

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE FOUR MAJOR BANKS (SECOND REPORT)

Westpac

Westpac39QW: 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 bank's 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 breaches since 2004.

Answer: The Code of Banking Practice (COBP) is the banking industry's customer charter on best banking practice standards and sets out subscribing banks' key commitments and obligations to customers on standards of practice, disclosure and principles of conduct for their banking services. It also sets out the role of the Code Compliance Monitoring Committee (CCMC) in investigating, and making determinations on, any allegation from any person that a subscribing bank may have breached the COBP.

The CCMC Constitution did not allow complaints to be transferred to another forum, rather, Clause 8 of the 2004 CCMC Constitution set out the limited circumstances in which the CCMC would not consider, or could defer consideration of, a complaint. One such circumstance is where the complaint is being or will be heard by another forum

where that forum may make a final determination as to whether a breach of the COBP occurred, such as a Court. In such a case the CCMC must not consider the relevant complaint until the other forum has determined, or declined to determine, whether a breach of the COBP has occurred. Where a determination is made, the CCMC must adopt the other forum's finding. Another is if the CCMC thinks there is a more appropriate forum to deal with the complaint.

In response to the specific questions:

- a) The CCMC's Constitution was not included in the 2004 COBP, although reference was made to the role of the CCMC. The CCMC's mandate is now included in the revised 2013 COBP.
- b) Clauses 8 and 9 of the 2004 COBP set out the obligations of the Australian Bankers' Association and of subscribing banks in promoting and making the COBP available. Clause 9 specifically required subscribing banks to display the COBP at their branches and website and to make it available on request, including sending the COBP to consumers by electronic communication or mail on request. Westpac met these obligations and note that comparable obligations exist in clauses 10 and 11 of the current COBP.
- c) Please see above explanation regarding the circumstances in which the CCMC would consider complaints.