



DEMSA

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received approval of the Code from the Office of Fair Trading under its Consumer Code Approval Scheme, which scheme was superseded by the Chartered Trading Standards Institute (CTSI) Code Approval Scheme.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:-**

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

DEMSEA CODE OF CONDUCT CONTENTS	page
1. Compliance with Statutory Regulations	5
2. Aims of the DEMSEA Code of Conduct	5
3. The FCA 11 Key Principles	5
4. Treating Customers Fairly Outcomes	6
5. Acquisition of Clients	6
6. Information to be provided to Consumers	8
7. Advice given by members	8
8. Handling of Clients' Money	9
9. Debt Management Services	10
10. Client Interests	10
11. Vulnerable Customers	11
12. Lenders	12
13. Business Models and Corporate Governance	12
14. Compliance Oversight	13
15. Training	13
16. Member Redress and Complaints Procedure	14
17. Administration of the Code	15
18. Monitoring of the Code	15
19. Individual Voluntary Arrangements (IVAs)	16
20. DEMSEA Complaints Handling Procedures	18
21. Complaints Procedure	19
22. Disciplinary Action	19
23. Sanctions Available	19
24. DEMSEA Duties and Responsibilities	20

## 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

#### 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 89.06 T-3.99 .06 T-3.91 0 0 1 108.c2



## 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



8.

Advisers must bear in mind the level of assets held by the consumer and

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 C ustomers

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

Due regard must be paid to principle 11 and members must ensure that they give prompt and proper notificati

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.

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 adv  
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.





## 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 enbi4 handling 1 90.024 443.47c364 443.47c364 443.47ct4( )-4e6( )TETBT1 0

## 21. Complaints Procedure

