



**Consultation Document**

**Consumer Codes Approval Scheme**

**Response from:**

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## Response to Trading Standards Institute

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### Executive Summary

The BVRLA welcomes the opportunity to comment on the development of the core criteria for the Consumer Codes Approval Scheme.

We note the Trading Standards Institute are proposing to change the core criteria relating to the OFT's Code Approval requirements, which we believe will assist towards reducing burdens and excessive compliance requirements on trade bodies and other similar organisations seeking approval. We feel a sensible balance has to be struck between encouraging greater take up of the scheme and raising consumer standards and protection.

As a condition of BVRLA membership, a company must not only demonstrate that they can meet the high standards outlined in our mandatory Code of Conduct prior to becoming a member, but we carry out regular 'quality assurance' checks to ensure on-going adherence to our Code.

We have previously been in discussions with the Office of Fair Trading (OFT) with regards to putting our Codes forward for approval. However, at the time, we were not seen as a 'priority sector' as the level of harm caused by our sector was not deemed to be significant and OFT had chosen to devote its limited resource on working with trade sectors that were causing the greatest level of consumer harm.

While we understand the reasoning behind the OFT's decision not to include our sector in its initial phase of Code Approval, we did question how effective the Code scheme would be and whether consumers fully understood what the OFT Code Approval kite mark actual meant and the level of protection this would offer them. Without consumer awareness we questioned the value of the scheme and furthermore whether it would deliver against the OFT's objectives of reducing consumer detriment and broadening the reach of the scheme.

It is on this basis that we feel the Code will need to be radically reviewed to encourage greater take up by various trade bodies. One of the key areas which would help support the scheme's success would be for the Trading Standards Institute (TSI) to consider the following changes:



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- A principle based approach – TSI should adopt a less prescriptive approach towards the criteria required to achieve code approval status. By removing rather complex and a 'one size fits all' approach will offer the flexibility to potential code sponsors to seek TSI approval of their code. We also believe this would remove the need to introduce complex and costly changes to proven procedures, which are unlikely to result in improved consumer benefit.
- Key Principles – We also believe the key principles should be kept to a minimum to help code sponsors introduce and manage the requirements effectively and to a high level of rigour. For example, this could include areas such as operation to of an effective complaints procedure, a clear customer charter and methodologies for monitor effective code compliance.
- Consumer Harm – We believe the TSI should review approval of codes based on the principles and level of consumer harm – this will help ensure any additional requirements are assessed fairly and in a proportionate manner.
- Monitoring and Accountability – One of the on-going monitoring requirements should be directly linked to the level of consumer harm. The code sponsor should be held directly accountable for increases in consumer harm caused by the sector for which the code sponsor is responsible. Failing to remedy the consumer harm should result in the code approval being withdrawn.

We believe adopting the above approach will improve the take up of Code Approval which in turn will help to deliver widespread consumer recognition of the Code approval scheme, greater choice of 'code approved' suppliers and ensure the scheme is inclusive, independent, sustainable, visible and understood.

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### Specific Comments

1. *What is your view on the proposed changes to open up the membership of CCAS to more businesses?*

We support the change to allow Code sponsors to define the scope of influence for their code and potential membership and for Code sponsors to demonstrate how they exercise significant influence over their members as it may help ensure greater take up of the scheme. We believe greater take up is imperative if the scheme is ever going to achieve critical mass and provide a sufficient choice of approved suppliers.

2. *What is your view on where to define the boundaries for eligibility to apply for code approval? (For example, should an individual company be eligible to present their own code for approval and what are the potential issues this may present?)*

We believe this could be open for abuse and that the above criteria mentioned in our response to questions 1 should be the key influencers. A business is unlikely to qualify for these criteria and would therefore be outside the scope of approval.

3. *What is your view on individual businesses potentially being eligible to display the 'approved badge' by multiple scheme membership? (For example, through a sector scheme and through a local authority-sponsored scheme.) How do we resolve potential conflict between the codes?*

We do not see this as a conflict; however, it is probably something that is outside the control of the TSI as businesses will choose to display a badge which is most recognised by consumers and gives them the most credibility.

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4. *What is your view on the proposal to widen the acceptable evidence relating to the protection of deposits or prepayments? We welcome all suggestions on how we can achieve this, while still protecting deposits and prepayments.*

We would suggest that existing legislation is taken into account when talking about the protection of deposits and prepayments. Many industry sectors that are regulated for example, consumer credit, insurance sales are already governed on how they treat deposits and prepayments so we would suggest that specific reference is made to existing legislative requirements. We would propose that at a minimum, code sponsors should require their members to hold all deposits or pre-payments in a protected client account. We do not believe there should be a requirement for the code sponsor to provide a bond or similar to protect deposits and prepayments as this is too onerous on the sponsor.

5. *What is your view on removing criteria 4c and 4d and replacing them with one criterion requiring the provision of an alternative dispute resolution scheme?*

We note the requirement for code sponsors to provide access to a low cost, speedy, responsive, accessible and user-friendly alternative dispute resolution (ADR) for consumer disputes. We would suggest this is sufficient as criteria and there is no requirement for the TSI to set out further criteria for the dispute resolution scheme. This would allow code sponsors the ability to develop an ADR which fits with their members needs. This also removes the need for the criteria to be updated once the European proposals for ADRs are agreed.

6. *What are your views on establishing a right for consumers to insist on referral to the ADR provider if eight weeks elapse before their complaint is resolved?*

We believe that eight weeks is too long a time for a consumer to have to wait for a company to attempt to resolve a complaint and would suggest the TSI consider four weeks as a more appropriate timescale.

7. *What is your view on the additional monitoring requirements proposed in criterion 5a?*

We support the change to the additional monitoring requirements, as they are broader than the existing requirements and give code sponsors more scope and freedom to develop their own monitoring requirements which best fit the businesses who are complying with the code.

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8. *What is your view on the introduction of statistical sampling techniques to monitoring and performance measurement of codes?*

We also support this change which again gives code sponsors more freedom to ensure their monitoring and performance measurement is proportionate to the type of businesses the code is applicable to.

9. *What is your view on the proposal to require code sponsors to produce an annual report?*

We believe an annual report is a sensible approach but the production of it should not be burdensome and we do not believe that the TSI should dictate what is included in the report.

10. *What is your view on deleting the requirement for copies of annual reports to be sent to TSI and, instead, to simply require that reports be published?*

We support this approach.

11. *What is your view on criterion 5f being deleted and the assessment of customer satisfaction incorporated into the monitoring requirements of criterion 5a?*

We support this approach as we recognise that the new criteria which states that the code sponsor shall develop measures of the effectiveness of the code which as a minimum include: compliance with the code; reducing consumer detriment; complaint trends; customer satisfaction and member audits are broad enough to cover a variety of businesses.

12. *What is your view on the requirement for code sponsors to create a disciplinary and sanctions panel?*

We believe this is an over-burdensome approach and will result in an unnecessary increase in costs for code sponsors and deter them from applying. We would suggest that rather than requiring a disciplinary and sanctions panel the requirement is simply that:

“Code sponsors shall establish a clear published procedure for handling non-compliance by members with the code.”

13. *What is your view on allowing trading standards and other regulators to refer code members to the disciplinary and sanctions panel?*

See our comments above.



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*14. What is your view on the proposed amendments to criterion 7a, including the requirement for businesses to publicise their complaints procedure?*

We support this amendment which seems sensible.

*15. What is your view on deleting criterion 7e?*

We support this amendment.

### **Leasing Members**

In general, vehicle leasing is an arrangement where the user simply hires the use of the vehicle and assumes operational responsibility for a predetermined period and mileage at fixed monthly rental from the owner (the leasing company). Legal ownership is, in the majority of cases, retained by the leasing company.

### **Short Term Rental Members**

Rental Members offer hourly, daily, weekly and monthly rental of vehicles to corporate customers and consumers. As explained above, rental members are the owners of the vehicle.

### **Closing Comments**

We hope our comments add value to the review of the code criteria by the Trading Standards Institute and that criteria can be developed which is workable for code sponsors.



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***Bona-fides***                    **BVRLA, the industry and its members**

- The BVRLA is the trade body for companies engaged in the leasing and rental of cars and commercial vehicles. Its members provide rental, leasing and fleet management services to corporate users and consumers. They operate a combined fleet of 2.5 million cars, vans and trucks, buying nearly half of all new vehicles sold in the UK.
- Through its members and their customers, the BVRLA represents the interests of more than two million business car drivers and the millions of people who use a rental vehicle each year. As well as lobbying the Government on key issues affecting the sector, the BVRLA regulates the industry through a mandatory code of conduct.  
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