

OFT/ DECC joint guidance for Providers

Disclosure and Acknowledgment Complaints: Circumstances in which suspension of the Green Deal charge should be considered.

Green Deal Providers which offer Green Deal Plans regulated under the Consumer Credit Act 1974 are expected to have regard to all relevant OFT guidance, including the Debt Collection Guidance (DCG) as last updated November 2012.¹

Paragraph 3.9(k) of the DCG states that unfair/improper business practices include “failing to cease debt recovery activity whilst investigating a reasonably queried or disputed debt when the debtor has, or appears as if he may have, valid grounds for the query or dispute”.

The OFT recognises that, in the case of the Green Deal, the Framework Regulations provide a procedure whereby an incoming bill-payer can dispute liability on the grounds that there was a breach of the disclosure and acknowledgment (D&A) provisions.

The Provider is required to handle the complaint in accordance with the Green Deal Code of Practice and the Guidance on Green Deal Sanctions and Appeals. In particular, the Provider must acknowledge the complaint and use reasonable endeavours to investigate the complaint.

In the OFT’s view, if the Provider is **satisfied**, following this initial investigation, that the D&A provisions have been, or are highly likely to have been, breached, the Provider should **suspend** collection of the Green Deal charge, in line with the DCG. Section 10.3 of the Green Deal Arrangements Agreement (GDAA) provides a mechanism enabling the Provider to set the Green Deal charge to zero by updating the Green Deal Arrangements Data on the Central Charge database.

This should apply even if the Provider subsequently refers the complaint to the Secretary of State, via the Green Deal Ombudsman and Investigation Service, for a formal decision with a view to obtaining compensation from the outgoing bill-payer.

The OFT would not however expect the Provider to suspend collection of the Green Deal charge in circumstances where there is **genuine doubt** regarding whether the D&A provisions have been breached, and hence whether the Secretary of State would find in favour of the complainant.

¹ www.oft.gov.uk/about-the-oft/legal-powers/legal/cca/debt-collection