



# Ministry of JUSTICE

## Claims Management Regulation Bulletin – No 4 (November 2008)

### Working with stakeholders

Close working with stakeholders has helped contribute to the success of regulation and our Regulatory Consultative Group (RCG) provides a forum for cross industry discussion on a range of issues that affect us all. The RCG is made up of representatives of other regulators, the insurance, finance and claims industries, trade unions and consumer bodies. Discussions with these organisations have ensured they have a clear understanding of the role of the Regulator and of the rules with which all authorised businesses must comply.

The organisations now represented are;

Advertising Standards Authority; Association of British Insurers; Association of Independent Financial Advisers; Association of Personal Injury Lawyers; Association of Payment and Clearing Services; British Bankers Association; British Insurance Brokers Association; Citizens Advice; Claims Standards Council; the Finance and Leasing Association; Financial Ombudsman Service; Financial Services Authority; Forum of Insurance Lawyers; Law Society; Legal Complaints Service; Legal Expenses Insurance Group; Motor Accident Solicitors Society; Office of Fair Trading; Solicitors Regulation Authority; Trades Union Congress and Which?

### Consumer Alert

The issue of potentially unenforceable Consumer Credit Agreements has led to a rise in the number of intermediary businesses offering services to consumers to bring claims against their consumer credit providers. We were concerned about the potential for consumer detriment in paying large upfront fees so we got together with the Office of Fair Trading to issue a [consumer alert](#) designed to encourage consumers to think carefully (and preferably to get independent advice) before signing up and making it clear that businesses can only provide claims services if they are authorised to do so.

### Fees Determination 2009-10

The consultation on the determination of fee levels for 2009-10 ended on 28<sup>th</sup> October 2008. Following the consideration of responses we will publish our conclusions and the final fees determination by the end of December. These will be published both on the claims regulation website and on the Ministry of Justice website at [www.justice.gov.uk/publications/consultations-with-response.htm](http://www.justice.gov.uk/publications/consultations-with-response.htm).

After the fees determination is published we will contact you to request the information we will need to determine your annual fee for 2009-2010. As part of this process you will need to provide your most up to date annual turnover. You should begin to prepare the relevant information as soon as possible so that you can respond quickly. Replies need to be back with us by the middle of January. *We will contact you by e-mail wherever possible, but if you require a hard copy, or do not receive anything from us, please contact us on the number at the foot of this bulletin.*

## **Rights of audience**

We have issued a revised guidance note concerning [submitting a claim at court](#) including information about rights of audience. This revised guidance reflects the provisions of the Lay Representatives (Rights of Audience Order 1999 (made under Section 11 of the Courts and Legal Services Act 1990) which provides for any person to exercise rights of audience in proceedings dealt with as a small claim in accordance with rules of court (the Civil Procedure Rules {CPR}). There is also provision in the CPR for recovery of fees/costs in limited specified circumstances (Part 27.14). In all cases when considering using rights of audience we would advise checking with the relevant County Court in advance of any scheduled court hearing.

## **Bank Charges Update**

On the 8<sup>th</sup> October 2008 the High Court handed down its decision in relation to unauthorised overdraft charges deciding that the banks' historic terms can be assessed for fairness under the Unfair Terms in Consumer Contracts Regulations 1999. However the court has not yet dealt with the issue of whether the relevant terms are actually unfair and the case is still on-going. An appeal hearing on an earlier judgment began on 28<sup>th</sup> October 2008.

Businesses in this market should continue to provide accurate information to potential and existing clients regarding the case – this can be done by clicking on these links to the [OFT](#) and [FSA](#) websites.

## **Impact of Regulation Survey**

It is now two years since the government introduced the Compensation Act 2006. We would now like to hear your views about the impact regulation has had on the claims management industry so we are inviting you to take part in a brief, on-line survey .

To take part please go to the [Claims Regulation](#) website, and use the link to access the survey from the Home page. It should take no more than 5 minutes to complete. If you can't access the survey on-line, but would like to take part, you can phone us and speak to a duty officer, who will complete the on-line survey on your behalf.

Please ensure responses are with us by end of December 2008.

## **What's new on the website**

The following guidance documents have been recently revised.

- [Who needs to be authorised under the Compensation Act 2006](#)
- [Marketing and Advertising Claims Management Services](#)
- [Marketing checklist](#) (included above and separately available)

The following guidance has been introduced.

- [Pre-Application FAQ's](#)
- [Post-Application FAQ's.](#)
- [Unfair Contract Terms Guidance for consumers](#)

The following forms are now available

- [Client account report](#)
- [Client account checklist](#)

Surveys

- [Feedback from ongoing business enquiries and applications surveys](#)
- Impact of regulation survey (see above) accessible via the [Home page](#)

### **And finally**

If you have received this bulletin by post, we do not have an e-mail address for you. Please let us have one as soon as possible.

#### **Contact us**

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