

Introducing the 13th Code of Practice

Consumer vulnerability
Complaint handling,
and refund sanctions

July 2015

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Code of Practice

PhonepayPlus 

Overview of Code 13 seminars

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Upcoming seminars



SIGN UP TO SECURE YOUR SEAT

As we are approaching the launch of the 13th Code of Practice, we have organised a series of seminars to help you understand the changes involved and what you need to do to prepare for the new Code across the industry.

To sign up please email us at seminars@phonepayplus.org.uk

All three seminars will be held at the Phonepayplus office on the following dates, each lasting around 2 hours:

27th May 2015 (2pm) DDRAC seminar

This seminar will focus on Due Diligence, Risk Assessment and Control (DDRAC) and how strong DDRAC will assist with the enforcement of the new Code and improving compliance standards across industry.

24th June 2015 (2pm) Special Conditions seminar

This seminar will help PRS providers understand how these Special conditions will take effect, and be enforced under the new Code.

15th July 2015 (2pm) Consumer vulnerability, complaint handling requirements & refund sanctions seminar

This seminar will cover all other changes to the current Code, such as protection against consumer vulnerability and customer care requirements including a look at the new Complaint Handling guidance.

If you have any questions, please email us at seminars@phonepayplus.org.uk



Objectives of final seminar in series

- Consider recent regulatory developments addressing consumer vulnerability
- Consider what effective, accessible complaint handling processes may look like
- Introduce the new flexibility within refund sanctioning powers

Consumer vulnerability

- Developing concept across the regulatory landscape
 - Financial Conduct Authority 2015 report considered the following:
 - “Vulnerability can come in a range of guises, and can be temporary, sporadic or permanent in nature. It is a fluid state that needs a flexible, tailored response from firms.”*

Consumer vulnerability

- When to review existing vulnerability controls:
 - Promotional mechanics change
 - New service providers or agents involved
 - New products
- What impact do the changes have?

Rule 2.3.10 of the Code of Practice

- Rule 2.3.10 of the 13th Code states:
 - *“Premium rate services must not be promoted or provided in such a way that it results in an unfair advantage being taken of any vulnerable group or any vulnerability caused to consumers by their personal circumstances where the risk of such a result could have been identified with reasonable foresight.”*

Rule 2.3.10 of the Code of Practice

- Component parts of the provision and raising a breach:
 - Evidence of an unfair advantage being taken of vulnerable consumers
 - Not just groups such as children, elderly, visually impaired
 - Evidence this results from the promotion and/or operation of the service
 - Indication that the risk of this unfairness arising was identified, or could have been identified with reasonable foresight
 - Breach raised where appropriate to enforce the outcome of fairness



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Breakout:

- 1) What might cause a disadvantage to some members of the public over others when using PRS?
- 2) How do you identify issues impacting consumers in vulnerable circumstances?
- 3) What steps can be taken to respond to incidents where vulnerable groups appear to be adversely affected by a service?

Complaint handling

- The outcome relating to complaint handling states:
 - *“That consumers are able to have complaints resolved quickly and easily by the Level 2 provider responsible for the service and that any redress is provided quickly and easily.”*
- Rule 2.6.2 of the 13th Code states:
 - *“Level 2 providers must provide an appropriate and effective complaints process which is free or low-cost.”*
- Accessibility and effectiveness
 - Guidance for industry published on 1 July 2015 following consultation
- Impact on other provisions of the Code

Complaint handling

- **Appropriate means of access:**
 - What means of access are available to consumers?
 - What range of issues may trigger a complaint or need to contact you, the provider?
 - Intuitive design with access and resolution in mind
- **Effective:**
 - Understand the purpose of complaint handling;
 - Build systems capable of meeting that purpose;
 - Link complaint data back to service development

Complaint handling

- Golden rule:
 - Does the method of access to make a complaint match or complement the method of access to use the service?



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Breakout:

- 1) How varied are the problems facing the consumers of services with which you are associated?**
- 2) What can be learnt from complaint data?**
- 3) What steps can be taken to prevent complaints becoming repetitive?**

Sanctions under the Code

- Sanctions are only imposed by a Tribunal when:
 - It upholds breaches of the Code based on the evidence present to the panel
 - It considers a sanction is appropriate given the circumstances of the case
- The Tribunal is guided by factors set out in the Investigations & Sanctions Procedure paragraph 26, which includes:
 - The need to maintain high standards of compliance;
 - The need to ensure as far as is possible that the breach of the Code in question will not be repeated by the party in breach, or others in the industry

Sanctions under the Code

- The list of sanctions that may be imposed as appropriate is found in paragraph 4.8.2 of the Code:
 - A formal reprimand and/or a warning;
 - Remedy the breach;
 - Compliance advice and prior permission;
 - Compliance audit;
 - Barring of numbers and/or services;
 - Prohibitions, including as against associated individuals;
 - Fines;
 - Refunds.

Refund sanctions

- 4.8.2(i) require that refunds are paid within a specified time period to all or any specified group of consumers who claim a refund, for the full amount spent by them for the relevant service or for a specified lesser amount, save where there is good cause to believe that such claims are not valid, and provide evidence to PhonepayPlus that such refunds have been made;
- 4.8.2(j) require in circumstances where there has been a serious breach of the Code and/or serious consumer harm, or unreasonable offence to the general public that refunds for the full amount spent or a specified lesser amount are paid within a specified time period to all or any specified group of consumers who have used the service, regardless of whether they have claimed a refund;

Refund sanctions

- Affiliate marketing example:
 - Clear evidence that a PRS is available to the public promoted via a number of concurrent marketing campaigns, some in-house and some reliant on marketing affiliates.
 - Complaints about the service lead to a thorough investigation of the marketing campaigns, indicating 1 of 5 campaigns was the root cause
 - Tribunal upholds a series of breaches of the Code based on evidence dealing with that one campaign – the breaches are considered serious
 - Clear evidence that only 37% of all consumers using the PRS saw the marketing found in breach, and those consumers can be identified



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Breakout:

- 1) What evidence do you hold which can assist the regulator in identifying the scale of impact on consumers?
- 2) What steps can be taken by parties in breach to put the Tribunal in a position to target refunds appropriately and fairly?

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Any questions?

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