

MISREPRESENTATIONS OF DEBT REVIEW

CIRCULAR 07 OF 2025

SANDILE DERRICK MANZI vs ALICE DAWN BARNARD (NCRDC3277) & THE NCR - NCT/315894/2024/141(1)(b)

The National Credit Regulator ("NCR") wishes to bring to the attention of all registered debt counsellors and members of the public the serious implications of misrepresentation or non-disclosure during the debt review application process.

This circular serves both as a cautionary notice and an educational tool, following a recent judgment by the **National Consumer Tribunal ("NCT")** involving a registered debt counsellor (the respondent) and a consumer (the applicant), who alleged that he was misled into debt review without informed consent.

1. SUMMARY OF THE NCT FINDINGS

In the matter, the applicant asserted that he was telephonically contacted by a representative of the debt counsellor, who claimed to offer assistance to government employees in reducing interest rates. Believing it to be an advisory or benefit service, the applicant provided financial information but denied knowingly applying for debt review.

Key findings by the NCT include:

- The applicant was **not informed** that he was entering into a debt review.
- The applicant did **not consent** to be placed under debt review.
- The adverse listing prevented the applicant from accessing credit.
- The debt counsellor **failed to explain** the consequences of debt restructuring, as required by law.
- The debt counsellor acted **unprofessionally and contrary to her registration conditions**, and further failed to fully inform the consumer of the consequences of debt review.

Disclaimer:

While the NCR has taken reasonable care to ensure the factual accuracy of this Circular, it cannot guarantee such accuracy, especially with regards to future events. Accordingly, NCR does not accept any liability for damages incurred by any party as a result of decisions or actions taken on the basis of information supplied in this Circular.

As a result, the NCT found that the debt counsellor had contravened Section **52(5)(c)** of the National Credit Act 34 of 2005 ("NCA"), constituting **prohibited conduct**. An administrative fine of **R250 000** was imposed.

2. IMPLICATIONS FOR DEBT COUNSELLORS

Debt counsellors are reminded of their legal obligations:

- Obtain **explicit, written consent** from consumers before initiating a debt review application.
- Conduct a thorough **assessment of over-indebtedness** in line with Section 86 of the NCA.
- Fully **disclose the consequences** of debt review, including the impact on credit profiles.
- Ensure all representations are **truthful, accurate and transparent**.
- Avoid **misleading marketing tactics** or misrepresentation of services.

Any failure to adhere to these obligations not only undermines the integrity of the debt counselling profession but may result in enforcement action, deregistration, and significant financial penalties.

3. GUIDANCE FOR CONSUMERS

Consumers are advised to:

- **Be cautious** of unsolicited offers promising interest reductions or "saving of monies".
- Always request clear, written explanations before signing or agreeing to any service.
- Understand that **debt review is a legal process** and entails restrictions on accessing credit.
- Verify the credentials of the debt counsellor with the NCR (www.ncr.org.za).
- Report any suspected misrepresentation or unethical conduct to the NCR via complaints@ncr.org.za.

4. CONCLUSION

This case serves as a stark reminder that **informed consent and transparency** are cornerstones of the debt review process. Misrepresentation by any debt counsellor undermines consumer rights and the objectives of the NCA. The NCR will not hesitate to act against any registrant found to be acting in bad faith or in violation of their registration conditions.

FURTHER INFORMATION

Please contact **Louise Page** at LPage@ncr.org.za for more information.