

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE FOUR MAJOR BANKS (SECOND REPORT)

Commonwealth Bank of Australia

CBA39QW:

The bank's General Standard Terms claim that its customers are bound by the Code of Banking Practice. This is part of the contractual arrangement between the bank and the signatory. Therefore, customers are bound by the Code.

The code states the bank appoint the Code Compliance Monitoring Committee (CCMC), which will investigate any allegation from any person that the bank breached the code.

From 2004 to 2014, the CCMC was governed by the CCMC Association (CCMCA), of which each banks Chief Executive was a member. When your Chief Executive adopted the CCMCA's Constitution it allowed you to transfer complaints to another 'forum' (like courts).

In effect when this approach was taken the CCMC could no longer investigate an alleged code breach at no cost.

The Constitution was not included in the 2004 Code of Banking Practice you provided to customers. In fact, it was not available to mortgage holders despite being used by you to vary provisions in the Code, without notice to contract holders.

(a) Can you confirm why your bank chose not to provide this information to customers?

(b) Why didn't you provide, between 2004 and 2014, a copy of:

- (i) the Code of Banking Practice when customers signed loan contracts, and*
- (ii) the Code of Compliance Monitoring Committee Association's Constitution when customers signed home mortgages with your bank.*

(c) What steps have you taken to investigate and compensate customers that they suffered damages when you failed to investigate alleged code beaches since 2004.

Answer:

Commonwealth Bank subscribes to the Code of Banking Practice which sets out standards of good banking practice. Commonwealth Bank includes a statement in its relevant terms and conditions that the Code applies to the banking service being provided, enabling customers to enforce the standards set out in the Code.

The Code was separate from the former Constitution of the CCMC. The Constitution (now replaced by the CCMC mandate, which forms part of the Code) defined the structure, powers and functions of the CCMC in its role to independently monitor compliance with the Code by subscribing banks.

In accordance with the Code, Commonwealth Bank displays a copy of the Code in our branches and on our website, and makes copies available to customers on request (either by mail or electronically). The Code did not require subscribing banks to provide a copy of the Constitution to customers, but customers could now receive a copy of the CCMC mandate as this forms part of the Code.

Under the Constitution, the CCMC (rather than banks comprising the CCMC Association) was able to refer complaints to a more appropriate forum, for example to ASIC, where the complaint involves legislative breaches. The CCMC's current discretion with respect to the handling of investigations is set out in section 6 of the mandate. The subscribing banks are required to deal with complaints in accordance with their internal dispute resolution processes as required by ASIC's regulatory guidance *RG165, Licensing: Internal and external dispute resolution*. This internal dispute resolution process is used to investigate any customer complaint that Commonwealth Bank has not complied with the Code, and the customer may be compensated if it is appropriate to do so. If the customer remains dissatisfied then they may raise the matter to the independent Financial Ombudsman Service.