Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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Submitted online: MortgagePolicyCorrespondence@fca.org.uk

Dear Sir / Madam,

**Financial Services Consumer Panel response to Financial Conduct Authority guidance consultation for firms supporting their existing mortgage borrowers impacted by the rising cost of living.**

The Panel welcomes the opportunity to respond to this consultation on the Guidance for firms supporting their existing mortgage borrowers impacted by the rising cost of living.

The cost-of-living crisis combined with the market events following the mini budget of October 2022, have led to many mortgage payers on variable and tracker interest rates seeing a sharp rise in their mortgage payments. These events have compromised many consumers' ability to make payments in a timely manner. The FCA's own research in May 2022 found that 7.8 million people were struggling to keep up with their bills, an increase of around 2.5 million people since 2020[1]. Furthermore, The Bank of England reported that 1.7% of UK households - or 475,000 - are in a position where they are more likely to experience repayment difficulties. This is defined as having to spend more than 70% of their take-home pay on mortgage or rent and essentials. The Bank believes that this percentage will rise to 2.8% - or around 800,000 households - by the end of 2023[2]. It is therefore vital that help is offered to mortgage payers given the scale of the crisis.

Evidence from debt charities and elsewhere suggests that mortgage difficulties correlate with elevated levels of borrowing and difficulties in unsecured credit. In considering the best interests of a mortgage customer, firms should take account of the customers' wider position, using information on other products/lending with the firm, CRA data and other sources.

These conditions clearly point to the need for help for mortgage consumers, similar to what was devised during the COVID crisis. Without this support the housing market will suffer and this will have a knock-on effect on the UK economy as a whole. In the extreme, a large rise in repossessions would leave many households homeless. This

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[1] https://www.fca.org.uk/data/financial-lives-2022-early-survey-insights-vulnerability-financial-resilience.

[2] 'Increasing pressure' The Bank of England said many households would struggle if interest rates rose as high as the market expected them to, with it hitting both mortgage holders and renters.

could lead to huge demands on the rental market where shortages are already being reported and/or increased pressure on local authority and social housing, where there are already long waiting lists.

So overall, the Panel supports the basic tenets of the FCA proposal, but we have some specific comments to make on the details: -

1. We realise that automated and digital solutions will help firms respond at scale in providing help to mortgage payers due to the likely high volumes of borrowers needing help with their mortgages at this time. However, firms will have to think carefully about how such an approach can be balanced with the need to ensure appropriate solutions supporting the best interests of individual customers' circumstances.

2. The Panel would like to see the best interests of consumers more consistently enshrined throughout the guidance. For instance, where the guidance says "any forbearance option(s) should be appropriate to a customer's individual circumstances" we would like "and in the individuals' best interests" to be added. Where the guidance says "Firms should be able to justify a decision to offer a particular forbearance option (MCOB 13.3.4CG, Principle 6)" again, a reference to best interests should be added, and firms should also expect to justify why alternative options are not in the customer's best interests.

3. The Panel welcomes the move to offer prospective forbearance as mentioned in paragraphs 3.3. and 5.9, as it ensures that customers who are proactive in managing their financial affairs are not disadvantaged. This could prevent the build-up of arrears and missed payments and ultimately avoid costs for firms.

4. We would like to see the FCA explicitly include a clause in this document which states that borrowers who choose to handle their mortgage changes in this process should not be disadvantaged if they choose to pursue a non-digital channel of communication. All channels should be able to offer the same wide variety of solutions.

5. Guidance should ensure that where borrowers miss a payment or make a reduced payment while a forbearance solution is being put in place, but before it is finalised, that borrowers are treated on the CRA as if the agreement was fully agreed.

6. The Panel would like clarification on an apparent contradiction in the Guidance. Under "Contract variations for the purposes of forbearance", consumers can have a change in their mortgage payment profile to help them during the crisis without facing an affordability assessment, even if the term of the mortgage extends into retirement. However, the position is different later in the document on treatment of mortgage term extensions into the retirement period. It is not clear that the latter is riskier than the former and in fact the two statements appear contradictory. We would argue that given the various demographic changes in terms of the older age of mortgage payers due to high prices, family breakdown and other reasons, the circumstance of each consumer in these cases should be examined on an individual basis to determine whether an affordability assessment is necessary. If there is no material change in circumstances, then this requirement should be scrapped.

7. Furthermore, under contract variations for the purpose of forbearance, paragraph 2, it is stated that a contract variation would only be considered if mortgage payers can resume making the full payment of interest and capital over the remaining term of the mortgage. The Panel believes that where it makes sense to do so, contract variations for the purpose of forbearance should also allow for repayment of full capital and interest

over a longer term. This is provided that there is income to support such payments over the period.

8. It is suggested that firms can judge whether an affordability assessment is needed by comparing the impact of a new interest rate on their mortgage deal compared to what they would be paying at the end of their fixed period. As most mortgages revert to SVR or similar, based on Bank of England Base rate at the end of the fixed period, it is difficult to envisage a situation where a mortgage payer will end up on a lower rate than the SVR. This being the case, it would seem that an affordability assessment will be needed in all cases. If so, then perhaps it should be spelled out in the guidance.

9. We would recommend that firms state explicitly on their websites the types of help available to mortgage payers in difficulty. Consumers should be able to find this information easily and not struggle to find the relevant information and get the help that they need. The Panel believes that there may be merit for the FCA to point out and remind firms of best practice.

10. It is vital that consumers have a process to challenge the recommended assistance from automated solutions or even worse where the system says that no help can be offered. In such circumstances consumers should be able to ask for human intervention to assess their circumstances. Firms should ensure that they are well staffed to allow for such scenarios.

11. The Panel welcomes the guidance which states that action to seek repossession should be a last resort.

12.The Panel also welcomes the emphasis on referring borrowers to the free debt advice services available and other appropriate signposting.

Finally, during this crisis, as has been argued by the Panel consistently, mortgage prisoners must not be forgotten. For some in this group the recent increases in the Bank of England base rates places them in an even more precarious situation and although we welcome the 2000 or so borrowers who have been helped to find alternative mortgages, more needs to be done. FCA might need to work with Government and others to extend the protections and support set out in its guidance to mortgage-holders whose loans are with firms who are not lenders and are therefore unregulated. Additionally, this current economic crisis may mean that lenders have an even lower risk appetite for mortgage prisoners but there is much to be learnt about the flexibility that can be shown to get borrowers through temporary crises and how they then become valuable clients once a more normal economic climate returns.