

CONSUMER ALERT

CLAIMS REGULATOR AND OFT WARN CONSUMERS ABOUT RISKS OF BEING MISLED OVER THE ENFORCEABILITY OF CONSUMER CREDIT AGREEMENTS

The Claims Management Regulator at the Ministry of Justice and the Office of Fair Trading (OFT) are warning consumers to think carefully before responding to businesses claiming that they can arrange for outstanding balances under loan, credit card and other consumer credit agreements to be written off and secure compensation.

Consumers are advised to seek independent advice before using the services of businesses that offer to find ways to render consumer credit agreements unenforceable. Businesses can only provide claims services if they are authorised and regulated by the MOJ under the Compensation Act 2006. Such businesses may also need to hold an appropriate OFT consumer credit licence.

Consumers may be asked to pay large up-front fees, often up to £500, for the businesses to review their credit agreements. Some businesses are claiming that many of these agreements are completely unenforceable, that consumers can have debts cancelled and claim back thousands of pounds. Consumers should think very carefully before committing themselves to making claims and handing over hundreds of pounds in advance to do so, even where refunds may be promised if the claim is unsuccessful.

Consumers with specific debt problems may wish to contact their local Citizens Advice Bureau who will often be able to provide advice free of charge. Free, impartial advice can also be obtained from the contacts at the end of this alert.

NOTES

Claims management regulation

1. The Ministry for Justice (MoJ) is the Claims Management Regulator in England and Wales. Ministry of Justice checks a wide range of information about businesses before authorising them; monitors the services the business provides; will take action against businesses that breach the rules, which could include suspension or cancellation of authorisation.
2. Authorised businesses have to follow strict conduct rules. They must not 'cold call' in person, or engage in any form of high pressure selling; give written information on how to pursue a claim and the costs involved before a contract is agreed; allow a 'cooling off' period of at least 14 days after signing a contract in case the consumer changes their mind; operate a customer complaints scheme that meets relevant criteria. All the rules governing the conduct and behaviour of authorised businesses can be found on the Claims Management Regulation website. www.claimsregulation.gov.uk. Enquiries about the regulation of claims businesses should be made to

Claims Management Regulation Monitoring and Compliance Unit
57 – 60 High Street
Burton-upon-Trent
Staffordshire
DE14 1JS Telephone: 0845 450 6858 / 01283 233309
Fax: 0845 450 6866 / 01283 233335
Email: info@claimsregulation.gov.uk
www.claimsregulation.gov.uk

OFT guidance

3. The Consumer Credit Act 1974 (the Act) requires companies who offer debt counselling/adjusting services to consumers to be licensed by the OFT. Businesses who are authorised by the MoJ to provide Claims Management Services will also need to be licensed under the Act if they engage in any debt counselling/adjusting activities, including the following:
 - advising on how to restructure debts, how to alter debt repayments or how to achieve early resettlement of debts
 - contacting creditors and/or negotiating with creditors, on behalf of the debtor, in order to make any of the above arrangements (whether that contact amounts to 'negotiation' or not)
 - providing a facility for the debtor to make a single repayment which is then distributed on his behalf to his creditors
4. Following implementation of the new licensing provisions by the Consumer Credit Act 2006 on 6 April 2008, a business applying for debt related licence categories will need to submit a Credit Competence Plan (CCP) as part of its application and should expect to be subjected to an on-site visit as part of the assessment of its competence to engage in this activity as the OFT considers such credit activity to be high risk.

5. From April 2008, licensed businesses can have specific requirements imposed on them if the OFT is dissatisfied with any matter in connection with the business. If such a requirement was not complied with, the business concerned could be subject to a financial penalty of up to £50,000. The OFT can also refuse or revoke a licence if it decides that a trader is not fit to hold one.

6. The OFT published Debt Management Guidance for licensees in December 2001. It applies to all those providing financial management services including commercial debt advice where the debts arise under consumer credit or consumer hire agreements. The Guidance sets out minimum standards of behaviour expected of licence holders engaging in the provision of debt management services, which seek to provide advice and to re-schedule customers' repayment of debt and charge for doing so. Key principles of the Guidance are transparency, acting in the best interests of the consumer and keeping the consumer informed. The Guidance states that advertisements and other promotional material must be accurate and clear and must not mislead, either expressly or by implication or omission. The spirit as much as the letter of the Guidance would apply to Claims Management Businesses where their activities relate to advising and/or otherwise assisting consumers with their debts.

Debt: Advice Organisation Contacts

CITIZENS ADVICE BUREAUX

Citizens Advice Bureaux give free, confidential and impartial advice on debt. Details of your nearest bureau can be found in your local telephone directory.

www.citizensadvice.org.uk

ADVICE UK

Contact independent advice agencies through Advice UK at:

Advice UK

12th Floor

New London Bridge House

25 London Bridge Street

London

SE1 9ST

Tel: 020 7407 4070 (National)

Tel: 020 7407 6611 (London)

www.adviceuk.org.uk

For agencies in Northern Ireland contact Advice NI on 028 9064 5919

www.adviceni.net

NATIONAL DEBTLINE

Free telephone helpline for people with debt problems. More information at:

Telephone: 0808 808 4000

www.nationaldebtline.co.uk

CONSUMER CREDIT COUNSELLING SERVICE

Provides free confidential service to help achieve realistic solutions to debt problems, avoid bankruptcy and learn to handle money. More information at:

Telephone: 0800 138 1111

www.cccs.co.uk

PARENTS, PENNIES AND POUNDS

Provides free confidential advice to families on debt and money management. More information at:

Telephone: 0800 652 07775

www.moneystuff.co.uk