



# Code of Conduct

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## I. PREAMBLE

FENCA is a non profit-making organisation founded on 15 January 1993. It has two main roles:

- Protecting the interest of its members through promoting the development of European legislation in favour of the collection industry. This is achieved by close monitoring of proposed legislation in Brussels;
- Promoting the development of good practice within the industry, throughout Europe, through national member associations. This is achieved by assisting in the creation of national collection associations in Member States which do not already have one, and harmonising member associations' practices.

## 2. BACKGROUND

FENCA's membership consists of one national debt collection association for each European country.

Why have a Code of Conduct for all Collection Agencies at European level?

FENCA's member associations already have a Code of Conduct<sup>(1)</sup> which their members collection agencies have to adhere to, and a complaints procedure within their Code of Conduct, so that complaints are promptly and properly investigated<sup>(1)</sup>. So why did FENCA decide to compile a European Code of Conduct?

There are several reasons why FENCA decided to review and expand its original Code of Conduct (last reviewed in September 1999).

*<sup>1)</sup> Unless National Debt Collection Laws have removed the need for a Code of Conduct all together.*

The Codes of FENCA's member associations are all very different and FENCA came to realise that it could not continue to promote quality and good practice unless its vision was clearly set out in a comprehensive document.

FENCA's Code of Conduct is not only a document which sets out what all collection agencies should aim for. It also sets out the goals of the Collection Industry as a whole. It constitutes a guarantee of quality, and describes, in detail, what the collection industry is about.

FENCA also believes that it would make good cross-border sense to harmonise the Codes of Conduct of all its members.

### **3. MEMBERSHIP**

3. 1. National associations shall ensure that all enquiries are dealt with promptly and truthfully.
3. 2. National associations shall ensure that there is a Code of Conduct for their members and that it is complied with by their members.
3. 3. National associations shall ensure that basic rules exist for contacts between their members and those members' clients.
3. 4. National associations shall ensure that their members maintain confidentiality about all information concerning clients and debtors.
3. 5. National associations shall ensure that a complaints procedure exists within their association for debtors and clients and that complaints are promptly and properly investigated.
- 3.6 National associations shall have a system for sanctioning bad practice of their members.
3. 7. National associations shall provide to the board of FENCA, on request, a copy of their national Code of Conduct and assurance that this code is properly complied with by their members.
3. 8. Only the national associations may display the FENCA logo.

#### 4. GENERAL PRINCIPLES – COLLECTION AGENCIES

4. 1. A collection agency should have a legal form which allows it to offer debt collection services to third parties, according to the rules of trade and company registration in its country of origin.
4. 2. A collection agency should comply and work in accordance with all Laws and Rules of its country of origin and all European Regulations applicable to the activity of debt collection.
4. 3. A collection agency should not act in a way which could be detrimental to the reputation of the debt collection industry.
4. 4. A collection agency should have Professional Liability Insurance.
4. 5. A collection agency should be registered with the local Data Protection authority.
4. 6. A collection agency should always clearly identify itself to all parties it gets in contact with during the course of its activity.
4. 7. A collection agency should maintain confidentiality about all information relating to clients and debtors.
4. 8. A collection agency should have appropriate professional qualifications and/or knowledge and/or experience about debt collection matters and practices, or knowledge in a similar industry, i.e. financial services, insurance, legal, etc.
4. 9. A collection agency should be operated by individuals who have a clear credit history and no criminal convictions.
4. 10. A collection agency should ensure that all members of staff are properly trained and informed about good practice.
4. 11. A collection agency should take appropriate steps to promote the settlement of the debt prior to taking legal action.
4. 12. A collection agency should comply with all reasonable requests by debtors, clients or their appointed representatives for information concerning their agreements and accounts.
4. 13. A collection agency should not be in the business of advising debtors

## 5. GENERAL PRINCIPLES - RELATIONS BETWEEN AGENCIES AND THEIR CLIENTS

5. 1. A collection agency should have properly written and defined contracts with its clients, confirming Service Level Agreements and Charges.
5. 2. A collection agency should be appropriately resourced to carry out its debt collection activities and provide its clients with an adequate level of service.
5. 3. A collection agency should report adequately to its clients, on request or according to the Service Level Agreement, for example, notify its clients when payments are received.
5. 4. A collection agency should bank any funds collected on behalf of its clients in a separate and specifically designated bank account.
5. 5. Clients' funds which have been banked in the specifically designated separate bank account described above should be protected in case of insolvency.
5. 6. A collection agency should promptly remit the funds collected and should have clearly defined policies on how and when funds are remitted.

## 6. GENERAL PRINCIPLES - RELATIONS WITH DEBTORS

6. 1. A collection agency should not use oppressive and intrusive collection methods.
6. 2. A collection agency should not bring unreasonable pressure to bear on debtors in default of payment.
6. 3. A collection agency should not act in a manner in public intended to embarrass debtors.
6. 4. A collection agency should be circumspect and discreet when attempting to contact debtors.
6. 5. A collection agency should not pursue debts that are not properly due.
6. 6. A collection agency should not attempt to collect additional costs and charges from debtors if adding such charges is prohibited by the Law.
6. 7. A collection agency should set out what sums are to be paid by debtors (e.g. principle debt amount, interest, compensation, collection costs). These should be clearly defined in letters.
6. 8. A collection agency should cooperate with debtors' appointed representatives (e.g. advisors, debt management companies, private or public institutions protecting insolvent consumers and companies, etc...) whenever invited to do so by the debtors or their representatives.