



RAISING STANDARDS

DEMSEA

Debt Managers Standards Association Ltd

Code of Conduct

England and Wales Version

Introduction

DEMSA was established in 2000 in order to promote and ensure good practice in the debt management industry, and to protect the interests of the public and the creditors to whom they owe money.

Debt Management Companies (DMC's) act on behalf of borrowers to help them clear their debts. They do this by entering into direct negotiations with creditors in order to facilitate the repayment of debts. In return for their services DMC's may be paid a fee by the borrower.

The Code has been developed in consultation with lenders and DMC's and has been revised on a regular basis. DEMSA received approval of the Code from the Office of Fair Trading under its Consumer Code Approval Scheme, which scheme was superseded by the Chartered Trading Standards Institute (CTSI) Code Approval Scheme.

From 1 April 2014 the Financial Conduct Authority (FCA) has assumed responsibility for Consumer Credit, including the Debt Management sector and in the latest revision of the Code full cognisance has been taken of the FCA Principles, Rulebook and Consumer Credit Source Book.

The aim of the Code, and that of DEMSA, is to encourage DMC's to provide services of the highest standards of fairness and the best possible outcome for their clients, and to provide a high level of protection to the consumer.

Availability of the Code

All members of DEMSA must make available full details of the Code to consumers, on request, and without charge and should ensure that all clients receive information regarding DEMSA and the Code of Conduct at the initial point of contact.

The Code is also available directly from DEMSA either by post or via its' website.

Membership of DEMSA

DEMSA has several classes of membership, including that of firms who have no direct dealings with debt management plans and thus fall outside the terms of the Code.

Classes of membership are:

- Full Members:- Those firms that provide a full debt management service, holding and distributing client monies
- Affiliate Members:- Those firms that provide a full debt management service, but with less than 500 plans
Those firms that provide debt counselling and advice services, but who do not hold and distribute client monies
Those firms that provide leads and introductions to debt management companies

Associate Members:- Those firms who conduct a proportion of their business in or in relation to the debt management industry but who do not offer advice or counselling.
Those firms who are suppliers of goods and services to the debt management industry

Members who provide debt management plans have to demonstrate that they are able to comply with the standards and requirements set out in the Code, and they undertake to comply in all aspects. These requirements apply to both Full and Affiliate Members where applicable.

Members must have full authorisation granted by the FCA and where a new member has only limited or interim authorisation their business model will be assessed by DEMSA before joining.

DEMSA monitors compliance with the Code and outcomes achieved as outlined later in this document

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1. Compliance with Statutory Regulations

Members must be authorised appropriately and carry out their business in accordance with the requirements of the FCA Rules which include, inter alia, The FCA Principles, the Consumer Credit Sourcebook, the FCA Handbook and the Clients Assets Sourcebook and the Consumer Credit Act 1974, taking account of the reforms introduced by the Consumer Credit Act 2006.

Members must also comply with any other regulations which may apply, including the Data Protection Act 1998, Consumer Protection Act 1987, Financial Services (Distance Marketing) Regulations 2004, Unfair Contract Terms Act 1977, Unfair Terms in Consumer Contracts Regulations 1999 and any further enactments thereof.

Members must ensure that there is clear disclosure on website, letterhead and collateral related to consumer credit activity that the firm is authorised and regulated by the Financial Conduct Authority. DEMSA will undertake periodic sweeps of disclosed member websites and collateral used in customer acquisition and customer relationship management.

2. Aims of the DEMSA Code of Conduct

Underpinning all of the FCA Rules are 11 **key principles**. In order to support principles – based regulation the FCA have introduced a “Treating Customers Fairly” (TCF) initiative. The DEMSA Code is principle based and outcome focussed and is aimed at giving members the tools to achieve the six TCF outcomes and that they have a clear culture and governance framework achievement of these objectives.

3. The FCA 11 Key Principles

1. **Integrity** – Conduct its business with integrity
2. **Skill, Care & Diligence** – conduct its business with due care, skill and diligence
3. **Management & Control** – take responsible care to organise and control its affairs responsibly and effectively, with adequate risk management systems
4. **Financial Prudence** – maintain adequate financial resources
5. **Market Conduct** – Observe proper standards of market conduct
6. **Customers’ Interests** – Pay due regard to interests of its customers and treat them fairly
7. **Communication with Clients** – Pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading
8. **Conflicts of Interest** – Manage its conflicts of interest fairly, both between itself and its customers and between a customer and another client
9. **Customers: Relationships of Trust** – Take responsible care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely on its judgement
10. **Clients Assets** – Arrange adequate protection for clients assets when it is responsible for them
11. **Relations with regulators** – Deal with its regulators in an open and cooperative way, and must disclose to the FCA appropriately anything relating to the firm of which the FCA would reasonably expect notice.

4. Treating Customers Fairly Outcomes

The FCA's expectation is that a firm will know its customers and treat them individually, based upon their specific circumstances, in other words –

TCF is about treating customers fairly – not all the same

The TCF Outcomes

1. Consumers can be confident that they are dealing with firms where the fair treatment of customers is central to the corporate culture
2. Products and services marketed and sold in the retail (B2C) market are designed to meet the needs of identified consumer groups and are targeted accordingly
3. Consumers are provided with clear information and are kept appropriately informed before, during and after the point of sales
4. Where customers receive advice, the advice is suitable and takes account of their circumstances
5. Consumers are provided with products that perform as firms have led them to expect and the associated service is of an acceptable standard and as they have been led to expect
6. Consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint.

The DEMSA Code of Conduct requires that all members fully accept these requirements and that they adopt the best possible practices in order to comply.

When a member is fully authorised for the permission of debt counselling and/or debt adjustment they must promptly fulfil their regulatory reporting requirements by registering on GABRIEL and ensuring that the appropriate reporting forms are submitted when due, as set out in the SUP part of the FCA Handbook

The Code requires members to pay attention to the following areas:

5. Acquisition of Clients

All members must be fully aware of the FCA Perimeter Guidance, in particular chapter 8 – Financial Promotions and related activities

a) Lead Generation or other Agent Introducers

Members may source business from third parties to whom referral fees/commission may be paid. Members must take responsibility for ensuring that the providers of third party leads are appropriately authorised (if applicable). Where such providers are not directly authorised the FCA requires that the receiving firm has this responsibility

Members must undertake appropriate due diligence on all introducers supplying, or wishing to supply them leads and should renew this on a regular basis.

b) Marketing, Advertising and Publicity

Members must ensure that their advertising or promotional material, whether by newspaper, TV, Radio, website or any other media form, including text, SMS and electronic mail:

- Is clear accurate and truthful, and does not in any way mislead either expressly, or by implication or omission
- Complies with all regulations and guidelines in force from time to time
- Must not, in any way, represent themselves as offering a free to consumer or government sponsored service
- Includes reference to their membership of DEMSA and their adherence to the DEMSA Code of Conduct
- Any direct marketing undertaken by way of email, SMS, MMS, telephone, fax or post complies fully with the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003
- Members must have a search engine optimisation strategy that should clearly define what key phrases should be targeted, and should be mindful of other influences e.g. third party blogging, content writing etc.
- Bidding on phrases which might lead the consumer to believe that the solution is being provided by a free to user or government approved should not be used. Members must monitor inbound links from third parties to ensure that inappropriate phrases are not used to link these sites.
- Use of social media, marketing must be fully compliant with all appropriate guidelines. Ethical standards must be maintained and such marketing must not make any appropriate claims
- Members must not undertake any cold calling by personal visit for the purpose of promoting or selling debt management plans.

In the event of a member acquiring clients from an existing debt management provider by means of transfer or purchase of books such transfers must be lawful and compliant with FCA rules and principles and Data Protection requirements.

Buyers must ensure that all advice given and actions have regard to the customers' best interests, are based on reasonable and reliable assessments of the customers' financial position and circumstances, and that advice is also provided in a durable medium.

Sellers must treat customers fairly. They must ensure that their customers have a very clear view of the costs and benefits of the service provided and have a very clear view of the other options available, including free advice via the Money Advice Service. A full statement must be provided to each customer prior to the completion of the sale and transfer.

Buyers must treat customers fairly. Firms must not take any payments before a contract has been entered into and all customers must be provided with statement regarding the contractual options available to them.

Notice of any such transactions must be given to the FCA with at least 10 working days' notice.

6. Information to be provided to Consumers

Consumers must be provided with clear information and kept appropriately informed before, during and after the point of sale.

In particular Members must cover the following:

- a) It must be made clear that fees will be payable and details of such costs must be provided
- b) All fees charged must be fair and proportionate to the amount of work involved
- c) The nature of the service to be provided by the Member; the total cost to the consumer including any fees, the fees to be paid, the estimated length of the contract and the amount to be repaid.
- d) Clear information on the consumer's cancellation rights must be provided.
- e) The likely impact on the consumers credit rating, the fact that they might not be able to obtain credit in the short term, and that there is some likelihood that this ability will be affected in the medium to long term
- f) The importance of prioritising debts such as mortgage, rent, council tax and utility payments and any arrears, and ensuring that an appropriate allowance is made for these payments within any debt management plan.

7. Advice given by Members

Where consumers receive advice, the advice must be suitable and take account of their circumstances.

- a) Each consumers' circumstances are different and all advice must be given must be tailored to their particular circumstances.
- b) Members must, at each point of contact, ensure that the consumer is made aware of the availability of free advice.
- c) Consumers should be advised concerning all areas of his/her financial circumstances (including priority debts and income maximisation) and where suitable advice or service cannot be provided they should be referred to an organisation who can
- d) All advisers must have suitable training to enable them to deal with consumers
- e) All debt solutions available to consumers must be adequately explored in the advice process. This may involve geographical considerations
- f) Members must not prioritise one form of debt solution over another for any reason other than it being in the clients' best interests.
- g) Members must exercise all due discretion, in the best interests of the consumer, in deciding whether to accept a consumer on to a debt management programme, and must bear in mind that their debt management plans are not suitable for all debtors.
- h) A realistic, reasonable and robust assessment of the financial circumstances of the consumer must be made before any advice is given. Information provided should be verified
- i) A full review of the plan must be conducted on annual basis and in the light of any changed circumstances the advice given at the outset reviewed

8. Handling of Clients Money

Clients' money means money of any currency, whether in the form of cash, cheque, card payment, draft or electronic transfer which a member receives from a client, and which is not immediately due and payable on demand to the member firm for its own account.

Members must follow the requirements laid down in the FCA Clients Assets Sourcebook (CASS) and in particular must pay attention to the following:

- a) All clients' money must be held in separate, ring fenced bank accounts held with an approved Bank which has been acknowledged by the Bank as such that are not available for use by the member for the purposes of its own business
- b) All client account balances should be shown "off balance sheet" for accounting purposes
- c) Members must maintain accurate, up to date records that detail all client payments and written and oral contact with clients and their creditors
- d) Members must reconcile the total balances on all its client bank account with the total corresponding credit balances in respect of its clients on a regular basis and any discrepancies raised should be corrected immediately
- e) Members must pay clients monies to creditors within five working days of clearance
- f) Funds held on a Clients' Accounts which, for any reason have become unidentified or untraceable should be held in the clients account whilst efforts are made to trace the owner of the funds. If these funds remain untraceable they must continue to be held and advice sought from the regulatory body on their disposal.

9. Debt Management Services

Members must advise clients of the outcome of negotiations with creditors in a timely manner. This is not limited to the situation when creditors have refused to deal with members, or have returned payments, or have refused to freeze interest.

Where the service provided by the member includes debt repayment the member must:

- Conduct a realistic, reasonable and robust assessment of the consumers' financial circumstances including income, capital and expenditure. Verification of information should be obtained
- Establish the reasons for the customers' financial difficulties and whether these are likely to recur, thus impacting on any debt solution.
- In the assessment advisers must establish the nature of the customers' debts, including those that are high priority ie mortgage, rent, utility payments, taxes, child support and any arrears when calculating a monthly disposable income figure
- Customers should be warned of the consequences of failing to pay such priority debts
- Investigate any areas of expenditure which is outside normal parameters. Advisers must not reduce or amend the customers' figures to industry standard levels without good reason

- Advisers must bear in mind the level of assets held by the consumer and must ensure that customers are aware of the effect on such assets by them entering into a debt solution
- Establish whether there are any known or foreseeable changes expected in the customers circumstances eg retirement approaching, children reaching school age
- Advisers must not make unsubstantiated assumptions about future changes in circumstances eg assuming that circumstances will improve thus shortening the term of any debt plan
- Where the level of disposable income of a consumer is considered insufficient to service the monthly payment required, including the firms fees, a referral to a not for profit debt advice organisation must be made
- Reassess the payment plan and consider any necessary changes (including bringing the plan to an end) to ensure it remains in the clients best interests, as soon as it becomes aware of any material change in the clients financial position
- Repayment plans must be reassessed on at least an annual basis and the client informed of the outcome of any reassessment.
- Clients should at the outset be given a statement of how their money is being disbursed. In addition, where a plan has been agreed, the balance owed (or if an accurate figure is not known, the best estimate), the period of payment needed to clear the debts and the fee charged by the member must be included in the statement
- Members should respond promptly to any queries, requests for information and complaints promptly

10. Client Interests

- Members must act solely in the best interests of the clients.
- Members must not use any high pressure selling tactics and must ensure that any introducers of business to them follows all relevant guidelines
- Members must ensure that all clients are fully informed of the availability of free advice and made aware of the Money Advice Service by reference to its website.
- Members must exercise all due discretion, in the best interests of the debtor, in deciding whether or not to accept a debtor on to a debt management programme and must bear in mind that debt management programmes are not suitable for all debtors.
- A realistic assessment of the financial circumstances of the consumer must be made before advice is given. Verification of information given must be obtained in the form of pay slips etc
- Members must keep in strict confidence information given to them by their clients, excepting the disclosure of relevant information with the express consent of the client to the relevant creditors or exceptionally for the purpose of the independent investigation of a complaint.
- Members must advise clients on the importance of paying secured loans and prioritising debts

- Any advice given to the client to cancel direct debits and standing orders prior to a repayment plan being agreed with creditors must be demonstrably in the best interests of clients.
- Members must ensure that proper records are kept for all cases and that adequate electronic means of storage, capable of retrieval are in place. Data Protection Guidelines should be adhered to in all cases.
- It is the duty of members to be aware of and comply with the provisions for internal complaints procedures, set out by the Financial Ombudsman Service
- Members should have in place processes to record performance and outcomes of cases which should be used to monitor effectiveness and performance and service delivery.
- Members may sell clients other financial products but in all cases any such sales must be demonstrably in the clients best interests. (for example utility switching products which have the effect of improving the clients' disposable income)

11. Vulnerable Customers

Members must have in place policies for dealing with particularly vulnerable customers and deal with them appropriately.

Vulnerable customers include:

- Customers who disclose recent, significant medical problems
- Customers who disclose (or clearly exhibit) difficulties in understanding financial or legal issues – and who may need family support in such matters
- Customers who disclose recent bereavements or relationship issues that have contributed to their debt problem
- Customers with mental health conditions or where the firm may reasonably suspect the existence of a mental health condition.

Advisers must receive training in dealing with vulnerable customers and should be aware of the MALG “Good Practice Awareness Guidelines for helping consumers with mental health conditions and debt” and the DEMSA “Identifying Customers in Vulnerable Circumstances” guide.

12. Lenders

- Members must take all steps necessary and appropriate in order to provide lenders with accurate details about their clients' income and expenditure in order to allow the creditor to make an informed judgement about proposals for repayment
- Members must provide lenders with clear payment proposals endeavouring to ensure pro rata distribution of funds to creditors, excepting very small payments.
- If a client withdraws formally from a repayment programme, members must inform the relevant lenders within seven working days of such notice

13. Business Models and Corporate Governance

Members of DEMSA should have in place Business Plans which should outline their strategy and policies, including the following:

- How client feedback, local information, outcome information and other intelligence is used to develop services.
- That clients should be advised concerning all areas of his/her financial situation (including priority debts and income maximisation) and where suitable advice or service cannot be provided they should be referred to an organisation who can.
- That all advisers should ensure that all advice offered is demonstrably in the clients' best interests.
- Policies for complying with CONC 10 regarding prudential requirements and for the Maintaining of adequate financial and other resources.
- Laid down policies, including for confidentiality, file management and file maintenance, conflict of interest and customer care.
- Contingency Plans for risk, including business interruption, disaster recovery, unexpected increases or decreases in workload and HR issues.
- A commitment to a continuous process of staff supervision, training and appraisal and development.
- Remuneration policies that do not incentivise staff by giving disproportionately greater rewards linked to a particular solution. Incentive schemes, bonuses and other rewards should be based on outcomes and TCF objectives.
- FCA policies relating to Approved Persons and Control Functions must be fully observed and there should be no conflicts of interest within company structures

- Due regard must be paid to principle 11 and members must ensure that they give prompt and proper notification to the FCA immediately it becomes aware, or has information which reasonably suggests, a notifiable event has, or is about to occur. Such events include, but are not limited to a breach of threshold conditions, any matter which could affect the firm's ability to provide service, any proposed restructuring, reorganisation or business expansion which could have a significant impact on the firm's risk profile, any significant failure in a firm's systems or controls and any material changes to a firm's capital adequacy or solvency. Members must advise DEMSA of any such notifications
- Policies must be in place for dealing with vulnerable customers. DEMSA members must offer equality of service to any person, regardless of their race, creed, sex, disability or nationality. Members must have in place satisfactory provisions for dealing with vulnerable consumers who may include those who are disabled and/or disadvantaged in some way, for instance consumers with poor literary skills, including difficulty with reading/writing or understanding basic mathematics, or lack of knowledge about a complex product or service, or whose first language may not be English.
- Firms must have in place sufficient liability insurance to ensure that any claims against them may be met.

14. Compliance Oversight

Each member firm must have a designated officer responsible for Compliance Oversight registered for the CF10 role. This person should be advised to DEMSA.

15. Training

As part of the Business Model and Procedures members must have in place policies covering staff, and management training and development to ensure that best advice is given and that customers are treated fairly in all cases.

- All customer facing staff must receive adequate training
- All staff must be fully aware of FCA principles and requirements relevant to their position.
- All staff should be made aware of the DEMSA Code of Conduct and the requirements it places upon members.
- Members, and their staff must be aware of any updates or changes to regulations and guidelines which may affect their business.

DEMSA provides access to a number of training initiatives which, if adopted by members give full coverage of the various issues. These include:

- Access to the Institute of Money Advisers CertMap qualification along with continuing professional development.

- Online resource of training modules for individual members of staff
- Regular face to face training events
- Regular webinar events.

The range of training available is updated on a regular basis to take account of changes in the debt landscape and critical issues.

16. Member Redress and Complaints Procedures

Members must inform clients that they have a written internal complaints procedure which:

- Is accessible and user friendly, and readily available to all their clients and anyone wishing to make a complaint
- Must detail the steps the member will take to investigate complaints
- Must advise the complainant who will be responsible for investigating complaints
- Ensures a response which is fair and prompt (within 10 working days)
- Records and keeps details of customer complaints and of the action taken in response.

Where applicable, members must be prepared to cooperate with local consumer advisers, or any other intermediary consulted or engaged by the client in the event of any dispute.

Members must inform all clients of their membership of DEMSA and of the existence of the DEMSA Code of Conduct and DEMSA Complaints Procedure, to enable them to be aware of their rights and remedies if they believe the Code has been breached.

The clients' right to report a complaint to the Financial Ombudsman Service must be made clear and it must also be made clear that the DEMSA Complaints procedure in no way replaces the FOS scheme.

Members must not deny or impede a complainants' right to invoke DEMSA's complaints procedure or their access to the Financial Ombudsman Service

In addition to complaints lodged by clients and/or lenders, any action committed by a member which may be construed as bringing DEMSA into disrepute may be considered as a disciplinary matter.

17. Administration of the Code

The DEMSA Code of Conduct is supervised and administered by the Code Administrator who is the General Secretary of DEMSA, appointed by the Board.

The Code Administrator shall:

- Satisfy himself that members' trading practices and documentation comply with the Code
- Investigate any complaint whether Code related or not, and take such consequential steps as are required under the terms of this Code in accordance with the provisions of this Code
- Investigate, and if necessary, report to the Board any failure by a member to act upon any recommendation made by him to the member in consequence of a complaint
- Report any failure by a member to act upon any recommendation to the Board
- Review the content of the Code on an annual basis in the light of reaction to the Code and changing circumstances due to statutory and practical considerations.
- Provide an Annual Report on the operation of the Code and Procedures and ensure that this is circulated to interested parties.

18. Monitoring of the Code

In order to that member's performance against the Code may be monitored, members are required to:

- Participate in the DEMSA data gathering procedure which will provide information on key outcomes and performance against those outcomes.
- Provide such information, on a confidential basis, as DEMSA may request
- Participate in the Customer Satisfaction Survey organised by DEMSA by involving an agreed percentage of their clients in the survey
- Provide evidence of independent quality assurance checking of cases taken on and reviewed. DEMSA provides a QA service which may be used by members to satisfy this requirement.

In addition DEMSA will:

- Conduct regular sweeps of websites, marketing and advertising material
- Assess the compliance of new members applying for membership
- Assess the compliance of any member where this may be deemed necessary

- Provide consultancy support on a number of issues including QA Monitoring and Complaint Handling.
- Monitor and report on the level and content of complaints handled and intervene with members where appropriate.
- Provide regular reports back to members covering their performance measured against the Code.

19. Individual Voluntary Arrangements (IVAs)

All DEMSA members will be fully aware of the IVA process and in giving best advice to their customers they may recommend an IVA as a debt solution.

Insolvency Practitioners are not currently regulated by the Financial Conduct Authority and therefore not bound by FCA Rules.

DEMSA has a class of membership for IVA providers and this part of the Code has been included to address issues which arise prior to formal contract and approval of IVAs by the Court and aims to encourage the highest standards in the industry and to provide a high level of protection to the consumer.

An IVA is a formal scheme whereby debtors propose a full or partial repayment of their debts to Creditors, generally through an authorised Insolvency Practitioner. Creditors vote on whether to accept the proposal and, assuming the required majority is achieved, the scheme is binding. The scheme is approved by the Court, who appoint a Supervisor to administer the arrangement, in accordance with the Insolvency Act 1986.

This section should be read in conjunction with the Code but where the requirements of the Code do not apply to the operation of IVAs, as governed by the Insolvency Act 1986, may in that instance be disregarded. The clauses of the Code which do apply should at all times be observed by members when setting up an IVA.

The following are additional to the Code and apply specifically to IVA providers:

When advertising, marketing and giving pre-contractual advice on IVA's DEMSA members must not:

- Use statements such as “free of charge”, “at no cost to you because your creditors cover the costs” because they imply all money paid by the consumer goes towards paying off their debt, whereas a proportion of the initial payments (sometimes up to the first two years payments) is paid towards the practitioner’s fees.
- Claim that consumers will be debt free in five years, without explaining that although they will become debt free, the effect on their credit rating will last for six years.

- Use statements such as “up to 90% of your debt may be written off” when in reality the figure is nearer 60 – 70%.
- Claim they can guarantee a favourable outcome to negotiations with creditors, or that “creditors are happy to help” where in the case of an IVA, at least 75% of creditors by value need to accept the proposal for the arrangement to be accepted.

If listing benefits of an IVA other than stating its purpose for debt reduction, DEMSA members must not:

- Imply that fees are paid by the creditor or that the consumer does not pay any fees.
- Fail to point out that the consumer’s credit rating will be affected for six years and not just for the period of the IVA, which is generally five years.
- Fail to inform a home owner seeking an IVA that they may be required to remortgage their property during the term or obtain a remortgage to release the equity to pay off some or all of their debt.

When providing pre-contractual advice and information the consumer must always be given advice that is in their best interests and should include:

- A clear explanation of all available options open to them, such as bankruptcy, debt management and the availability of free advice.
- Awareness of the requirements and procedures involved in an IVA proposal.
- A clear explanation about the fee payable to the nominee and supervisor out of any repayments made
- Awareness of the implications of entering a IVA, namely;
 - If they are a home owner with sufficient equity they may be required to remortgage their home to release equity to repay some or all of the remaining debt
 - If the IVA failed this could lead to bankruptcy
 - Their credit rating would be affected for six years.
 - That the decision to accept an IVA proposal is entirely in the hands of the creditors.

DEMSA members providing advice and assistance with IVAs should abide by and keep up to date with all industry standards, guidelines and protocols.

20. DEMSA Complaints Handling Procedures

DEMSA has a laid down complaints handling procedure which is to ensure that any complaint of misconduct by a member is investigated fairly, efficiently and promptly. It is designed to ensure that, where necessary, appropriate steps are taken to afford proper redress to the complainant.

All DEMSA members subscribe to the Financial Ombudsman Service scheme and the DEMSA procedure is in no way intended as an alternative to this scheme. All consumers have the right to take their complaint directly to the FOS scheme.

Members of DEMSA are obliged to inform all clients of their membership of DEMSA and the existence of the DEMSA Code of Conduct prior to arranging a payment programme.

In the first instance a consumer should refer his complaint directly to the firm involved and should only refer onwards to FOS or to the DEMSA scheme when the complainant is not satisfied with the members' response.

DEMSA can only rule on complaints relating to breaches of the Code by a member. It will, however, where practical consider complaints of any nature relating to the conduct of a member, and will seek to assist in resolving the issues raised. Otherwise, it will direct the complainant to an alternative vehicle for resolving the complaint.

DEMSA also provides a complaints handling support service to its members whereby advice and assistance is given to members in dealing with complaints. Clearly the DEMSA Complaints Procedure can not be invoked in such a case where DEMSA had been involved in the initial handling of the complaint.

Complaints may arise from any of the following;

- A consumer complaint
- In consequence of a compliance audit
- Information received from customer satisfaction survey or mystery shopping
- A complaint from another DEMSA member
- A complaint from any other interested source, including (but not limited to) a lender

21. Complaints Procedure

- If the complaint is not initially made in writing, the Administrator will request that this be covered, by way of post or electronic communications.
- The Administrator will first determine whether the conduct in issue is Code-related. In the event that it is determined that it is not, this will be reported in writing to the complainant. This report will be sent to the complainant within 5 working days of receipt of the complaint.
- If the Administrator determines that the complaint is apparently Code-related, he will, (and if not Code-related, may) contact the member within 5 working days of the receipt of the complaint. The member is required to respond in writing within 10 working days, setting out their case, and how (if appropriate) the issue will be addressed under their internal complaints procedures.
- On receipt of the response from the member, the Administrator will determine whether or not in all the circumstances there is an actual Code-related breach.
- In the event that a Code-related breach is involved the Administrator will determine what action, if any may be taken against the member in breach and will advise the member accordingly in writing.

22. Disciplinary Action

The Administrator, and the Board, may take disciplinary action against a member in one or any of the following events:

- Material breach of the Code
- Repeated breaches of the Code
- Failure by a member to respond to any complaint or other allegation of misconduct within a specified time
- Failure by a member to address within a specified time by its own internal procedures a complaint by a consumer
- Regulatory action being taken against the member by the FCA

23. Sanctions Available

In the event of an established breach of the Code the Administrator and Board may invoke one or more of the following powers:

- A written warning
- A requirement that the member's documentation and/or procedures be amended within a specified period

- A direction that the member be subject to a report by an independent consultant
- A refund to the complainant of all or such part of fees already paid by the complainant to the member.
- Compensation to be paid to the complainant.
- Suspension from membership, either for a specified period, or until the Administrator and Board is satisfied that the matter giving rise to suspension has been fully rectified.
- Expulsion from DEMSA

24 DEMSA Duties and Responsibilities

It is a requirement of membership of DEMSA that members adhere to the DEMSA Code of Conduct in its entirety and DEMSA is charged by its members to:

- Establish the required standards and incorporate them into the DEMSA Code of Conduct
- Ensure that all members are fully aware of the requirements of the Code
- To regularly review and, where appropriate to modify and amend the Code
- To monitor, on a regular basis, adherence to the Code by members.
- To investigate any actual or potential breaches of the Code brought to its attention by any customer of a member either by way of a formal complaint or otherwise
- To investigate any actual or potential breaches of the Code brought to its attention by any other means
- To provide a means for determining allegations of breaches of the Code, and to take such action as is necessary.
- To ensure that reasonable time limits are set, and met, for the correction of any non-compliance issues.
- To liaise with regulators and to make members fully aware of their responsibilities in meeting their requirements.