

## **Debt collection guidance**

## **Complaint evidence checklist for advisers**

A copy of the OFT's Debt collection guidance can be downloaded from the OFT's website at  
[www.offt.gov.uk/advice\\_and\\_resources/resource\\_base/legal/cca/agreements/debt-collection](http://www.offt.gov.uk/advice_and_resources/resource_base/legal/cca/agreements/debt-collection)

## DEBT COLLECTION CONSUMER COMPLAINTS

Advisers' complaints notified to OFT	Details OFT would find helpful
<p>1. Complaints generally</p>	<ul style="list-style-type: none"> <li>• Evidence tells chronological story from start to finish (similar to skeleton witness statement)</li> <li>• Copies of all adviser/client correspondence with debt collector (including client's signed authorisation for adviser to deal with complaint on their behalf).</li> <li>• Signed permission of <b>client (not adviser) - with complaint</b> - for OFT to disclose their details and complaint to trader. (This would speed up our investigations: avoid need to seek such permission subsequently).</li> <li>• Adviser summary (if possible) of likely Debt Collection Guidance (DCG) breaches, with evidence of contended DCG breach.</li> <li>• Any evidence of unfair business practices generally, eg non-compliance with other codes of practice (eg NSEA re bailiffs, CSA) <i>as well as OFT's DCG.</i></li> <li>• Supply updates on complaints, (Issue resolved? Debt written off? Situation changed significantly?) <i>particularly where OFT has requested permission to disclose.</i></li> <li>• Adviser's appreciation that OFT cannot provide legal advice or help individual complainants.</li> </ul>

## 2. DEBT COLLECTION GUIDANCE (DCG)

Advisers' Complaints notified to OFT- DCG breaches	Details OFT would find helpful
Frequent and/or threatening phone calls – 2.6a/2.6g	<ul style="list-style-type: none"> <li>• Dates and/or times of calls received.</li> <li>• Name, if known, of debt collector representative who made call.</li> <li>• Details of debt collectors comments (not just general contention of 'threatening and abusive' etc)</li> </ul>
Refusing to deal with adviser/contacting debtors directly and bypassing adviser - 2.8c/2.8d	<p><i>In what terms did adviser convey to debt collector that they were now acting on client's behalf?</i></p> <p>Adviser letter to debt collector - with signed authorisation by client - would be conclusive, especially if client authorisation worded to confirm:</p> <ul style="list-style-type: none"> <li>• Adviser is dealing with client's complaint <b><i>in full</i></b>, and</li> <li>• all future debt collector correspondence should be sent to adviser, and not the client.</li> </ul>
Pressurising debtors to pay in full, in unreasonably large instalments, or to increase payments when they are unable to do so – 2.6f.	<ul style="list-style-type: none"> <li>• What repayment offer was made?</li> <li>• Pro rata offer, as per offers to other creditors? And, if so, did other creditors accept?</li> <li>• Did client and/or adviser explain their situation via completed financial means statement? And, if so, what was debt collector's response?</li> </ul>
Statute barred debt complaints – 2.14	<p>Evidence that:</p> <ul style="list-style-type: none"> <li>• debt collector has: <ul style="list-style-type: none"> <li>○ threatened legal action, or</li> <li>○ continued to press for payment after debtor has stated they will not be paying because debt is statute barred</li> </ul> </li> <li>• debt is fully statute barred, eg not subject to any subsequent modifying agreement.</li> </ul> <p>NB. It is not illegal to seek to collect statute barred debts.</p>