

Financial Services Consumer  
Panel response to:  
Banking Code Review, 2004

February 2004

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## Summary

- I. Overall the Consumer Panel supports the principles set out in the Banking Code 2003, but we believe that more could be done to protect the interests of consumers of banking services. The Panel's recent research into financial reviews offered by banks<sup>1</sup> has shown that there can be a gap between what is offered by banks and the service that is actually delivered. Ultimate responsibility for compliance with the Code rests, we believe, with the senior management of subscriber organisations and we urge them to take action to ensure that **all** their employees/agents act in accordance with its provisions. The Banking Code Standards Board too has an important role to play in ensuring that the code is complied with at all levels within subscriber organisations.
- II. Section 13 of the Code allows subscribers to increase the credit limit on existing borrowing whenever they choose. We believe that this is irresponsible and we would like to see credit limits increased only on the application of the customer, or with his/her agreement.
- III. We are concerned that 'credit card cheques' are being sent out unsolicited, which some consumers find confusing. We have been advised that these cheques cannot be cancelled once written and offer less protection than a credit card. Cheques should only be sent on request and with a clear statement of their conditions of use.
- IV. Section 3 of the Code – Helping you to Choose products Which Meet Your Needs – leaves it to subscribers to decide whether to offer information on basic bank accounts to potential customers. The Panel believes that this information should always be offered as a matter of course. At this initial stage the subscriber will not be in a position to

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<sup>1</sup> Financial Services Consumer Panel Report: Financial Reviews, published February 2004

know whether or not the account would appear to meet the consumer's needs.

# Panel response to Banking Code Review 2004

## Introduction

1. This paper is the response of the Financial Services Consumer Panel ('the Panel') to the Banking Code Review 2004. We have commented only on the Code for Personal Customers.
2. The Panel supports the principles set out in the Code, although there are a number of areas where we would like the Code to go further to protect consumers.

## Detailed Questions

*Q1: Are there any key omissions in the current Code?*

*Q2: Conversely can any of the existing sections of the Code be removed in the next edition as they are no longer relevant or have been superseded?*

Although there are a number of areas where the Panel would like to see changes to the Code, we do not think that any parts of it could be removed. We are not aware of any key omissions.

*Q3a: Is the revised paragraph (3.1) ensuring that people are being told about basic bank accounts if they would meet their needs?*

*Q3b: If not, what problems are currently being experienced?*

3. The Panel believes that paragraph 3.1 is inadequate and unrealistic. In particular we do not believe it should be up to the subscriber to decide whether to provide information about a basic bank account. As paragraph 3.1 currently stands, subscribers will offer information on a basic bank account "if it would appear to meet your [the consumer's] needs". At this point the subscriber is not in a position to make such a judgement. The Panel believes that the information should be made

available to all those considering opening an account, so that they are in a position to decide for themselves.

*Q4: Are the more general paragraphs in the current Code (Section 4) working adequately? If so, should they be left as they are even when we have the FSA guidance [on the Unfair Terms in Consumer Contracts Regulations 1999]?*

4. Paragraphs 4.4 and 4.5 appear to be adequate for the time being. We would like them to be reviewed once the FSA's guidance has been issued.

*Q5a: Is paragraph 4.8, and the accompanying Guidance, working in practice?*

*Q5b: Is there any concrete evidence to indicate that any of these provisions is acting to the detriment of either Code subscribers or consumers?*

5. The Panel has not conducted any research into how banks communicate falls in interest rates on savings accounts to their customers. However we thought that the 'cut off' points of £500 and £250 were quite arbitrary and do not ensure fair treatment for those customers for whom savings of any amount are significant. The "a point in time" provision could be very unfair to a customers who happen to have a small amount in their account on a particular date, despite having much larger sums attracting interest at other points in the period. Given that computer programs now make such calculations so easy, and also that subscribers will be sending out large volumes of product summaries to their customers, the cost of extending this service to all savers should not be prohibitive.

*Q6: Are these paragraphs and the accompanying Guidance ensuring the smooth transfer of accounts, from the point of view of subscribers as well as consumers?*

6. The Panel has no evidence to suggest that these arrangements are not working effectively from the consumer's point of view, although we have not conducted any specific research ourselves. However, we believe that paragraph 7.1 could be clearer: "if you are not happy about your choice of current or savings account (except for a fixed-rate account, for which there is no cooling off period)".

*Q7: What changes, if any, are required to either the Code or the Guidance in the light of this research [into consolidated annual summary statements]?*

7. The Panel does not believe that the research provided evidence of a need for a consolidated annual summary statement to be sent to customers, but if subscribers choose to provide such statements the Panel would like to see these covered in section 9 of the Code.

*Q8a: What is subscribers' experience of implementing paragraph 13.1 dealing with checking borrowers' ability to repay?*

8. The Panel is not in a position to comment on subscribers' experience of implementing the Code.

*Q8b: Is this paragraph [13.1] achieving its intention of stopping increases in overdraft and credit card limits, without checks on the consumer's ability to repay? If not, does the Guidance need to be amended?*

9. The Panel believes that subscribers should not be able to increase the credit limit on existing borrowing except on the application of the customer, or with their agreement. Subscribers' own-initiative increases are unfair to many consumers who do not understand the full implications of taking advantage of increased credit, or who are struggling to exercise financial discipline. Although subscribers' might have access to processes for checking a customer's "ability to repay", only the customer will be aware of any personal issues affecting him/her which could impact on how they spend their money or their

level of income in the future. In addition the Panel is concerned about unsolicited mail shots enclosing credit card 'cheques'. Not only do some consumers not understand that using these cheques will increase the debit balance on their credit card, but that the cheques themselves cannot be cancelled once written. This should be made clear in the Code. We would also like the Code to ensure a degree of flexibility for consumers to pay credit card bills in exceptional circumstances, such as a postal strike.

*Q9: Is there any evidence that these fears [about the potential for financial crime associated with paragraph 13.3] were well-founded?*

10. The Panel is not on a position to comment on this question.

*Q10a: How is the revised Guidance [on consumers who are in financial difficulties] working in practice?*

*Q10b: Is there any concrete evidence that it requires any significant amendment? If so, in what ways?*

11. The Panel believes that the Guidance is too vague to be helpful to consumers who find themselves in financial difficulty. In addition there is no reference to the possible sale of debt to third parties or the use of debt collection agencies, who are either not bound by the Code or where the subscriber would find it difficult to ensure their compliance. The "sympathetic" and "positive" consideration promised by the Code must be put into practical action. Being in debt is a frightening experience for some consumers and can be a shock after the relatively easy process of obtaining new or increased credit facilities – especially where a new credit limit simply arrives though the post without being requested. We are pleased that the Code contains contact details for professional debt advisers and we suggest that subscribers should be required to provide the customer with debt counselling contacts as soon as the customer asks or the subscriber becomes aware of possible problems, so that the customer has the

opportunity to obtain independent advice before entering into discussions with subscribers about repayment/rescheduling.

*Q11: Should the Code include reference to rights and responsibilities conferred by legislation? Or should it restrict itself to rights and responsibilities that go beyond that legislation?*

12. The Panel believes that the Code should deal only with rights and responsibilities that go beyond legislation.

*Q12a: Is a biennial review appropriate?*

*Q12b: If not, what frequency would you suggest and why?*

13. We think that a biennial review is appropriate.

## Who is on the Panel?

### Ann Foster (Chairman)

Ann has over twenty-five years experience in the consumer movement. During that time she has worked at the National Consumer Council and has been a Director of the Scottish Consumer Council. She has also served on various government advisory and expert groups on a range of subjects. Recently Ann has been a member of the Health Professions Council and of Postwatch, the Consumer Council for Postal Services. She is also a Council Member of the Royal National Lifeboat Institution and member of its fundraising committee.

### Dianne Hayter (Vice Chairman)

Dianne is on the board of the National Consumer Council and was, until 2004, on the Board of the National Patient Safety Agency. She was formerly the Chief Executive of the Pelican Centre (a cancer charity). Before that she had periods as the Director of Corporate Affairs for the Wellcome Trust, Chief Executive of the European Parliamentary Labour Party, Director of Alcohol Concern, General Secretary of the Fabian Society, a journalist and trade union research officer. She is a member of the Labour Party and on their National Executive Committee. She is currently also a research student at Queen Mary College, London.

### Yvonne Gallacher, OBE

Yvonne is Chief Executive of Money Advice Scotland, set up in 1989 by Scottish Consumer Council. She has over thirteen years' experience of consumer credit/money advice issues and of working with vulnerable consumers in a variety of roles, including debt counsellor, trainer and manager. She has also lectured and co-authored a Guide to Money Advice in Scotland. Yvonne is presently a member of the FSA Consumer Education Forum and Credit Union Consultation Panel. Yvonne is a member of the Scottish Consumer Council.

### Harriet Hall

Harriet is a solicitor with considerable experience of consumer policy and retail financial services. She is a former legal officer with the National Consumer Council, where she worked on the needs of low income consumers, banking, credit, mortgages, regulation of equity release and long-term care insurance, the Financial Services and Markets Bill and the proposed EU directive on distance selling of financial services.

### John Howard

John is a solicitor with extensive experience of consumer issues as a presenter of the daily consumer panel programmes on Radio 4 'You and Yours'. He is currently a freelance broadcaster and his work includes presenting personal finance programmes. He is a member of the Mortgage Code Compliance Board.

## **Vinod Kumar**

Vinod is a social scientist with market research skills and extensive voluntary and public sector experience of policy analysis and research. Until recently, he was Head of Policy and Research at the Royal National Institute for Deaf People, and he has previously worked for the Commission for Racial Equality. Now retired, Vinod is currently Non-Executive Director of Barnet Primary Care Trust and a member of the Consumer Liaison Group of the Medical Research Council.

## **Nick Pearson**

Nick is the National Money Advice Co-ordinator for Adviceuk. A career spent in advice organisations including the National Association of Citizens Advice Bureaux where he was Manager of the Money Advice Support Unit, he has particular experience of credit, debt and personal finance issues and of working with vulnerable consumers.

## **Paul Salvidge**

Paul is a former senior civil servant with experience of regulatory work, employment law, competition, consumer protection, telecommunications, financial services and company law. He was previously Competition Policy and Consumer Affairs Director at the Department of Trade and Industry.

## **Richard Smethurst**

Richard is Provost of Worcester College, Oxford University; previously a non-executive Director of IMRO, he chaired their Training Standards Panel. He has served as an economic adviser in Whitehall, and on the Monopolies and Mergers Commission, where he was Deputy Chairman.

## **Dave Watts**

Dave is a partner in a media business, which is involved in publishing, editing and journalism - personal finance plays a large part in this. He is a former editor of Which? and Money Which? and former Assistant Director of Consumers' Association. He was also a policyholder representative on the Insurance Brokers Registration Council for nine years.

## **How to contact the Panel**

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