

A VISIT FROM THE OFT NEED NOT BE DAUNTING

To ensure you comply with the new government regulations on debt collection agents you may well face a visit from the Office of Fair Trading, but as long as you are prepared, it can only be a positive thing for your company, and the industry as a whole

By Paul Thompson

The letter arrived recorded delivery in a simple brown envelope.

Visible within the address window was the official crest of the Office of Fair Trading (OFT).

Under any other circumstance it would have triggered an alert within the management team, but we were forewarned two days earlier by e-mail from the OFT that following our application for a licence they had 'certain requirements'.

The e-mail confirmed the new slick approach employed by the OFT's newly-established Consumer Credit Group, set

up to raise standards with regards to licensing debt collection agents (DCAs).

It was clear that the letter was carefully written. It was customer friendly, inviting, showed ownership. It actually listed a team manager, his e-mail address, and direct line. This is unusual as government bodies tend to hide behind long duty reference numbers and obscure titles.

On closer inspection it was evident that the new OFT regime's clear intention was to examine the very fabric and DNA of our business with a view to making sure we had the skills, knowledge

and competence to operate 'in the very high-risk area' to which debt recovery has now been determined, by Her Majesty's government. In essence the OFT intended to carry out a detailed audit.

The letter stated that a team would visit our premises. This immediately raised alarm bells – why a visit? Why a team? How many were in the team? What were they looking for?

The letter continued: "The OFT needs to confirm details provided by you in your application Credit Competence Plan, to assess your organisation's >>

>> competence to carry out each of the high-risk categories which you have applied for in order that consideration can be given for the licence to be issued."

It was at this point that the whole weight of the UK's bad debts from the credit crunch seemed to weigh heavily on my shoulders. The penny dropped; there is a real possibility that, under the new OFT regime, UK DCAs could end up not having a licence to trade.

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Times have changed

Back in 1997 when we started as a partnership, I simply filled out a two-page form, sent in a cheque and ten days later a consumer credit licence arrived.

Eleven years later the system had changed but so had the global and national world of credit. The fact of the matter is that, in December 2005, the UK's debt was £1.1tr.

The debt recovery business in the UK is now worth billions and with that comes unique problems. Debtors have become more educated in terms of their legal rights. Advocate groups and anti-debt recovery stakeholders have increased, and the internet is more widely used to cascade information to debtors, who are even provided with letter templates to combat each scenario they face.

This has resulted in debt recovery agents facing more pressure to deliver results both in terms of purchased

and contingency debt and the OFT's strategy to 'raise the bar' has come at the right time to ensure debt recovery agents have the knowledge, skills and competence within their hierarchy to meet the challenges of the emerging sophisticated debtors, many of whom within the consumer credit facet emerge from what sociologists label 'generation X'.

This socioeconomic group, born in the mid-1970s, sees nothing wrong in

buying a pair of designer jeans for £200 on credit without necessarily having the means to pay for it. The difference between debtors 11 years ago and the present is, 'Gen Xers' are educated, articulate and sophisticated; and usually come packaged with a university degree.

Preparation, preparation, preparation

Two OFT officers arrived promptly at 10.00am and inquisitively positioned themselves in our reception area.

We emerged from a family-run business, and our ethos towards debtors, clients and staff is very pastoral. The business has a long-standing tradition of collecting clients who visit by train, from Reading's rail station. The offer was made to the OFT but was declined – they chose to arrive by taxi.

Some on our management team read this as a 'bad omen', a way of laying the foundation to deliver bad news later on.

Weeks before the team had spent hours preparing the following:

- ◆ Policies and procedures relating to discipline, training and recruitment of staff.
- ◆ Policies and procedures relating to OFT debt recovery guidance.
- ◆ Complaint-handling procedures.
- ◆ Policies and procedures for fees charged to clients.
- ◆ Policies and procedures for the management of field agents, debt counselling agents and debt adjustors.
- ◆ Copies of telephone scripts – live and hard copy.
- ◆ Copies of standard-letters suites.
- ◆ Copies of collection processes.
- ◆ Policy for ensuring Data Protection Act 1998 compliance.
- ◆ Copies of certificates of staff-training courses and trade associations.

The meeting began with small talk about the weather. As chairman I set the scene by asking the OFT officers what they wanted to get out of the day.

They explained that although the business traded as a partnership, the current limited company application was treated as a new application. The result of this could lead to three possible outcomes:

- ◆ Issue a licence.
- ◆ Issue a licence with conditions.
- ◆ Refuse a licence.

We presented the OFT with a rather large, bound copy of the information they requested. They began at page one and commenced working their way meticulously through each page of the large document, poring over each detail, pausing to seek clarification on each segment. >>

>> It was an exceedingly painstaking audit, which required focus and was intellectually taxing.

Working to a framework

The OFT operates within the framework of a Consumer Credit Licensing Plan (CCP1).

Various sub-category applications encompassed debt collection, commercial debt counselling, commercial debt adjusting and commercial debt repair. Within a broad context skills, knowledge and experience are also assessed, along with business practices and procedures.

CCP1 also assesses competencies within debt collection, debt purchasing, tracing, enforcement agents, debt counselling, and credit repair, and is heavily evidence-based. To meet the standards, the OFT must see real evidence of activities which demonstrate skill and ability.

Back in 1997 when we made our application, we ticked nearly all the boxes on the application form, adopting a broad-brush approach and this was never challenged. The new OFT regime requires proof that DCAs are up to the job, and quite rightly so. For example, you would not expect to be issued with an HGV class 3 licence unless you were examined.

Even an MBA graduate such as me found it challenging – the standard has definitely been raised and, if they are not prepared, many debt recovery agents will be surprised when their licence is up for renewal.

After several hours the OFT officers finished their audit and requested a walk round the site which lasted about another hour. They sat with staff,

listened in on incoming and out-bound calls within the call centre. They looked at security and storage of data and hard copy files. We breathed a sigh of relief when they agreed to let us take them to the train station. Was this a 'good omen'? Let's not start that again.

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The results

Six weeks later we received an on-site visit report identifying strengths and weaknesses within our business. It was a balanced report, although they did omit some aspects of our debt-purchasing module.

I guess the annoying aspect of this is that we still had no indication at this stage as to whether we had qualified for a licence. We contacted the team leader and asked the question. He said, yes you guessed it: "You may have a full licence, or a conditional licence," but – wait for it – it was unlikely based on the evidence seen that we would be refused. Light at the end of the tunnel!

The team leader said the 'committee' was due to meet soon and he would get back to us.

Two weeks later, late on a Friday afternoon and true to his word, the team leader rang. "Mr Thompson, I am pleased to confirm you have a full consumer credit licence for the categories you applied for, without any conditions or endorsements." Result!

Conclusion

In summary, DCAs hold a lot of entrusted power and authority in the consumer

and business world, and with power comes responsibility.

Yes we are in business to collect debts, but as my CEO Staale Assaestrands says: "We must treat debtors fairly, we must not take money off them which is to provide food for their families, I will

dismiss any member of staff who crosses this line."

Finally a few tips for dealing with a visit from the OFT:

- ◆ Be open and honest – they are there to help your business. If you do not have a procedure in place, admit it, and work with them to implement it.

- ◆ Ask for clear definition on the standards they are looking for. Your idea of a process may be a few typed paragraphs, theirs may be a detailed flow chart.

- ◆ Limit the choice or categories on your licence application to what you essentially need to run your business. More categories mean more work, more audits and more evidence.

- ◆ The OFT is genuinely there to improve standards. See their visit as an opportunity to improve your business and to raise standards in our industry.

- ◆ Set up a project plan – do not underestimate the OFT's visit and the level of detail required. Forward planning may well prevent fire fighting if you fail to get your license renewed. **CCR**

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