <http://www.dtistats.net/smes/sme/smestats2005.xls#UK Legal Status!A1>)

¹² Fraser S: *Finance for Small and Medium-Sized Enterprises: a report on the 2004 UK survey of SME finances*: Warwick Business School: 2005

¹³ One submission suggested that a proxy for this would be the difference between the interest actually earned and the interest that would have been earned if the funds could have been invested at the Bank of England base rate.

¹⁴ See OFT press release 54/07, 29 March 2007.

78. That research showed:

- Once shown what a Summary Box was, customers' reactions were positive.
- Most respondents felt that the boxes were not just extra 'bumpf'.
- A key benefit of the Boxes was in promoting transparency and trust.
- The main advantages of the Boxes centred on them being concise; easy to read; clear and matter of fact; and putting all the key information in one place.

79. This leads me to conclude that the Codes should now require the provision of key account information on loan and savings products in Summary Boxes both pre- and post-sale. I believe that they will be an important development in giving consumers the sort of information that they need to shop around effectively in what is a highly innovative financial services industry.

80. To ensure that they are as helpful as possible I believe that it is necessary to specify what the Boxes should contain; and that, wherever possible, the information should be provided in a way that aids comparisons between products. Furthermore, the Box should contain the designated information, not a signpost to finding it elsewhere.

81. Comparability can be particularly difficult on interest rates and, so, I think it is important that the Boxes for risk-based or individually priced loan products show typical rates, the range of rates within which a product is usually offered and a standard illustrative example.

82. (R23) I therefore recommend that the Codes require the provision of Summary Boxes on loan and savings accounts¹⁵ both pre-and post-sale. Those Boxes should provide information directly (not signposted) on:

82.1. Savings accounts pre-sale:

- **Access arrangements, including any penalties consequent upon withdrawals;**
- **Any bonus conditions, including showing rates with and without any bonuses;**
- **Tax status;**
- **Interest rates, including any interest rate guarantees and, if the product has a temporary fixed rate, what is the 'go to' maturity rate (expressed as the current 'go to' rate if that is variable).**

82.2. Savings accounts post-sale (excluding passbook operated accounts):

- **Same as for pre-sale;**
- **On accounts where the rate is variable, Boxes should show the current interest rate, date of last change and the rate before the last change. Boxes should also show the current Bank of England (BoE)**

¹⁵ Current account summary boxes will be required under recommendation 22 above.

base rate, date of last change and the previous rate. On the first statement after either a BoE or account rate change, the first page of the statement to include a notice that rates have changed and referring customer to Summary Box for details.

82.3. Personal Loans pre-sale:

- **Amount of loan available;**
- **Typical APR;**
- **The range of rates within which the product is usually offered;**
- **A standard illustrative example. This amount and length of loan used should be an industry average. The interest rate used should be the actual rate for that size and length of loan or, in the case of personal pricing, the rate at which, say, 66% of such loans are being charged. The example should show both the monthly and total repayments;**
- **Fees, including all application and arrangement fees;**
- **How interest is calculated;**
- **Repayment period and methods;**
- **Default charges;**
- **Early settlement information.**

82.4. Loans post-sale:

- **Fees;**
- **How interest is calculated;**
- **Default charges;**
- **Early settlement information.**

In addition, the actual interest rate being charged should be shown on the face of the statement.

83. In making this recommendation, I do not think that it will conflict with any requirements of the CCA 2006. Some subscribers already provide Summary Boxes (which I have drawn on in making my recommendation); and the APACS Best Practice Guidelines already require credit card Summary Boxes showing this sort of information.

84. There are two other recommendations I make under the heading of transparency. First, the BCSB has some evidence of subscribers 'upgrading' a customer's current account to provide additional facilities, such as insurance, for which a regular extra charge is made. Second, the UK Remittances Taskforce is developing a 'charter' to ensure good transparency for migrants' remittances. Therefore I make the following recommendations.

85. (R24) The Banking Code Guidance should be amended to make it clear that if a subscriber wishes to change a customer's current account, it must

obtain the customer's express consent to the change before doing so, if the new account will involve the payment of a regular fee that has not been charged before.

86. (R25) The sponsors should consider incorporating into the BC the relevant parts of the UK Remittances Taskforce's charter on migrant remittances, once that has been finalised.

Interest rate changes (BC only)

87. For savings accounts where a customer receives monthly account statements, recommendation 23 above will give the customer timely information to be aware of the effect of interest rate changes on their account. They will be able to see to what extent, if any, the rate on their account has moved with the BoE base rate. In such cases, I do not think that it is necessary to require personal notification of a relevant rate change under the Guidance s 4.4. However, the provisions of the Guidance s 4.8 will remain.

88. (R26) I therefore recommend that the Guidance is changed to make clear that the provision on monthly account statements of the interest rate information under recommendation 23 shall count as personal notification, so long as the first statement after a change in either the account interest rate or the Bank of England base rate clearly highlights on the first page that there has been a rate change and refers the customer to where the relevant information can be found on the statement.

89. In response to some submissions, I did consider recommending dropping the part of the Guidance s 4.4 that allowed subscribers to notify interest rate changes by notices in branches, newspaper and on websites instead of by personal notification to each customer. However, it is clear that the costs of requiring personal notification in all cases would be disproportionate to the benefits of increased consumer awareness. However, I do think that it would be sensible for subscribers to ensure that notices are placed in a sufficiently wide range of newspapers.

90. (R27) The Guidance s 4.4 should be amended from "the newspapers we usually use" to "a broad range of newspapers".

91. Some submissions suggested that the 'downgrading' provisions in the Guidance s 4.8 should be extended to include the growing number of current accounts that pay more than a token interest rate. In the 2004 Review Prof Kempson recommended that this matter should be kept under review. I am not minded to extend the provisions of s 4.8, because these accounts do not have a lock-in period; and the provision of any required notifications would affect disproportionately those current account providers that do pay more than a nominal interest rate (assuming any extension of s 4.8 was only to 'high interest' current accounts).

92. In a competitive market such as that for savings and deposits, it is not surprising that a number of products offer introductory bonus rates to attract customers. This can be very beneficial to those customers with sufficient savings to make shopping around and switching attractive. In similar situations (eg credit card introductory promotional rates or interest option loans covered by the Finance &

Leasing Association's Lending Code) the customer is sent a reminder just before the interest free period expires. This aid to transparency is one that I think should be extended to bonuses on savings accounts.

93. (R28) The Guidance s 4.4 should be amended to require subscribers offering a temporary bonus rate for a period of more than three months to alert customers to the end of that bonus period between three and four weeks before the period expires.

Credit card repayments (BC and BBC)

94. It was clear in my discussions that there was some lack of clarity between the Code s 10.12 and its related Guidance. This seems to be affecting the ability of card issuers to offer payment holidays. The BCSB's view is that, as currently worded, the Guidance does not allow issuers to offer payment holidays, unless they also waive interest. I do not think that this restriction is reasonable.

95. (R29) The Guidance s 10.12 should be clarified to make clear that the minimum payment should cover that month's interest and a proportion of the balance outstanding (which would include any account operating fees and charges but not annual PPI premiums). The principle should be that if there are no further transactions on the card then the minimum repayment required the following month should be smaller than in the current month (subject to rounding).

96. (R30) That section should also make clear that short-term payment holidays can be offered, provided the terms are communicated very clearly to customers and that they are told that they can reject the holiday and make payments if they wish. Where a payment holiday is provided the minimum repayment afterwards should be sufficient to avoid negative amortisation over a period of 12 months from the start of the payment holiday (as defined in the current Guidance).

97. It is outside the remit of my Review to recommend what the proportion of the capital should be in the minimum repayment amount. However, I encourage subscribers to keep this under review. I also hope that they will monitor carefully those customers who are consistently making only minimum repayments, as that may be evidence of developing financial difficulties.

98. I have considered whether to make it a requirement on subscribers to encourage customers to sign up for a direct debit (for the minimum or maximum amounts or a fixed sum) as a repayment option. Paying at least the minimum amount in this way would avoid missing deadlines and incurring late payment fees. However, it is clear that some customers are wary of direct debits and prefer to manage their money in other ways. They could feel that even reasonable encouragement to sign up for a direct debit was pressuring them. I have, therefore, decided not to make such a general recommendation but instead to propose two small changes to the wording of the Guidance s 10.8.

99. (R31) The wording, "Sufficient details to enable the customer to pay on time" should be amended to add the words, "including by direct debit" at the

end. Furthermore, any notice to a customer that they have missed one or more repayments should alert them to the possibility of paying by direct debit, as a means of avoiding such problems in the future.

Credit card cheques (BC and BBC)

100. Significant concerns about credit card cheques (CCCs) were expressed by a number of consumer organisations. There were two views – first, that there were inadequate explanations of key differences between CCCs and normal card transactions; and, second, there were concerns about the security of such cheques being sent through the post unsolicited. The latter concern meant that customers would not know if the cheques had been stolen in the post. In addition, there were concerns that customers might bin unwanted CCCs without destroying them.

101. A number of submissions suggested that the Codes should require customers to opt-in in order to receive CCCs, rather than current arrangements whereby they have to opt-out in order not to receive them. In an opt-in regime, issuers would be required to spell out the differences between CCCs and normal card transactions, so that customers could make an informed choice.

102. Despite the irritation felt by some customers at receiving unwanted CCCs, it is clear that other customers find them useful. In particular, they are mainly used to make balance transfers to take advantage of promotional rates. If customers had to opt-in they would not know at the time of the opt-in decision whether they wanted to take advantage of such future offers. Therefore, on balance, I am not recommending a switch to an opt-in regime.

103. Turning to the question of inadequate explanations of the key differences between CCCs and normal card transactions, I have looked at the marketing and other material provided by CCC issuers. I believe some adjustment to the APACS Best Practice Guidelines for CCCs, adherence to which is a requirement of the Codes, is merited. Some CCC issuers already do some of what I am recommending but I have not seen any material that makes all of these points clear up front.

104. (R32) The APACS Best Practice Guidelines should require the following five items to be highlighted in any marketing material and to appear on the first page of any letter (or equivalent) accompanying the issue of CCCs and in the same font etc as the body of the letter:

- **CCCs do not provide the same level of consumer protection as a normal CC purchase.**
- **The transaction fee per cheque.**
- **There is no interest free period.**
- **How to opt-out of receiving CCCs in the future.**
- **An alert to the Summary Box (eg “see important information overleaf”)**

105. In addition, the Summary Box should give clear advice on how customers can safely destroy unwanted CCCs, because some customers see them as marketing material and bin them with other junk mail. Phrases like, “please tear up any

unwanted cheques before you put them in the bin” are more effective than, “destroy them in a secure way”.

Legibility (BC and BBC)

106. The RNIB estimates that there are 2 million people in the UK with sight problems. Most of them will be customers of Code subscribers. In addition, even people with normal vision have complained that some material sent to them by subscribers – notably terms and conditions – is barely legible. It is important to having properly informed customers that they are able to read what subscribers send them. Much of the material that I have been sent by subscribers contains important information that can be hard to read, even with normal or properly corrected eyesight. Indeed, it is usually the case that marketing material is produced with bold, clear fonts, while terms and conditions or caveats to offers are in smaller, fainter type.

107. In response, subscribers have pointed out that they provide large print and Braille options for customers. However, I do not think that, alone, is sufficient. It is time to make the ‘small print’ clearly legible!

108. (R33) I therefore recommend that the sponsors work with specialists (such as the RNIB, amongst others) to create a set of guidelines that are reasonable and which can then be incorporated into the Guidance and cover all written communications (including for T&Cs, Summary Boxes etc).

109. With the growth of on-line banking, there is an equivalent need for screen-based delivery channels to be accessible by as wide a range of people as possible. Some organisations in the disability field have begun to take action against companies for not making ‘reasonable adjustments’ to their websites, which is a requirement of the Disability Discrimination Act.

110. (R34) Therefore, I recommend that the Guidance requires subscribers to ensure that their UK web sites are either certified by a specialist independent organisation or have been tested with customers with a range of eyesight abilities and found to be legible.

Language (BC and BBC)

111. The Codes already make the commitment that advertising material is clear and not misleading and that customers are given clear information about products and services. This is an important challenge for subscribers, who benefit from properly informed customers but who have to combat the low levels of financial literacy in this country. There have undoubtedly been significant improvements in this area that have been brought about by the Codes. My recommendation 22 will go slightly further, in respect of current accounts, by requiring the use of easy-to-understand terminology and descriptions of services – remedy (a) of the Competition Commission.

112. There are two other small changes that I recommend in this area:

113. (R35) The glossary in the Codes should be extended to include: Direct debit, Standing order, Overdraft (authorised and unauthorised), Buffer zone, Branch access, Debit card (including how ‘online’ cards differ from ‘full’ debit cards), Interest, Savings account, Current account, High Interest Current

Account. The description of CCCs should also refer to the first three bullet points in recommendation 32.

114. (R36) The Guidance s 8 and s 14 should emphasise the need to make communications with customers who are in financial difficulties especially clear and jargon-free.

Branch closures

115. This has been a sensitive area in the past and could be so again, if there were to be another wave of branch closures. Customers clearly value the ability to use a branch; and they remain important delivery and marketing channels for some subscribers. However, it is clear that an increasing amount of business is now done in other ways, through telephone and internet banking. These channels have grown because they are popular with customers, including an increasing number of people in groups that are traditionally quoted as being heavily dependent on branches, such as the elderly and those with mobility impairments.

116. I have, therefore, resisted calls to require subscribers wishing to close branches to consult customers and other users and to produce economic impact studies. Subscribers are commercial organisations, like shops and offices, and should be free to change locations.

117. However, I do think that some changes to the Codes and Guidance would be helpful, not least in clarifying requirements.

118. (R37) There should be a separate section in the Codes on branch closures.

119. (R38) The “last bank” provision should be dropped and subscribers should give 12 weeks notice of all closures and moves. The “material reduction” definition should be changed from a 50% reduction in opening hours to a 30% reduction and should include changing access to a branch to be only for a restricted group of customers. The Guidance should also make clear that the requirements cover where two branches merge, except where they are very close together (eg in the same or adjacent streets).

120. (R39) Notification of alternative facilities should include location of the nearest branch and the nearest ATM where free withdrawals can be made.

Vulnerable customers (BC only)

121. It is estimated that one in four of the adult population will suffer from some form of mental illness at some point in their lives; and each year more than 250,000 people are admitted to psychiatric hospitals. The great majority will be customers of Code subscribers. Of course, banks are not staffed with mental health practitioners and cannot be expected to be experts in these matters. However, much can be achieved with patience, common sense and good information systems. I am pleased that a Working Party comprising the Money Advice Trust, APACS, Credit Services Association, BBA, Finance & Leasing Association, Institute of Money Advisers, Citizens Advice, Royal College of Psychiatrists, Money Advice Scotland and the Mental Health Nurses Association has been examining this issue under the aegis of the Money Advice Liaison Group (MALG).

122. (R40) Sponsors should consider incorporating into the Code the MALG guidance on dealing with customers with mental health difficulties, once it is

published. They should also consider updating the BBA’s leaflet ‘Banking for Mentally incapacitated customers’ and make clear in the Code how copies can be obtained.

123. Evidence in a survey by the Leonard Cheshire organisation showed that over a third of disabled respondents who do not use Chip & PIN were unaware of the alternatives. Given the increasing importance of cards in modern society, this needs to be addressed now and on a continuing basis.

124. (R41) I therefore recommend a change to the Code s10.5 to require subscribers to make all customers aware of alternatives to Chip and PIN cards for those unable to use them. The Guidance should make clear that all new customers are to be made aware and that in 2008 all existing customers should also be made aware of the alternative provision, in order to catch up. In making customers aware, subscribers should make clear that alternatives are only available where there is a real need.

Complaints (BC and BBC)

125. A number of submissions alleged that subscribers had closed the accounts of customers who had challenged unauthorised overdraft charges; and that other customers taking such action had been threatened with the closure of their account(s) if they persisted in their challenges.

126. There is clearly a balance to be struck here. Customers have a right to complain and to challenge the actions of subscribers. That right is not only in law but is also enshrined in the Codes. The credibility of the Code could be seriously weakened if customers felt that making a complaint was likely to bring retaliatory action from subscribers. On the other hand, banks are commercial organisations and should be free to decline a customer’s business if they wish, as are other organisations. On balance, I make the following recommendation.

127. (R42) The Codes and Guidance s 7.5 and s 15 should make clear that subscribers should not close accounts simply because a customer has made a complaint, or exercised their rights under Code or in law, so long as the customer is also not acting in a manner that might normally lead to account closure (eg verbal/physical abuse or poor account management). Subscribers must never threaten to close accounts as a means of deterring customers from taking legitimate action.

128. There seems to be some confusion in customers’ minds as to the difference between the BCSB compliance monitoring role and that of the Financial Ombudsman Service in resolving individual complaints made to it. I understand that the BCSB is planning to revamp its website and helpdesk to make the respective roles clearer to consumers and I think that this is sensible. It would be helpful if the FOS did something similar. However, I believe that it would be useful for the Codes to address this confusion.

129. (R43) The headings in s 15 of the Codes should be changed to “Step 1 – Internal procedures” and “Step 2 - Financial Ombudsman Service”, to make it clearer the fact that complainants must do step 1 before step 2.

130. (R44) The Codes s 15 should explain the differences in the roles of the BCSB and the FOS and this should be amplified in the Guidance.

Risk based pricing and credit footprints (BC only)

131. In recent years there has been the development of risk-based pricing of some lending products, like personal loans and credit cards. Such pricing can be beneficial to certain customers as well as to lenders. It is important that customers can shop around freely to identify the best deal for them. However, that shopping around will mean that the lenders that they approach may have to do a CRA search, in order to get the information they need to quote their price to the customer. It is important that any CRA searches when the customer is shopping around do not leave a credit application footprint on their CRA record, since they may be getting a lot of quotes in a short period, in order to decide which product to choose. This has been recognised by the industry and the CRAs and the facility exists for these searches to be done as a quotation only search, which will not leave a footprint that other lenders can see. Such searches are the norm for mortgages and it is important that customers are assured that shopping around for other risk-based priced products will not adversely affect their credit rating.

132. (R45) The Code s 13 should make clear that, where someone is shopping around for quotations on risk-based priced products, the CRA searches done will not leave a credit application footprint on their record that other lenders can see. The Guidance to s 13 should make clear that subscribers need to differentiate between someone who is only seeking a price quotation and someone who is actually applying for credit and to search appropriately.

Card misuse liability (BC and BBC)

133. The current Codes s 12.11 and 12.12 refer to a consumer's potential liability if s/he acts without reasonable care in relation to her/his card. The Guidance makes clear that the standard to be applied remained whether the customer acted with gross negligence. There is some evidence that some subscribers believe, wrongly, that since the introduction of the 2005 Codes, that the consumer must now demonstrate a higher standard of care. They seem not to appreciate that the difference in wording was intended only to make the language in the Code itself more accessible, as is explained in the Guidance s 12.12. I do not think that it is necessary to amend the Code or the Guidance but the BCSB may like to draw this matter to the attention of subscribers.

134. Some concerns have been expressed about the way in which information is set out in the Codes s 12 (Protecting Your Accounts), which is sometimes mistakenly interpreted (by subscribers as well as by customers) as imposing conditions that bind the customer. A good example is s 12.11 (Liability for losses), where the provisions of s 12.5 (Taking care) are cited. This confusion may arise out of mixing in the same section, security advice to customers with standards that subscribers must meet on liability for losses.

135. (R46) The advice to customers in the Codes s 12 should be put into a separate box, perhaps headed "How you can protect yourself", to make clear that it is advice and not standards binding on customers.

136. Some cases have also been reported where customers using their debit card abroad find that the card is blocked by the issuer, on fraud prevention grounds. Clearly, this can be very inconvenient. Most card issuers supply information on using cards outside the UK and it is important that they do not give away sensitive information of help to fraudsters. However, if a card issuer routinely blocks cards that are unexpectedly used abroad it is important that the customer is given adequate information.

137. (R47) If subscribers regularly block cards that are used abroad, they should inform customers in any general information on using the card and advise customers who do want to use their card abroad what steps they need to take to avoid blocking.

Online banking (BC and BBC)

138. The growth of online or internet banking has been welcomed by millions of customers. Subscribers invest considerable resources into ensuring the integrity of their systems and security procedures are always being reviewed, not least against the latest attempts by criminal hackers. This is because they recognise that secure systems are a priority if customers are to be encouraged to use this delivery channel. Customers also have a duty to ensure that their computer systems are also secure, for example with effective firewalls.

139. However, the Codes are silent on the question of liability for losses in online banking, although a number of subscribers do have their own policies on limiting customer liability. I believe that it is now appropriate for the Code to set minimum standards.

140. (R48) The principle of limitation on liability in the Codes s 12.11, 12.12 and 12.15 should be extended to online banking.

141. (R49) The advice to customers in s 12 should also address emerging methods of fraud, such as ‘phishing’ and identity theft.

Matters already agreed by the sponsors

142. I understand that the sponsors have already agreed to the following:

- The incorporation into the Codes of the agreements reached in the OFT’s Payment Systems Taskforce.
- Updating the Code to reflect the development of the Unclaimed Assets Scheme.
- Adding the APACS Best Practice Guidelines and the LINK rules on ATM signage to the list of industry codes in the Guidance s 2 with which subscribers should also comply.
- Incorporating into the BBC relevant parts of the BBA’s ‘Statement of Principles’ on banks and businesses working together when the customer borrows.

- A number of other minor technical, updating and drafting changes for clarification, none of which is expected to work to the customer's disadvantage.

Matters specific to the BBC

143. I invited submissions on whether the BBC needed to be rewritten in a way that might be more appropriate to small businesses. The overwhelming view was that there was advantage in maintaining the BBC as a 'clone' of the BC, because small business owners were also personal customer and it was easier for them to understand and to find what they wanted if the two Codes paralleled each other as far as possible.

144. I did consider bringing the Code requirements on small business current account switching timescales into line with those undertakings given to the OFT by eight banks following the report of the Competition Commission into SME Banking Services in 2002, since those banks comprise the bulk of the small business market. However, the Commission is currently considering a submission from the OFT on how these undertakings have operated and it would not be sensible to make a recommendation ahead of the Commission's decision.

145. (R50) The sponsors should consider the Competition Commission's decision, when it is made, and, if possible, align the Code requirements with the undertakings given by the eight banks, so long as those do not weaken the Code's requirements.

146. I have indicated in this report those matters that I think should apply to both Codes and those that should only apply to the BC. There is one other item on which I make a recommendation specific to the BBC alone.

147. Some types of small business, notably those handling cash, need access to a branch counter. The BBC already requires that, where a branch closes, a subscriber should tell the business of any inter-bank agency agreements (IBAAs), if these exist. These are discretionary agreements and do not exist between every bank. However, they can be useful, not least in promoting competition, by allowing customers who need counter services to choose from a wider range of current account providers than just those that happen to have nearby branches. I recognise that these agreements are entirely discretionary and that the costs charged can be passed on to the customer. Nonetheless, I think it would help competition in the small business market if the existence of those agreements that do exist was more widely known.

148. (R51) Therefore, I recommend that s 3 of the Code should require subscribers with IBAs to outline them to relevant small business customers at account opening stage. The commitment in s 7.8 of the Code relating to IBAs should remain. The Guidance s 3 should make clear that a relevant small business customer is one where, in the opinion of the subscriber, access to counter services is likely to be important.

Matters not affecting the content of the Codes or Guidance

149. A number of submissions made comments about subscribers' compliance with the existing Codes and Guidance and about customer awareness of these documents.

For the Codes to be seen as the effective means of self-regulation that I believe they are, there may be a need for the sponsors and the BCSB to consider how they might demonstrate more clearly the compliance monitoring work done and the outcomes from it. However, this is not to suggest that ‘naming and shaming’ should be the automatic route. Rather, it is the fact that customers are unaware of the main findings of the themed reviews and mystery shopping exercises that are conducted. I believe it would help to make self-regulation more acceptable if the press and the public were made more aware of the considerable amount of compliance monitoring that goes on, currently in the background.

150. (R52) The BCSB should consider how it might demonstrate more clearly the compliance monitoring work done and their general findings.

151. In conducting this review I have found the Guidance to both Codes of far more use and relevance than the Codes themselves. It is the Guidance that helps customers to understand what the fairly broad statements and principles in the Codes mean in practice. This was also the view put forward by the Financial Ombudsman Scheme and a number of consumer organisations who use the Codes and Guidance in their daily work with consumers. However, there seems to be very little public awareness of the existence of the Guidance.

152. (R53) I therefore recommend that s 17.3 of the Codes are replaced by a clearer statement, ideally at the front of the Codes, that customers needing more information on any part of the Codes will find the Guidance useful and how they can get copies from subscribers or elsewhere. There should also be reference to the Guidance and how to get hold of it in the Code Flyer.