

Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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Our ref: BC Review 2007/KW

Dear Mike

BANKING CODE REVIEW 2007

Thank you for attending the Working Group meeting along with Robert Skinner and Paul Ross on January 24th to explain the background and purpose of the 2007 Review of the Banking Code. The Panel welcomes the opportunity to respond to your review.

Whilst the Panel has supported the Banking Code as presently constituted in the past we have become disappointed that recommendations made to previous Reviews have not been, in our opinion, adequately dealt with or acted upon. Some of the issues raised by the Panel at that time continue to give rise to widely publicised criticism of the manner in which banks operate. This has led us to the conclusion that the Banking Code requires some important changes to make it a better fit with the rest of the regulatory environment. We have set out below a twelve point plan for bringing the Banking Code back into line with consumer expectations and the rest of financial regulation.

1. The Principle of Fairness

The Panel's first and overarching concern is that the Code provides a lower standard of 'fairness' than both the FSA and the Financial Ombudsman. The Code sets fairness only within the context of the standards set out in the Code, and this restricted definition of what constitutes fairness - in the basic commitments of the Code - is too narrow. The 'Guidance for Subscribers' does suggest that fairness should be interpreted in the light of a number of different pieces of legislation, but a serious omission from this list is the Financial Services Authority's (FSA) Treating Customers Fairly (TCF) initiative, which Code subscribers will in any event have to follow for other aspects of their regulated business. It is inexplicable why lower standards should be set for banking business than for say general insurance, due to arrangements whereby the FSA does not intervene in standards of conduct because of the Code's existence. The bar for the banking industry should be raised to the same level as other FSA-regulated industry sectors.

The Panel believes the Code should adopt the more all-encompassing concept of fair treatment used by the FSA. The Panel feels strongly that adopting the FSA

approach would lead to greater protection for consumers, and certainly be more in keeping with the FSA's move to more principled-based regulation. The Panel also believes that this would be an important step in terms of addressing the growing levels of mistrust, although small but significant, in the function and operation of parts of the retail banking sector.

2. Basic Bank Accounts

In its 2004 response the Panel drew attention to the issue of basic bank accounts. Whilst the Panel accepts that banks and building societies must meet legal requirements when opening any account for new customers, more needs to be done to help vulnerable members of society access financial services. A recent press report outlined how a senior director of a retail banking division found it took over an hour to open a bank account. While this may be seen as an 'one off event' with implications for that particular bank's staff training, there is a more serious message; if a 'banking insider' faces such difficulties and delays, how do we expect vulnerable customers or those with low financial capability skills - the very people we want to be part of the banking system - to open accounts. Given the political priority (Financial Inclusion Taskforce) to halve the number of unbanked in the next three years the Panel recommends that appropriate steps are taken now to help those consumers who wish to open basic bank accounts. In particular the Panel would like to see:

1. improved staff training;
2. better awareness and understanding of vulnerable consumers' needs and expectations;
3. better information and display of basic bank account literature;
4. better understanding of ID requirements; and
5. no long delays in opening basic bank accounts (time limited).

3. Closing Bank Accounts

The Panel also has concerns about the treatment of consumers when they come to close bank and credit card accounts. We note the Code sets out a specific time frame for such closures. The Panel would like to see clearer guidance given to consumers on their rights when this commitment is not met and also for the Banking Code Standards Board to take tougher action against its subscribers when they fall down in this - or any other - area.

4. Unsolicited Credit Card Cheques

The Panel remains concerned about the mailing of unsolicited credit card cheques to consumers which actively encourages them to incur high interest rates when paying day-to-day bills. The Panel suggests that consumers should always have to "opt in" to credit card cheques, rather than being automatically offered them. The Panel would also like to see a clearer definition of what constitutes fairness with regard to these cheques. The Panel is aware of a particular mail shot, sent out to customers by one subscriber in the run up to Christmas 2006, which actively encouraged customers to pay basic household bills with the cheques which carried an interest rate ranging from 25.94% to 34.94%. The Panel questions how such action could

ever be construed as right in the context of treating customers fairly.

5. Increasing Credit Limits Without Permission

Equally the Panel would like to see the practice of raising credit limits on overdrafts, personal loans and credit cards, without customers' first giving permission for an increase, banned. The Panel believes the act of potentially taking on more debt should be a conscious one on the part of the consumer and that they should not find the level of debt they had accepted being surreptitiously raised.

6. Notice of Charges

The Panel believes the Code should require a 30 day notice period before adding charges to an account as opposed to the current requirement of only 14 days. Noting the recent action by the Office of Fair Trading on default charges applied to credit cards, and that of the FSA on mortgage exit fees, the Panel would like to see a requirement included in the Code that bank charges must represent the actual cost to the bank in applying them. The Panel understands that the Code is not able to address issues of an economic or commercial nature which may affect the competitiveness of subscribers. But the Panel does not feel such a requirement would in fact be an economic constraint as it would still allow for banks to compete with one another insofar as charges are concerned, at the same time as providing a much fairer deal to the consumer.

7. Statements of Interest Rates

The Panel would also like to see the code requiring all banks to state clearly on all statements, including those on internet accounts, the rate of interest charged. This is the price consumers are paying and price is an important driver for competition which in turn helps to produce an effective market place. It is not fair on consumers to hide the price away or to make it difficult for consumers to see what they are paying for their borrowing.

8. Enforcement

Turning to enforcement the Panel believes that more could be done to ensure compliance with the Code if the BCSB regularly analysed complaints dealt with by the Financial Ombudsman Service.

9. Consumer Code Awareness

In addition the Panel believes that the Code should be made more visible in subscribers' branches and that every effort should be made to ensure that consumers are made aware of it. The use of leaflets, summary sheets and the traditional 'hard copy' of the Code are useful but more attention should be given to the dissemination of information about the Code that engages with young people, the elderly and more vulnerable consumers, including the use of targeted mediums to reach these groups.

10. Financial Exclusion

The Panel would also like to see the Code strengthened on the issue of Financial Exclusion. Financial inclusion is more than just having a bank account and if customers, irrespective of income or circumstances, are to be treated fairly as potential new customers for the bank, the Code could be more forceful in the way it directs its members to engage and service this group.

11. Service Levels

The Panel would like to see the Code set out clear service and conduct levels for companies employed by its subscribers to deal with their customers, and in particular debt collection agencies. The Panel appreciates that the Code subscribers are fully entitled to collect what is owed to them but it feels strongly that customers experiencing severe financial distress should be treated with all due consideration and respect, to the same standards as laid down in the Code itself.

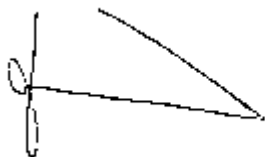
12. Governance

Finally the Panel is very concerned over what it sees as governance issues. Codes such as this may become more important in the FSA's move to a more principles-based regulatory approach, and it is therefore of vital importance that reviews are conducted in an open way and that proper consumer consultation is seen to take place. I referred earlier to the Panel's disappointment following previous reviews that many of its concerns were not accepted.

The Banking Code is 'owned' by its sponsors, who appoint the independent reviewer and ultimately decide whether or not his recommendations are taken on board. In the new regulatory climate the Panel feels this may not be a sustainable model, and would prefer to see the independent reviewer being at the very least approved by the FSA.

It should also be noted that current proposals suggest the FSA will in fact need to 'approve' or confirm the Code which the Panel feels will itself raise the bar for the standards expected of banks in future. The Panel would welcome the opportunity to discuss these issues with you further if you feel that would be useful. Please contact the Secretariat if you wish to arrange a meeting to discuss this response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Howard'. The signature is written in a cursive style with a large, sweeping flourish that extends to the right.

John Howard
Chairman
Financial Services Consumer Panel