

Bad Lending Complaints Course (2 half days with about 5 case studies)

Introduction

Who regulates what
Relevant scope of DISP and FOS
Role of MCOB – application directly and by analogy
Banking and Lending Codes
The three categories of bad lending problem
Standards to be applied by FOS and firms under DISP

Liability

Bad advice to borrow

Negligence & Misrepresentation Act 1967
Claims under MCOB 4 and section 150 FSMA
FSA Principles 1, 2, 6, 7 and 9
Tell-tale signs – lack of affordability, unnecessary loans when consolidating, interest rates

Irresponsible Lending

Banking Code paragraphs 10 and 13
MCOB 11
FOS caselaw
Section 140 Consumer Credit Act and OFT guidance on irresponsible lending

Arrears and repossessions

MCOB 13 and Final Notices issued under it
Banking Code paragraph 14

Compensation

Basic principles
Treatment of dissipated loan payments
Dealing with debt consolidations – comparison with IVAs and other alternatives
Wrongful re-possession compensation
Distress and inconvenience
Professional fees

Complaint handling

Identification and acknowledgement
Handling claims management firms
Investigation
Handing over transcripts and links with PPI complaints
Duty to deal with issues that emerge from complaints
Final responses
FOS

