

BOCA REVIEW

Representing UK alternative lenders

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‘Onwards and Upwards’ Conference

Hyatt Regency Hotel, Birmingham
Wednesday 24th September 2014

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FCA Price Capping Consultation

Publication looming

By the time you read this, it may well be the case that the Financial Conduct Authority (FCA) has published their price capping consultation paper. It was certainly scheduled for release in mid July given that they were working to a particularly tight timescale – lenders will need to implement the cap by 2 January 2015! Prior to the publication of the consultation, we, along with other relevant trade associations have been providing feedback and perspective to the FCA through our attendance at a number of price capping working groups held at Canary Wharf.

MEMBER MEETING – DATE FOR YOUR DIARY

In light of its anticipated release date, we will be hosting a meeting to seek feedback from members on the contents of the consultation on 5 August 2014. To register for the event, please contact info@bccca.co.uk. Alternatively members can submit their feedback to us on email, at the same address no later than close of business on **Friday 22 August**.



WELCOME TO

REVIEW

A note from our Chairman

“Welcome to the Summer 2014 edition of Review. I feel that I have some very big shoes to fill, not only with the writing of this introduction - which our Chief Exec Rachael Corcoran normally pens - but also in my new role as Chairman, having taken over from the recently retired (but actually, not quite retired!) Geoff Holland.

Rachael is currently on maternity leave, having worked tirelessly up to the middle of June. I think this is a great opportunity to acknowledge some of the fantastic work Rachael has accomplished, not only on her own, but through her team, as well.

When you consider the significant impacts that a change in regulator, the ‘closing of the ranks’ by the banks, and the intense media scrutiny our industry has been exposed to in such a short period of time, you can appreciate how difficult it can be to navigate through such turbulent waters. However, over the past several months Rachael has been working closely with the FCA, Consumer Groups, the CMA, and HMRC on a number of important issues (new FCA rules, Price Capping, Thematic Review, Real Time Data Sharing, and CMA Market investigation, to name a few). Having been involved in a few of these myself, I can say how proud I am to represent BCCA, knowing that our Association is listened to and respected. Much of this is due to Rachael, and her measured approach to dealing with contentious and complex issues, all the while ensuring members’ best interests are at the forefront.

It’s one thing to be able to hold your own when involved in such situations, it is another thing entirely to be able to take the vast amount of information and channel it into a format that members can easily digest. I am sure that anyone who reads the weekly edition of Insight would agree that they are kept very much ‘in the loop’ regarding the current state of play. Furthermore, Rachael and her team have been able to develop and deliver a number of excellent training courses on some very key issues. With a very keen focus on being regulated by the FCA, members are given a helping hand through these training courses, which are also CPD accredited (which will make the regulator even happier!).

Although she won’t be attending this year’s Conference in September, Rachael will be there in spirit, as she made it a priority to ensure the entire event was organised before her departure.

So it goes without saying that I would hope you would join me in not only wishing Rachael the best of luck as she has her second child, but also thanking her for leaving the Association in such a strong position until her return.

And so on to Geoff. Geoff Holland’s expertise in consumer credit extends some 40 years, having specialised in consumer credit law and the consumer finance industry from the introduction of the Consumer Credit Act in 1974. Geoff also had a long and successful career in Trading Standards, and his relationship with the Office of Fair Trading goes back to its creation in the mid-1970s, which has served BCCA well.

As a nationally acknowledged expert in consumer credit, BCCA has been lucky to have had unfettered access to Geoff’s wealth of experience, insight and wisdom. Geoff was BCCA’s Chief Executive from 2004 to 2010 and was Executive Chairman from November 2012 until May 2014, and he will truly be missed. Luckily, Geoff has agreed to work with BCCA on a consultancy basis, as and when his expertise is required. Thank you Geoff, for your unflinching support, and we will try not to bother you too much!

And now back to business: July 1 has seen the new HCSTC rules come into effect, and although we don’t expect any surprises over the summer, there are still the issues of price-capping and real time data sharing to deal with. As always, we will endeavour to keep you abreast of any and all developments, so you and your businesses can stay ahead of the curve and ensure you are well positioned for the future.

I strongly encourage those of you who have not yet booked for the Conference on September 24 to do so as soon as possible. It will be a great opportunity to network, listen to some great speakers, and leave with a very strong sense of where the industry is heading.”

Richard Fuller



New rules for high cost short term credit – a reminder

We asked Ray Watson of Walker Morris LLP to remind you of the new rules surrounding High Cost Short Term Credit.

“On 1 July a set of new rules was introduced by the FCA which apply to suppliers of high cost short term credit (HCSTC). The definition of HCSTC which the FCA uses is:

“a consumer credit agreement (excluding bill of sale loan agreements, overdrafts and home credit loan agreements); which is not secured by a mortgage, charge or pledge; where the APR is 100% or higher; and either (i) advertising indicates that the credit is short-term (or provided for up to 12 months) or (ii) the credit is due to be repaid or substantially repaid within a maximum of 12 months from the date on which the credit is advanced.”

Clearly these rules will apply to many BCCA members and this note sets out what the rules mean and what lenders who are affected should be doing to ensure they comply.

The New Rules

The rules that came into effect on 1 July are set out in full in the CONC rulebook and lenders are advised to read those rules so that they are fully conversant with the requirements placed upon them.

In short the rules impose a limit of the number of times a loan can be rolled over to 2, a restriction on the use of continuous payment authority (CPA) to 2 and new controls on financial promotions.

The new requirements on HCSTC suppliers are:

- Before refinancing HCSTC a lender must provide an information sheet to the borrower. This sheet should be in the form of the arrears information sheet referred to in section 86A of the CCA with specific modifications which warn the borrower of the dangers of refinancing and failure to repay on time, advises them to prioritise the most important debts and points them to the availability of free debt advice.*
- A lender cannot refinance HCSTC (other than by exercising forbearance) on more than two occasions.*
- A lender must not attempt to collect (in whole or in part) a sum due for HCSTC if it has done so in connection with the same agreement for HCSTC on two previous occasions and those previous payment requests have been refused.*

In terms of the CPA restrictions, there is provision to disregard attempts made prior to forbearance being shown by a lender and for the resetting of the number of attempts where the lender has engaged in dialogue with the borrower, provided them with information which will aid the borrower in making an informed decision and the borrower has explicitly consented to having the number of attempts reset. Lenders should take note, however, that this is not simply a case of getting the borrower to say yes. They must follow the procedure required by the CONC rules and ensure that the consumer makes a free and informed choice and is not in any way pressurised or misled into agreeing to a resetting of the number of attempts.

What Lenders should do

In order to ensure compliance with the new rules, lenders should review their current practices and procedures in relation to the rolling over of loans and the use of CPA. Where current arrangements do not meet the new requirements it is imperative that lenders make changes as a matter of urgency so that they are fully compliant.

Lenders should also refer to CONC and ensure that the information sheets required to be given on refinancing of a loan are part of the lender's core documentation.

If lenders are in any doubt about what they need to do or have any questions about the relevant new rules they should seek advice. Advice can be provided by BCCA for its members or by any specialist consumer credit law firm.

It is absolutely imperative that lenders take the necessary steps now to ensure compliance. The FCA has a range of powers it can apply in the event of non-compliance and has made very clear that HCSTC is one of its regulatory priorities. The FCA will be monitoring compliance and has shown already that it is prepared to take swift and strong action against firms that do not comply.

So, don't take any risks. Compliance should be a priority at all times but especially now with new rules and a new regulator.”



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Real time data sharing

The right thing, for the wrong reasons

We asked our new Chairman, Richard Fuller of The Cash Shop, to examine the issue of “Real Time Data Sharing”.

“It’s June 2014, and the reality is sinking in: rollovers limited to 2; use of CPA limited to 2; financial ‘health warnings’ on all consumer credit promotions is imminent; you’d better be preparing for authorisation now! of course, PRIN, SYSC and GEN are all nicely boxed off, right? And oh - did we mention? There’s a price cap around the corner.

And if that wasn’t enough for the HCSTC industry (that’s ‘High Cost Short Term Credit’ for those of you [are there any?!], not in the know) to deal with, there’s another issue in the mix that hasn’t attracted quite as much publicity as the above-noted changes, but could certainly become a priority - very quickly.

It’s commonly referred to as ‘real time data sharing’ (RTDS). Its functionality is to provide lenders with ‘live’ data that will show a customer’s credit history up to that moment - including whether he/she has just accessed a loan from another provider. CRA’s and other companies are working feverishly to come to market with the ideal solution, but due to a variety of factors (could be a smaller player who hasn’t established a robust enough data set yet, or a solution that is not quite ‘real time’), it could be a while before the industry as a whole is presented with a choice of effective (not to mention, cost effective) options.

But let’s put aside that minor detail for a moment, and have a look at why RTDS has moved quickly onto the radar. Consumer groups have repeatedly said that real time data sharing would flag up customers who are accessing multiple loans and if lenders had this information, then they would think twice about lending. The implication is that this would solve one of the biggest problems over-indebted payday loan customers face. Also, the industry didn’t do itself any favours when a stunt by a firm specialising in Guarantor Loans exposed lenders who gave 8 payday loans over 3 days to one of its employees. And this was in March 2014, when everyone involved should have known better. So when consumer groups and the media are involved, the FCA is never far behind.

What the FCA expects is that Credit Reference Agencies (who are very competitive) need to work together, in conjunction with industry Trade Associations (whose respective members are very competitive) to come up with a RTDS solution that the vast majority of lenders will sign up for and use. And they are expecting this imminently. Realistically, the prospect of everyone working harmoniously to come up with a quick and effective technological solution that doesn’t currently exist is daunting, to say the least. And although the use of RTDS has not been formally mandated by the FCA, there is certainly a sense that unless the CRAs and the industry can come up with a realistic, acceptable solution in the coming weeks, it will be.

Let’s look, though, at who would actually benefit from real time data sharing: is it the responsible borrower? No. He or she wouldn’t be accessing multiple loans in the first place. Is it the irresponsible borrower? To a degree, but not in every instance. Certainly, a responsible lender would not issue loans it knows a customer couldn’t afford to repay. But if the irresponsible borrower encounters an irresponsible lender, there is nothing to stop the lender from lending even with real time data, so no help there. And of course the rules that are currently in place would mean that that lender wouldn’t be around for too long anyway if it habitually lent to customers with multiple loans.

Now let’s take things one step further. A proper affordability assessment would certainly ask a customer if he/she already has other HCSTC loans. If the borrower declares that they currently have other loans, then real time data sharing isn’t required. The lender can make a responsible decision based on the information provided by the customer. However, if the customer fails to disclose other loans, then she/he is obtaining money by deception, and is committing fraud. So who would benefit from real time data sharing in this instance? The lender, not the borrower.

So, to recap: real time data sharing would not provide any additional protection to legitimate borrowers who fully disclose their financial situation, but would protect lenders from irresponsible borrowers and fraudsters. Surely that’s a good thing, right? Absolutely. However, if that is the case, then it should be considered as an additional tool that lenders can decide to utilise if they want it, and if they can afford it. And with no meaningful benefit to consumers, it certainly should not be mandated for use by all lenders. Instead, let the CRAs compete to come up with the best, most affordable solution for lenders to choose from. After all, by all accounts they are working on something already, so instead of forcing a solution that may not be fully conceived and effective, let the process take its natural course so that we have a true, real time data sharing solution that lenders will want to have, and are not forced to have.”



Richard Fuller
Managing Director, Cash Shop Ltd.

Richard’s 20-year career in retail financial services includes 15 years with DFG Global Corp. (to March, 2008), where he served in various operational, functional, and senior management positions in both the UK and Canada. Since 2010 he has been Managing Director of Cash Shop Ltd., an 14-store chain based in Nottingham. Richard also serves on the Board of Directors of the BCCA.



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2014 Annual Conference & Dinner

“Onwards and Upwards”

Venue and date:

The event is being held at the **Hyatt Regency Hotel** in the centre of Birmingham on **Wednesday 24 September**. This is just a short, five minutes, walk from Birmingham New Street station, with its direct links to the rest of the UK. In addition there is a rail link from the International Airport into New Street. And the hotel is just ten minutes from the motorway network. An ideal location.

Conference:

Details of the speakers, and their subject, can be found in our conference programme highlights on this page. An excellent line up guaranteed to keep you interested throughout the day.

Annual Dinner:

In a change from previous years the Annual Dinner will be held on the evening of the conference, the night of 24 September. If previous occasions are anything to go by this will be a superb night, with first class food and service to go with the excellent company. This year we will be holding an auction of generously donated prizes to raise funds for the **Great Ormond Street Children's Hospital**.

The menu for the event is on page 10, so make your choice and complete the booking form on page 9, to secure your place.

Booking:

Alternatively to reserve your place at the conference and dinner you can access the relevant documents via our website, <http://www.bcca.co.uk/conference-2014.asp>, just complete and return to Lindsay@bcca.co.uk.

Hotel accommodation:

If you would like to be fresh for the conference, or relax having attended the dinner, we have negotiated a concessionary rate with the hotel for all delegates for the 23 and 24 September. This rate is being held until 23 August, so we strongly advise booking early to take advantage of the saving.

You can book your rooms by contacting the **Reservations Department** on **0121 643 1234** or by email to Birmingham.regency@hyatt.com. You must quote the booking reference **G-AP80** when reserving your accommodation.

Rates are inclusive of a full English breakfast when taken in the restaurant.

The hotel require a credit card to guarantee the booking along with the following details: Card number/expiry date/name, address & postal code of the card holder.

We look forward to seeing you there at both events.

Conference Programme Highlights

Registration

AGM - MEMBERS ONLY

Conference Opens

Chairman Annual Review

Clare Hughes - TLT Solicitors

Louise Marfany - Financial Conduct Authority:
Regulating Consumer Credit: "An Update from the
Financial Conduct Authority"

Leon Livermore - Trading Standards Institute -
"The future of consumer protection in the UK"

Peter Bristow - Financial Ombudsman Service -
"The ombudsman's perspective - what complaints tell us"

Brian Garcia - Her Majesty's Revenue & Customs -
"HMRC - A New Approach to Anti-Money Laundering Supervision"

Richard Willett - Croner Wolters Kluwer -
"What's Hot in Employment Law? "

Chairman's closing remarks



CONFERENCE BOOKING FORM

24 SEPTEMBER 2014

Tick appropriate box(s)	No. of places	Names of all attendees
Conference Only: Member: £120.00 <input type="checkbox"/> Non-Member: £240.00 <input type="checkbox"/>		
Conference Only: Affiliate Member: £120.00 <input type="checkbox"/>		
Annual Dinner: £90.00 per person <input type="checkbox"/>		
Conference & Annual Dinner: Member: £180 <input type="checkbox"/> Non-Member: £275 <input type="checkbox"/>		

Company name

Company address

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Please find enclosed a cheque for £

Please state any dietary requirements you have

Please make cheques payable to BCCA Limited. If you wish to pay by BACS email lindsay@bccca.co.uk for details.

It is important that you include a suitable reference when paying this way so that we may allocate your payment accordingly. Please tick if you wish to pay by bank transfer To secure your place; please pay at the time of booking. Please return this form, along with your cheque if applicable, to BCCA, Portal Business Centre, Dallam Court, Dallam Lane, Warrington, WA2 7LT. **Please note that refunds can only be issued 14 days or more before the events date.**

A gourmet experience

MENU

For the Annual Dinner we have a three choice menu for you to choose from:

STARTERS

Salmon Confit, Preserve Lemon, Herb Cheese and Baby Lettuce
∞
Chicken Galantine, Balsamic Vinegar and Rustic Bread
∞
Garden Lettuce, Pear, Goat's Cheese and Walnuts

MAINS

Sea Bream, Carrot Purée and Spinach
∞
Chicken Breast, Orzo Risotto and Pumpkin Compote
∞
Eggplant Lasagne, Mascarpone and Rocket Lettuce
(vegetarian option)

DESSERTS

Spiced Apple and Almond Tart with Vanilla Ice Cream
∞
Cinnamon Brûlée, Chocolate and Cranberry Biscotti
∞
Baked Vanilla Cheesecake and Cherry Compote

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MEMBERSHIP NEWS

www.bcca.co.uk

CPD Training

BCCA has become a member of the Continuing Professional Development ('CPD') Certification Service, and as a result the majority of our sector-specific courses and our conference on Wednesday 24 September at the Hyatt Regency, Birmingham are now CPD certified. The rest of our courses are currently being reviewed for accreditation.

This means that training course attendees can claim CPD hours which can be used to demonstrate their commitment to continuing professional development ('CPD').

Training is available to both members and non-members.

Can't make any of our training venues? We'll come to you!

A number of members have taken up the opportunity for us to come to their branch/ office and deliver our training to multiple members of staff at the same time. For group bookings for 8 or more we will also offer a discount on the per person cost. All that we ask is that our travel and subsistence costs (which are very modest) are covered. All receipts to prove expenditure will be provided post event but the training must be paid for upfront.

Coming soon!

In the next edition of Review, the pre-conference special, we will be launching a new free section devoted to new appointments and interesting news from our membership.

So if you would like to get your company's news out there in the public domain get in touch with Brian at brian@bcca.co.uk or by calling him on 01925 426092 and he will be happy to discuss the arrangements with you.

New Chairman

We are pleased to announce the appointment of **Mr. Richard Fuller, Managing Director of Cash Shop Limited** as our new Chairman. This followed the resignation of Geoff Holland, who had served as independent Chairman since mid 2012. With Richard's vast experience in both third party cheque cashing and short term lending in particular, we believe this is a sound appointment at a critical time for the industry.

Richard's 20-year career in retail financial services includes 15 years with DFG Global Corp. (to March, 2008), where he served in various operational, functional, and senior management positions in both the UK and Canada. Since 2010 he has been Managing Director of Cash Shop Limited, a 14 store chain based in Nottingham.

We're getting a facelift!

We're getting a facelift – We anticipate the new website will be completely launched before the end of July with the new version of Insight being launched early July.

As part of this revamp, we've got new branding which we'll be launching at the same time, it's much more contemporary and modern.

In the ever changing world of consumer credit, it's important not to stand still!

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The future of cheque clearing

Stuart Cole, Senior Business Analyst at the Cheque and Credit Clearing Company gives his views on the proposal to introduce legislation to speed up the clearing of cheque payments

Earlier this year the government issued a consultation that proposed to introduce legislation to speed up the clearing of cheque payments. In view of this we asked the Cheque and Credit Clearing Company for their views on the background to this significant change and how it may affect our members.

The Cheque and Credit Clearing Company (C&CCC) is a non-profit making industry body that is responsible for managing the cheque clearing system in the United Kingdom. As well as clearing cheques, the system processes bankers' drafts, building society cheques, postal orders, warrants, government payable orders and travellers' cheques. C&CCC has managed the cheque clearing system in England and Wales since 1985 and in Scotland since 1996.

"The first recorded cheques date back to the 17th century and evolved over many years as they became an established part of daily financial life. Cheque usage actually peaked in 1990, when 4 billion personal and business cheques payments were made, but since then cheque volumes have gradually fallen due to the growth of alternative ways to pay - particularly the growth in electronic methods of payment. Many commentators have, over the past few years, predicted that cheques would ultimately disappear, but with over 700 million cheques written each year, there is clearly an appetite for cheques to remain.

Historically there have been limited changes to legislation which govern the way cheques are processed and cleared - indeed some of the current legislation governing cheques dates back to the 1800's. Interestingly, a bank upon which a cheque is drawn still has the legal right to demand that they see the physical cheque prior to deciding whether to pay it or not. This means that cheques are currently physically transported from bank branches to central clearing centres where the details on the cheques are then read and confirmed. Cheque codeline data is sent across a secure network to the other banks but then the physical paper cheques themselves are exchanged as well. This means that it is a slow and labour-intensive process, but it has to be done this way because the current law requires it. Current legislation makes it impossible for banks to change to a new way of processing cheques. Add to this the fact that customers have to wait six working days before they know for sure that the funds are theirs and that the cheque they received won't actually bounce, and you can see why cheque usage has continued to fall.

But, if the Government has its way, all this is about to change.

In early March 2014, the Government announced a month-long public consultation programme which sought views from consumers, businesses, charities as well as financial institutions on how best to implement changes which would both safeguard the future of the cheque, but which would also speed up the

cheque clearance process. For the last two years the Cheque and Credit Clearing Company, the organisation which manages the GB clearing process, has been undertaking extensive research to try to find a method of clearing cheques which uses 21st century technology whilst at the same time protecting the future use of cheques for customers. A process known as cheque imaging - where images of cheques are collected and then transferred at a touch of a button - has been chosen as the preferred way forward. It is this process which the Government is proposing to introduce.

The changes should make a real difference to cheque users. Not only will it reduce the time it takes for a cheque to clear (in countries where cheque imaging already exists, cheques are cleared in two days), but it will also increase consumer convenience and choice of ways to pay in a cheque. While customers will still have the ability to pay in cheques at branches, cash machines, Post Offices or by post, some banks will also be able to offer customers the option of paying in cheques via smartphones or tablets. Customers will be able to photograph cheques they receive using a secure image app supplied via their on-line banking service and then send the images electronically to their banks for paying in and processing.

The Government is expected to report back on the findings of the consultation process shortly, as well as announcing possible changes to cheque legislation which will allow cheque imaging to become a reality."

Stuart Cole, Senior Business Analyst at the Cheque and Credit Clearing Company, commented: *"There is little doubt that the proposed changes will revolutionise cheque usage in the UK. It will not only put cheques firmly in the 21st century, but it will allow customers to still have the option of writing and paying in cheques exactly as they do now. We await the outcome of the public consultation process with great interest, but getting the necessary legislation changed will help the industry take a big step towards enabling cheque imaging to become a reality. There are still many hurdles to overcome before cheque imaging could be introduced in the UK. We will need to not only agree a timeframe to introduce any changes, but we will also need to continue to work with all interested parties to ensure that any reservations people may have about the new process are fully addressed."*

Stuart Cole is a professional engineer by trade who has long experience in operations management in manufacturing and also in the banking industry. He has worked in cheque clearing for NatWest and more recently as the Banking Operations Manager for the Bank of England. Whilst at the Cheque and Credit Clearing Company, Stuart has been heavily involved in the development of the cheque imaging programme.

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Personal Loan	Active	01/01/2015	31/12/2018	5.99%	£100.00	01/01/2019
Personal Loan	Active	01/01/2015	31/12/2018	5.99%	£100.00	01/01/2019
Personal Loan	Active	01/01/2015	31/12/2018	5.99%	£100.00	01/01/2019
Personal Loan	Active	01/01/2015	31/12/2018	5.99%	£100.00	01/01/2019

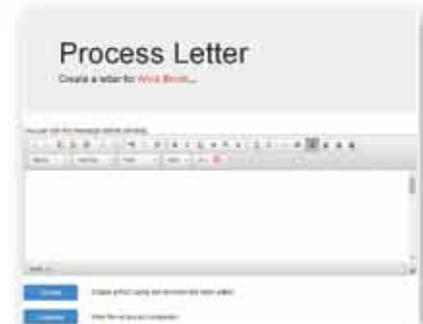
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Consumer Credit Complaints

Peter Bristow, Outreach Manager at the Financial Ombudsman Service explains the effect that the transfer of consumer credit to the FCA has on complaints

On 1 April 2014, regulation of consumer credit moved from the Office of Fair Trading (OFT) to the Financial Conduct Authority (FCA). BCCA members should by now have transitioned from being consumer-credit licensees regulated by the OFT to (interim) authorised firms regulated by the FCA.

Any BCCA member that hasn't obtained (interim) authorisation from the FCA shouldn't be carrying on any regulated consumer credit business – but they need to be speaking to the FCA about how they can become authorised.

FCA authorisation is important in its own right. But it also has some knock-on effects – not least relating to being covered by the Financial Ombudsman Service, the official body set up to resolve customer complaints that businesses haven't been able to sort out themselves.

Here **Peter Bristow, Outreach Manager** with the service, explains these changes and what they mean for BCCA members.

Has the Financial Ombudsman Service always been able to look at complaints about consumer credit?

“Yes – we've dealt with complaints about consumer credit products ever since we were established in 2001. Back then, that meant complaints about personal loans and credit cards provided by banks and building societies.

But the range of consumer credit issues we could consider expanded greatly as a result of the Consumer Credit Act 2007. This gave us a separate and distinct “consumer credit jurisdiction” over thousands of businesses holding individual consumer credit licences issued by the Office of Fair Trading (OFT).

Here the word “jurisdiction” means simply having the legal authority to consider – and decide the outcome of – certain specified types of complaint. Some BCCA members may have already had a customer's complaint referred to us under these arrangements.”

What do the recent regulatory changes mean for the ombudsman?

“The main effect of the changes of 1 April is that our “consumer credit jurisdiction” disappeared. Former OFT consumer credit licensees that applied in time became Financial Conduct Authority (interim) authorised firms – and so we now cover them under the same arrangements – our “compulsory jurisdiction” – as we do every other business authorised and regulated by the FCA.”

What about the “transitional provisions” that are currently in place?

“The “transitional provisions” in place since the regulatory changes allow us to finish working on complaints referred to us before 1 April – and also to look at complaints referred to us after 1 April but relating to events that happened before 1 April. These complaints now fall under our compulsory jurisdiction – although particular conditions apply in each situation.”

In the context of dealing with complaints, what does all this mean in practice for consumer credit businesses?

“As authorised firms, consumer credit businesses must follow the FCA's dispute resolution (“DISP”) rules about complaint handling. These are set out in chapter one of the Dispute Resolution: Complaints Sourcebook in the FCA Handbook (see <http://fshandbook.info/FS/html/FCA/DISP>).

*The requirements of “DISP 1” shouldn't come as too great a surprise to BCCA members. The Consumer Credit Act 2007 allowed us to make rules about complaint handling for consumer credit business covered by our consumer credit jurisdiction. And, very sensibly, we made rules that closely followed the rules already set out by the regulator. Our guide *The Ombudsman and Smaller Businesses* is a good starting point for those looking for an overview of what DISP 1 means in practice – see at http://www.financial-ombudsman.org.uk/publications/guides_for_firms.htm.”*

Will the ombudsman's approach to consumer credit complaints change at all?

“No, these are largely technical matters and in practical terms nothing is going to change that much for BCCA members. And certainly our general approach to resolving the disputes that consumers bring to us continues unchanged. So we'll continue to decide cases on the basis of what we consider to be the fair and reasonable outcome, while having proper regard to the relevant law, the FCA's rules (now including CONC), any relevant industry codes of practice and what we consider to be ‘good industry practice’ more generally.”

Where can I go for more information or support?

“There's a lot of information about what it means to be covered by the ombudsman in the guide for smaller businesses mentioned

above. Or have a look on our website – particularly the frequently asked questions for businesses at <http://www.financial-ombudsman.org.uk/faq/businesses/index.htm>.

We're also here to answer questions over the phone. If you're unsure about anything to do with the ombudsman – or a customer's complaint you're trying to sort out – please do call our technical advice desk on 020 7964 1400. This free service for businesses is available from 9am to 5pm, Monday to Friday. You can read more about it at <http://www.financial-ombudsman.org.uk/contact/tech-advice.htm>.

And if you'd like to meet us in person, each year we run meet the ombudsman roadshows all around the country. These are focussed specifically on the needs of smaller businesses that we usually have little or no contact with – because their customers don't refer many, if any, complaints to us.

You can ask us your questions – and we'll try to dispel any myths about the ombudsman that are still doing the rounds. Most importantly, we aim to equip businesses to deal better with complaints and to know what to expect if a customer asks us to step in.

We're already part way through this year's programme, but you can see if we're coming to a location near you at <http://www.financial-ombudsman.org.uk/news/events-industry.htm#b>

We very much want to share our knowledge of complaint resolution with businesses – so please don't hesitate to get in touch with us if you think we can help.”

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Three hot topics in employment law

Helen Watson, Head of Employment Law at Aaron & Partners LLP, highlights the latest developments in Employment Law which businesses should be aware of.

Acas Early Conciliation

“As part of plans to make the Employment Tribunal system more efficient Acas has launched Early Conciliation whereby prospective claimants are required to complete the Early Conciliation process before presenting a claim to the Tribunal.

Early Conciliation became mandatory for all claims presented to the Tribunal on or after 6 May 2014.

The Early Conciliation process begins when a prospective claimant, who is considering presenting a claim to the Tribunal, notifies Acas of that intention through an Early Conciliation form. The form can be submitted either online or by post.

Early Conciliation is for a one month period, to allow the parties to attempt conciliation. If conciliation is not possible, or the conciliation period comes to an end before settlement has been possible, Acas must issue a certificate to the prospective claimant to that effect. Receipt of this certificate enables the prospective claimant to submit a claim. Without the reference number on the certificate, a claim will be rejected by the Tribunal.

It is important to note that although the Early Conciliation process is mandatory, engagement in conciliation is actually voluntary. If either party decides they do not want to engage, Acas will simply issue the Early Conciliation certificate and the prospective claimant can continue their claim to the Tribunal.

Employment Tribunal Fees

In July 2013, Employment Law saw one of the major changes arising from the Enterprise and Regulatory Reform Act 2013 come into force with the introduction of fees in the Employment Tribunal.

The introduction of fees has been controversial, with several arguments that the regime limits claimants’ access to justice.

Two fees are payable to the Tribunal. The first is paid on issue of the claim and the second prior to the final hearing. The level of fees varies between types of claims and the number of claimants involved. However, in most cases, altogether fees are likely to be in excess of £1,000.

Following the introduction of fees last July, there was also the introduction of a remissions system (from October 2013) whereby individuals who wished to submit a claim to the employment tribunal could have their fees waived if they met certain criteria in relation to their financial situation. Essentially, whether or not an individual will be eligible for a fee remission is based on their capital assets and their gross monthly income. If an individual is in receipt of certain benefits, this can also assist them in obtaining a

remission/waiver of employment tribunal fees. Full details can be found at <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex160a-form-07-october-eng.pdf>.

New statistics have shown that between 29 July 2013 and 31 December 2013, a mere 24% of all remissions applications were granted by the Tribunal. It should also be noted that this figure includes remissions that were granted only in part.

This statistic is concerning as it accounts for just 5.5% of all claims submitted to the Tribunal during the relevant period. On introduction of the fees regime last year, it was originally anticipated that 31% of claimants would be eligible for fee remissions but the latest figures significantly depart from that.

We will await further updates on this topic, bearing in mind that the judicial review application against Tribunal fees was recently dismissed. It will be interesting to see whether these statistics spark a further application.

Case update: Holiday pay should include commission

Following a referral from the Employment Tribunal, the Court of Justice of the European Union, CJEU, held variable elements of pay should be included in an employees’ holiday pay in the case of ZJR Lock v British Gas.

Mr Lock was employed by British Gas as a salesman and was paid a basic salary together with a sales-related commission. This meant that the amount of commission Mr Lock received varied from time to time and was, at all times, subject to the sales he made. Whilst on annual leave, British Gas calculated Mr Lock’s holiday pay using only his basic salary, meaning that he lost part of his usual earnings.

Following a preliminary ruling by Advocate General Bot, the CJEU has found that whilst on leave, employees must be paid a comparable amount to what they would have earned, had they been at work. The CJEU held that the underlying principle of the Working Time Directive is to allow employees to take leave and that they should not be deterred from doing so due to financial considerations. The CJEU has however left national courts to decide exactly how holiday pay should be calculated to take into account variable elements of pay.

This is an important development for employers and employees alike. Although it may take some time for an amendment to the Working Time Regulations it is important to ensure that your business’ policies and procedures are compliant with this latest ruling.”

For further information and advice in relation to the latest developments in employment law, please contact Helen Watson on 01244 405565 or send an email to Helen.Watson@aaronandpartners.com.

BCCA Training & Events Plan for 2014

For booking forms go to: www.bcca.co.uk/training-courses-2014.asp

Date	Training	Member	Non-member	Length	Venue
30 July 2014	Anti-Money Laundering (inc financial crime)	£100	£150	10:00 -12:00	Holiday Inn – Newcastle
30 July 2014	Fraud Prevention (Sponsored by CIFAS)	£150	£225	13:00 – 15:30	Holiday Inn – Newcastle
6 August 2014	FCA Rules: FCA Handbook	£150	£225	10:00 – 12:30 (followed by lunch)	Windmill Hotel, Coventry
6 August 2014	FCA: Authorisation	£150	£225	13:30-15:00	Windmill Hotel, Coventry
18 September 2014	Assessing Affordability	£150	£225	10:00 – 12:30 (followed by lunch)	Windmill Hotel, Coventry
1 October 2014	FCA: Handbook	£150	£225	13:30 – 16:00	Active Securities Limited – London EC1
1 October 2014	FCA: Authorisation	£150	£225	16:30 – 18:00	Active Securities Limited – London EC1
19 November 2014	Third Party Cheque Cashing Compliance Training including Anti-Money Laundering	£150	£225	10:00 – 12:30 (followed by lunch)	Portal Business Centre, Warrington
3 December 2014	FCA Rules: FCA Handbook	£150	£225	10:00 – 12:30 (followed by lunch)	Portal Business Centre, Warrington
3 December 2014	FCA Rules: Consumer Credit Sourcebook	£150	£225	13:30-15:30	Portal Business Centre, Warrington
17 December 2014 (After Board Meeting)	'Mince Pies & Mulled Wine' Networking Event	Free	£10	14:00 – 16:30	Portal Business Centre, Warrington



Bespoke Training – BCCA is able to offer bespoke training courses developed for your business & delivered at your own premises. If you are interested in this service please give us a call on 01925426090 to discuss your requirements.

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