
FINAL NOTICE

To: HSBC UK Bank plc, HSBC Bank plc, and Marks and Spencer Financial Services plc (together "HSBC")

Reference Number: 765112, 114216 and 151427

Address: 1 Centenary Square, Birmingham, West Midlands, B1 1HQ
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Kings Meadow, Chester Business Park, Chester, Cheshire, CH99 9FB

Date: 23 May 2024

1. PROPOSED ACTION

- 1.1. For the reasons given in this Warning Notice, the Authority hereby imposes on HSBC UK a financial penalty of £6,280,100.
- 1.2. HSBC UK agreed to resolve this matter and qualified for a 30% (stage 1) discount under the Authority's executive settlement procedures. Were it not for this discount, the Authority would have imposed a financial penalty of £8,971,600 on HSBC UK.

2. SUMMARY OF REASONS

- 2.1. Between 1 June 2017 and 31 October 2018 (the "Relevant Period"), HSBC UK breached Principles 3 and 6 of the Authority's Principles for Businesses by failing to show forbearance and due consideration to customers when they fell into arrears or experienced financial difficulties. As a result of these failings, at least 1.5 million customers were identified who suffered, or were at risk of suffering detriment. To date, HSBC UK has paid £185,000,000 in redress to these customers.

- 2.2. HSBC UK offered secured retail mortgages, unsecured loans, credit cards, and overdrafts along with current and savings accounts to customers under the HSBC, First Direct, Marks and Spencer Bank and John Lewis Financial Services brands. During the Relevant Period some customers in each of these product areas suffered poor experiences and/or outcomes when they fell into arrears or were encountering financial difficulties.
- 2.3. In January 2019, a skilled person was appointed to review the adequacy of HSBC UK's arrears handling, collections, and recoveries operation in the period 1 November 2017 until 31 October 2018 (the "Review Period"). They looked at a sample of 198 customer files from the Review Period and found that, in 44% of cases, customers experienced unfair outcomes. This occurred across all brands and product areas, in some cases when customers were in a position of vulnerability. The issues identified by the skilled person were addressed through the broader remediation programme that was already underway, with much of the work completed within six months of the final skilled person's report being issued in June 2019.
- 2.4. HSBC UK failed to treat its customers fairly in a number of ways during the Relevant Period:
- 1) **Customer circumstances:** HSBC UK entered into payment arrangements or took payments from customers without conducting appropriate affordability assessments. This resulted in some customers being unable to afford the payments or maintain their arrangements, which could have put such customers in a worse financial position;
 - 2) **Forbearance:** There were instances where HSBC UK failed to apply forbearance to support customers in financial difficulty. Where forbearance measures were applied, these were not always appropriate. For example, the options available to customers suffering longer term financial difficulty were predominantly short-term solutions, such as temporary holds or token payments. This meant that some customers were provided with solutions that did not appropriately address their situation or prevent them from heading towards default; and
 - 3) **Disproportionate action:** The process in place across all brands for payment default was automated and/or system driven and meant that default notices and final demands were issued to customers with very low arrears balances whose accounts could have been brought out of arrears. This led to adverse information being recorded on some customers' credit records, which would remain there for up to six years, potentially impacting their ability to obtain future credit.
- 2.5. The causes of these failings included:
- 1) Gaps and weaknesses in training of front-line agents some of whom, as a result, failed to pick up on cues, wording or behaviours that indicated potential financial difficulty or more complex circumstances.
 - 2) Gaps and weaknesses in the policies and procedures that governed Collections & Recoveries, and in some cases inconsistent application of these policies and procedures across all brands.
 - 3) Inadequate discussion of Management Information relating to customer outcomes across a range of core governance committees which had responsibility for customer outcomes; and

- 4) Inadequate quality assurance framework for monitoring customer calls, which limited the ability to identify issues with overall treatment of customers during the collections process.
- 2.6. The Authority's rules require firms to show forbearance and due consideration to customers who are in arrears or experiencing financial difficulties. Adequate measures must be taken to properly understand both customers' short-term and long-term financial positions and, for example, whether they may potentially be vulnerable in some way due to factors such as; relationship breakdown, unemployment, bereavement, disability, illness, or caring responsibilities. The firm can then offer affordable and sustainable forbearance solutions which are appropriately tailored to customers' personal circumstances. These solutions may include granting payment holidays or allowing reduced payments for a reasonable period of time or longer-term solutions such as reducing or suspending interest or charges.
- 2.7. Failure to take steps to understand a customer's unique circumstances and offer appropriate solutions is likely to result in poor experiences and/or outcomes for the affected customer. Particularly in the case of secured mortgage products, where inappropriate or unaffordable solutions that worsen the customer's financial situation could lead to potential repossession action. It may also include consequential loss and detriment where a customer forgoes other priority payments (such as mortgage, rent, utilities or food) due to pressure to pay arrears on unsecured products.
- 2.8. In addition to Principles 3 and 6, HSBC UK also breached CONC 7.2.1R, 7.3.4R, and 7.3.14R from the Authority's Consumer Credit sourcebook, and MCOB 13.3.2A from its Mortgages Conduct of Business Sourcebook.
- 2.9. The Authority considers the failings by HSBC UK to be serious for the following reasons:
- (1) The failings affected a large number of customers who were in arrears or facing financial difficulties;
 - (2) A number of these customers had vulnerabilities that were not identified or appropriately considered by HSBC UK; and
 - (3) The failings were caused by gaps and weaknesses in HSBC UK's policies and procedures.
- 2.10. The failings referred to in this notice are historic, and have been remediated and redressed. The Authority has also taken into account that the breaches were committed inadvertently.
- 2.11. Issues with HSBC UK's handling of customers in financial difficulty were self-identified in early 2018, with the FCA being promptly notified. HSBC UK set up a broader remediation programme in September 2018, while in parallel it proactively initiated a significant customer redress exercise.
- 2.12. HSBC UK has undertaken a comprehensive remediation programme. It has addressed all the issues self-identified by HSBC UK and highlighted through an independent consultant's review, as well as any additional findings from the Skilled Person.
- 2.13. HSBC UK has also conducted a significant customer redress exercise designed to provide compensation to customers who were, or may have been, affected by the

failings. This has resulted in financial remediation across a population of in excess of 1.5 million customer accounts, with HSBC UK offering redress payments totalling £233,186,073. To date approximately £185,000,000 has been paid to customers.

- 2.14. HSBC UK has invested over £94,000,000 on implementing the remediation programme and redress exercise.
- 2.15. HSBC UK have fully cooperated with the Authority's investigation into the matters subject to this notice.
- 2.16. The Authority hereby imposes on HSBC UK a financial penalty of £6,280,100 pursuant to section 206 of the Act.
- 2.17. In this notice the Authority makes no criticism of any person other than HSBC UK. Further, any facts or findings in this Notice relating to any function, committee, forum, or group of persons should not be read as relating to any particular member or individual.

3. DEFINITIONS

- 3.1. The definitions below are used in this Notice:

"1LOD" means First Line of Defence;

"2LOD" means Second Line of Defence;

"3LOD" means Third Line of Defence;

"the Act" means the Financial Services and Markets Act 2000;

"the Authority" means the body corporate known as the Financial Conduct Authority;

"BAU" means Business as usual;

"BIM" means Business Instruction Manual;

"C&R" means Collections and Recoveries;

"CCA" means Consumer Credit Act;

"CEF" means Customer Experience Forum;

"CEM" means Customer Engagement Model;

"CiFD" means Customers in Financial Difficulty;

"CMB" means Commercial Banking;

"CONC" means Consumer Credit Sourcebook, part of the Handbook;

"Consultants" refers to the firm of external professional services consultants who were commissioned by HSBC UK to conduct an independent review (the "Consultants' Review");

"CRMM" means Credit Risk Management Meeting;

"CVM" means Customer Value Management;

"ExCo" means Executive Committee;

"FD" means First Direct;

"FD RMOC" means FD Risk Management Oversight Committee;

"FGT" means Financial Guidance Team;

"FIM" means Functional Instruction Manual;

"HRS" means HSBC UK Recovery Services, a function within Collections;

"HSBC" means HSBC UK Bank plc, HSBC Bank plc, and Marks and Spencer Financial Services plc;

"HSBC UK" means HSBC UK Bank Plc including its predecessor authorised entity HSBC Bank plc;

"I&E" means Income and Expenditure;

"ICOC&R" means Improving Customer Outcomes in Collections and Recoveries;

"JLFS" means John Lewis Financial Services;

"MCOB" means Mortgages Conduct of Business Sourcebook;

"MI" means Management Information, information prepared or collated and presented to internal senior management;

"MSB" means Marks and Spencer Bank;

"the OFT" means the Office of Fair Trading;

"ORMF" means Operational Risk Management Framework;

"Principle" means one of the Principles for Businesses, rules set out in the Handbook;

"PVC" means Potentially Vulnerable Customer;

"QA" means Quality Assurance;

"RBOC" means Retail Banking Oversight Committee;

"RBWM" means Retail Banking and Wealth Management;

"RC" means Risk and Compliance;

"RCMAT" means Regulatory Compliance Monitoring and Testing;

"the Relevant Period" means the period from 1 June 2017 until 31 October 2018;

“the Review Period” means the period from 1 November 2017 until 31 October 2018;

“RMM” means Risk Management Meeting;

“RMOC” means Risk Management Oversight Committee;

“Senior Management” means an individual within the senior management of the relevant part of HSBC and not senior management collectively;

“ServCo” means Global Servicing Company, delivers services to the supporting operating entities of HSBC UK Group;

“Skilled Person” means the skilled person appointed pursuant to a requirement issued by the Authority under section 166 of the Act to conduct a review on the extent to which HSBC UK RBWM’s C&R function was appropriately governed and providing fair outcomes for customers during C&R activity;

“Skilled Person’s Report” means the report produced by the Skilled Person;

“SMF” means Senior Management Function;

“STNA” means Short Term No Affordability;

“TCF” means Treat Customers Fairly;

“ToR” means Terms of Responsibility; and

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber).

4. FACTS AND MATTERS

Firm Background

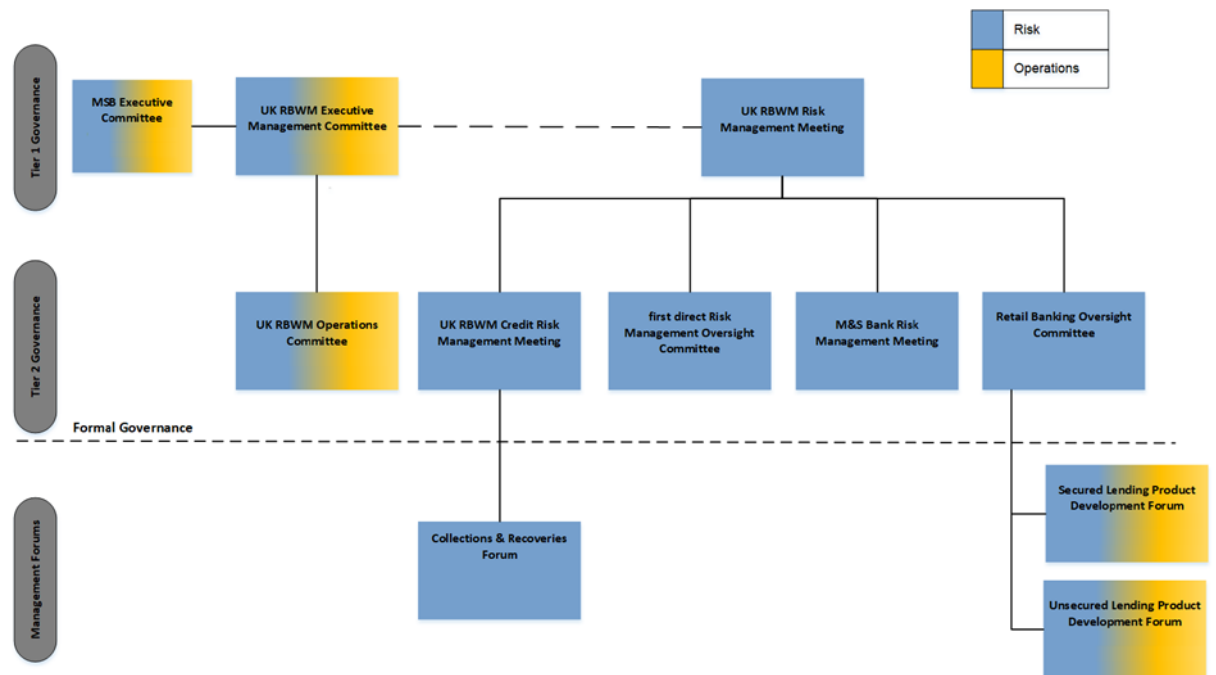
- 4.1. HSBC Bank PLC has been authorised to provide regulated products and services since 1 December 2001, and HSBC UK has been authorised since 10 July 2017.
- 4.2. On 1 July 2018 the transfer of all personal and most business customers took place from HSBC Bank PLC to HSBC UK, as a result of HSBC Bank PLC restructuring its operations to comply with the Financial Services (Banking Reform) Act 2013, which required each UK bank to separate its retail banking activities from the rest of its business. HSBC UK is the ring-fenced UK entity, which is authorised by the FCA and PRA and forms part of the HSBC UK Group.
- 4.3. All Global Banking and Markets customers in the wholesale and investment banking division, and UK commercial customers categorised as Non-Bank Financial Institutions, including Relevant Financial Institutions, and customers of non-UK branches of HSBC, including Channel Islands and Isle of Man customers remain as customers of HSBC Bank PLC following the structural reform.
- 4.4. The RBWM business within HSBC UK offered retail secured (mortgages) and unsecured (loans, credit cards, and overdrafts) products, along with current accounts, savings accounts, general insurance, and investment advice to personal, commercial and private bank customers in the UK under the HSBC, FD, MSB and JLFS brands. During the Relevant Period MSB and JLFS operated as HSBC UK subsidiaries forming part of RBWM. HSBC UK serves approximately 14 million

retail customers within RBWM and 900,000 business commercial customers as part of the CMB business.

4.5. While RBWM C&R sat within the UK entity, it also formed part of the Global Collections and Recoveries function. This created both opportunities and challenges in relation to ongoing management, investment and change priorities. SMF responsibility for C&R within RBWM was split across two roles:

- Responsibility for the design and oversight of C&R Strategy and Policy sat with HSBC UK Senior Management (HSBC, FD and JLFS) and was delegated to RBWM Senior Management; and sat with MSB Senior Management (MSB);
- Responsibility for the execution of the C&R operation sat with RBWM UK Senior Management (or MSB Senior Management).

4.6. UK RBWM governance forums pertinent to C&R in operation throughout the Relevant Period:



4.7. There were a number of RBWM core governance committees where C&R, conduct risk, customer outcomes and customers in financial difficulty were discussed. Their relevant responsibilities are summarised below:

Tier 1 Governance

- UK RBWM ExCo – Oversight of customer satisfaction and product lines taking into account customer outcomes;
- UK RBWM RMM – Measuring strategy and business models, conduct culture, customer outcomes, product review and approval, financial and non-financial risk monitoring and management.

Tier 2 Governance

- UK RBWM OpCo – Oversight of the relationship with HSBC global functions, focusing on the HOST / ServCo relationship, makes decisions, within a limited scope, on issues such as resourcing, spend approval and changes to service level agreements with third party suppliers, which impact on RBWM UK and customers.
 - UK RBWM CRMM – Identification of emerging risks, monitoring, management and reviewing of credit risk and risk exposures against risk appetite, and determination and approval of risk policies; evaluation of reports reviewing control incidents and escalation of significant issues.
 - FD RMOC – Development and agreement of action to improve conduct and customer outcomes, identification of emerging risks, monitoring and management of risk and risk exposures against risk appetite.
 - MSB RMM – Oversight of the risk/return framework, driving a risk profile that reflects the business strategy, recognition, mitigation and remediation of current and emerging risks, agreeing the Risk Appetite Statement(s).
 - UK RBWM RBOC – Ongoing oversight of customer journey, maintenance of the policy framework, monitoring and management of the control framework, identification and management of emerging risk, review of 2LOD and 3LOD audits and reviews.
 - C&R Forum (a Management Forum) – Recommending changes to existing strategy, approval of new strategy, tracking C&R performance, agree an approach to risk/issues, and review progress of strategy
- 4.8. The HSBC UK C&R function was also reliant on services and personnel provided by ServCo, which is a separate servicing legal entity within the HSBC UK Group, formed on 1 April 2018. ServCo provided standardised, centralised and customer focused services. C&R operations sat within ServCo, forming part of the global ServCo structure. The management of this function sat with HSBC UK, with ServCo providing the personnel to undertake the operation.

The Consumer Credit Regime

- 4.9. On 1 April 2014 the Authority took over responsibility for regulating the consumer credit industry. Prior to this date, firms were required to obtain a licence from the OFT to conduct consumer credit activity. Regulated consumer credit products are those offered to individuals, unincorporated associations, and small partnerships. HSBC UK offered such products during the Relevant Period.
- 4.10. Firms that were licenced by the OFT to carry out consumer credit activities were able to register with the Authority for an interim permission to continue. The interim permission allowed firms to continue to carry on consumer credit activities lawfully until an application for full authorisation under the new regime and a decision on it were made.
- 4.11. Alongside the change in authorisation process for firms that wished to offer consumer credit products, the Authority introduced the CONC Handbook rules where previously there had been a combination of guidance and legislation by the

OFT. These rules expanded upon the legislation and guidance set out by the CCA and OFT, which among other things prescribe the format and contents of certain regulated loan documents. This led to a requirement for consumer credit firms to adhere to the Authority's Principles for Businesses from 1 April 2014, the date the Authority took over responsibility.

- 4.12. Principle 6 of the Principles for Businesses states that a firm must pay due regard to the interests of its customers and treat them fairly. Firms that provide consumer credit are required under CONC 7.3.4R to treat customers in default or arrears with forbearance and due consideration.
- 4.13. Where a customer is in default or in arrears difficulties, a firm should allow the customer reasonable time and opportunity to repay the debt. CONC 7.3.5G provides specific examples of how a firm can show forbearance depending on the customer's circumstances and financial position. For example:
- (1) Considering suspending, reducing, waiving, or cancelling further interest or charges when a customer is in financial difficulty ('breathing space hold');
 - (2) Allowing deferment of payment arrears, where immediate payment is unsustainable, and as long as it does not make the repayment term unreasonably excessive; and
 - (3) Accepting token payments for a reasonable period of time to allow a customer to recover from unforeseen circumstances affecting their ability to pay priority debts or other essential living expenses (for example, mortgage, rent, council tax, utility bills, and food bills).

Mortgage Arrears

- 4.14. The provision and administration of regulated mortgages have been regulated activities since 21 October 2004. This includes taking necessary steps for the purpose of collecting or recovering payments due under the mortgage contract from the borrower. The Authority has prescribed rules imposing the requirements on authorised firms in relation to regulated mortgages, set out in MCOB. Chapter 13 of MCOB includes specific rules in respect of the information and service provided to customers who have payment difficulties.
- 4.15. Firms dealing with mortgage customers in financial difficulties, including arrears handling and forbearance activities, must effectively engage with the customer so that they can understand the customer's personal circumstances, including whether the individual is potentially vulnerable. Firms should obtain sufficient information to allow them to attempt to agree appropriate action dependent on the customer's personal circumstances.
- 4.16. Customers in arrears, or those who are about to enter arrears, who do not enter into repayment arrangements in a timely manner can face additional arrears and interest on their arrears balance. If the firm does not understand the personal circumstances of the customer, it may put in place unsustainable or inappropriate arrangements for the customer, resulting in further consumer detriment such as worsening of the customer's financial position and possible repossession of the customer's home. The fair treatment of these customers is therefore of particular importance.

C&R Operations

- 4.17. Customer accounts automatically entered the Collections process when a repayment was missed on loan, mortgage, or credit card products, or when a current account exceeded 35 days of an unarranged overdraft.

Collections Customer Contact

- 4.18. The collections process used 'cycles' to monitor customer, so called "delinquency" levels, with the cycle number indicating the number of payments past due, which informed HSBC UK's approach to customer contact, with different methods employed at each stage of the delinquency cycle;
- Pre-delinquency and cycle 1 - SMS, emails, letters, dialling and forbearance tools
 - Delinquency cycle 2 - Default notice, and final demand letters (in addition to the previous methods)
 - Delinquency cycle 3, 4 and 5 - collection agents (secured products) (in addition to the previous methods)
 - Delinquency cycle 6 and 7+ - Litigation activity (in addition to the previous methods excluding letters and dialler activity)
- 4.19. When an account entered collections, it was assessed to determine the potential risk of further delinquency. Irrespective of the risk level, the HSBC UK Collections department attempted to contact all customers. For HSBC and MSB the contact strategy was based on the customer risk profile, which was determined on a number of factors, including arrears value and number of occurrences. JLFS employed an automated contact strategy, though it was not based on the customer risk profile. FD employed a manually controlled contact strategy. HSBC UK utilised several different customer contact methods, including; letter, email, text, talking text and telephony.
- 4.20. The customer communication strategy was determined by the Collections Policy and Strategy Team within the Risk function and deployed by Contact Senior Management, within the Operations function.

Customer Circumstances

- 4.21. Upon successful contact, an assessment of the customer's individual circumstances was undertaken to determine whether a forbearance solution was appropriate. If contact could not be established or if the customer's circumstances meant forbearance was not appropriate then the default and demand process began, which resulted in charge-off (where the account is written off as a loss in circumstances where the money owed is considered unlikely to be collected).
- 4.22. Customers of HSBC, MSB and JLFS were assisted by one of a number of teams dependant on their circumstances. Those who were not displaying vulnerabilities or financial vulnerability triggers, were assisted by the core collections team based in either Birmingham, Chester, Hyderabad or Manila. Customers displaying financial difficulties were transferred to the FGT, based in Birmingham or Chester, who were able to complete an I&E assessment and set longer repayment plans or offer forbearance. For customers showing signs of vulnerability, they were transferred to the specialist team, also based in Birmingham or Chester, made up of agents who were more experienced in the treatment of customers with vulnerabilities.

- 4.23. FD customers were dealt with by the credit services team based in Leeds. This team were trained to handle all customers, including those displaying financial difficulties or vulnerability.

Customer Payments

- 4.24. All HSBC UK brands accepted debit and credit card payments to repay arrears and payments could be taken by all C&R agents. Agents were trained to only accept payments where there was a reasonable assumption that the customer had the means to pay (identified by establishing the customer's circumstances) and payment was unlikely to cause any consequential loss (i.e. forgoing other priority debts). HSBC UK also employed the right of set-off as a collections tool, providing the customer had sufficient credit balances in their current or savings account.

Interest, Fees and Charges

- 4.25. Across all brands, mortgages and personal loans did not attract arrears related fees or charges. There was a £5 daily unarranged overdraft fee on current accounts across all brands, which was capped at £80 per month and credit cards incurred £12 fees for over limit and late payment. There were also a range of costs relating to litigation and solicitors' fees incurred as part of the recoveries and repossession process.

Background to the investigation

- 4.26. In 2018, HSBC UK's RCMAT team conducted five reviews on the treatment of customers in financial difficulty. The results were issued between January and October 2018, and all reviews resulted in a rating of 'Needs Improvement'. The results of those RCMAT reports were promptly notified to the FCA.
- 4.27. The RCMAT reports were addressed to Senior Management in Banking and Propositions, with the role as risk owner for customers in financial difficulty, despite having no delegated authority for C&R. In November 2018, HSBC UK voluntarily commissioned an independent firm of external professional services consultants (the "Consultants") to conduct an independent review of C&R, focused on improving customer outcomes.
- 4.28. The results of the Consultants' Review were also reported to the Authority.
- 4.29. The weaknesses of the RBWM C&R function identified in both the RCMAT reports and the Consultants' Review highlighted weaknesses with the way HSBC UK approached RBWM C&R activities:
- 4.30. The primary weaknesses identified included;
- The way HSBC UK set its C&R strategy and oversaw its operation from a conduct risk perspective.
 - Customers in financial difficulty not being offered the most appropriate solutions.
 - An ongoing inflexible and inappropriate default process.
 - Communications with customers in recoveries that may lack clarity.
 - Lack of end-to-end customer outcome testing within assurance and compliance activities.

- Collections QA and MI being insufficient to identify or highlight customer outcome issues.
- Ineffective vulnerable customer policy and failures in the identification of vulnerable customers.

4.31. The Authority also raised concerns following a Supervision visit in July 2018 and subsequently, that the issues with the way HSBC UK approached collections may be resulting in harm to customers, and that it had not yet demonstrated appropriate governance, systems and controls to adequately satisfy itself that it treats customers in financial difficulty fairly and appropriately.

The Skilled Person's Report

4.32. As a result, in January 2019, the Authority issued a notice in accordance with section 166 of the Act, requiring HSBC UK to provide the Authority with a Skilled Person's Report in relation to the adequacy of HSBC UK's arrears handling, collections and recoveries operation in the Review Period and to determine whether HSBC UK was meeting its regulatory obligations, including whether it was treating customers fairly. Where the Skilled Person identified weaknesses, including details of potential customer harm, the report was to include appropriate recommendations for improvements.

4.33. The scope of the Skilled Person's Report included a file review assessment to understand the adequacy of HSBC UK's secured and unsecured RBWM C&R systems and controls with regard to their delivery of fair customer outcomes and compliance with the Authority's Handbook requirements.

4.34. The Skilled Person reviewed 198 customer files from a sample of 200 across all HSBC UK brands (HSBC, FD, MSB, JLFS). The sample was designed to be representative of the distinct customer journeys and arrears stages across C&R. As such, there was overrepresentation of cases in the latter stages and/or that had been through multiple cycles of delinquency, including default and forbearances cases. The Skilled Person acknowledged that the results of the sample testing could not be reliably extrapolated to draw conclusions about the level of unfair outcomes that may arise across the entire arrears population.

4.35. The selected sample contained both secured and unsecured lending products and included personal loans, current accounts, credit cards, overdrafts and mortgages. The files contained different collections treatments and arrears stages to enable conclusions to be drawn about the C&R customer journeys.

4.36. The Skilled Person graded customer outcomes as either fair outcome, fair outcome with a poor journey, or unfair outcome. The Skilled Person identified unfair outcomes in 89 cases (44%) of the review sample. The main issues identified as causing unfair outcomes included;

- Credit file defaults being registered when customer circumstances indicated scope for account rehabilitation, which was not sufficiently explored, due to the automated nature of the default process and in some cases a lack of outbound telephone contact and manual account review.
- Failure to provide forbearance / appropriate forbearance because of customer circumstances having not been adequately explored or the need for forbearance unidentified.
- Inconsistent application of interest, fees, and / or charges.

- 4.37. There were 92 cases (47%) where the customer suffered a poor journey but ultimately resulted in a fair outcome and there were 17 cases (9%) that were identified as fair outcome.
- 4.38. The Authority has undertaken a detailed review of 22 customer files extracted from the Skilled Person sample. The selection included three disputed files, where HSBC UK disagreed with the Skilled Person due to inaccuracies or unsuitable alternatively proposed outcomes. Of these three disputed files, analysis conducted by the Authority broadly concurs with the Skilled Person findings. However, on one file, the Authority agrees with HSBC UK that inaccuracies in the conclusion reached by the Skilled Person indicate that this example did not result in unfair treatment of the customer.
- 4.39. The Authority's detailed review of the selected customer files revealed fundamental failures in some cases in respect of HSBC UK's fair treatment of customers throughout the customer journey and arrears stages within C&R.
- 4.40. Specific examples of the failures impacting customers are laid out in four case studies addressed in detail at Annex A. Whilst these failings cannot be reliably extrapolated across the entire customer population, they are representative of the harm caused to some customers at the later stages of the C&R arrears process during the Review Period.

Root causes and fundamental issues

- 4.41. The Skilled Person identified significant failings, which caused a material number of the selected sample of customers in arrears to suffer unfair outcomes. These failings largely reflected issues identified through the RCMAT reports throughout 2018 (which highlighted issues specifically relating to Oversight, Application of Fees and Charges, Use of Forbearance, and Default, Litigation and Repossession), and the subsequent Consultants' Review in November 2018, with the following overall root causes identified;
- Ring fencing activities in the early part of the Relevant Period diverted attention from business as usual creating a greater focus on internal activities and caused management stretch. C&R was separated in January 2017 from second line credit risk and moved to a new global function.
 - The appointment of a newly formed senior management team at the beginning of the Relevant Period, or the preceding 12 months resulted in a period of embedding to enable them to fully understand the activities, risks and resources in their accountability areas.
 - The development of operational risk and conduct risk frameworks, driven by global standards, were not fully embedded or operating effectively for HSBC UK. Attributed in part to the lack of clarity and consistency around SMCR accountability and ORMF accountability for C&R, with conduct risks associated with the function having been largely missed in the development of the risk frameworks.
 - Operationally, many C&R processes were manually operated and relied on multiple hand-offs and touch points throughout the customer journey. Core banking, C&R specific, product specific and brand specific systems were used throughout. With subtle differences in policies, strategies, and underlying procedures across each brand. All

of which increased complexity and operational risk throughout the customer journey.

Governance, Strategy and Business Model

- 4.42. The Skilled Person's Report found that the governance and oversight model for C&R was in places inconsistent, confusing and misaligned across the various risk and control frameworks implemented across HSBC UK, and that in forums where C&R related MI packs were presented each month, the metrics were operationally and financially focussed and attracted little debate and challenge.

Content and discussion of C&R in Tier 1 Committees

- 4.43. The Skilled Person's Report found that the level of discussion, debate and challenge of C&R topics in Tier 1 Committees was minimal throughout the Review Period.

UK RBWM ExCo

- 4.44. The Skilled Person considered that there was no discussion or challenge of C&R activities during the Review Period and that there were no standing MI metrics on C&R within the UK RBWM ExCo meeting packs.
- 4.45. Based on the material reviewed by the Authority, it does not appear that there was any discussion or challenge at the UK RBWM ExCo of the substantive issues related to C&R activities; there was mention of complaints and vulnerable customers, but this was in the context of improving HSBC UK's customer focus and improving financial performance.
- 4.46. There were sporadic MI metrics that identified the levels of complaints and percentages related to customer delinquency and call volumes, however, these did not have a specific focus on C&R.

UK RBWM RMM

- 4.47. This was the highest committee tasked with the oversight of all risks within or impacting UK RBWM, including compliance, product, financial and non-financial risk, sales quality, and conduct.
- 4.48. The Skilled Person considered that, despite there being a standing agenda item for regulatory updates within the ToR, C&R was not mentioned in any of the 11 meetings that took place during the Review Period; and that vulnerable customers were discussed in the May 2018 meeting but in a broad sense, not C&R specific.
- 4.49. The Skilled Person noted that the ratings and a summary of issues derived from the RCMAT reports in early 2018 were presented to the UK RBWM RMM, and that Senior Management recommended a risk review be undertaken, but that this received no challenge or debate. The Skilled Person noted that there was C&R related MI in the meeting packs but it was credit risk focused and predominantly rated green, thus not attracting much challenge; also, the increased discussion around C&R at the time of the Authority visits focused on the issues raised by the Authority and the change agenda, rather than BAU activity.
- 4.50. The review conducted by the Authority found no mention of 'regulatory updates' in the 'Standing Agenda Items' section of any of the ToR versions within the Relevant Period. However, except for the February 2018 meeting in which there was no mention of C&R, the Authority found instances where there was discussion

related to C&R, in variable contexts, even though the limited instances of substantial discussion of customer outcomes in C&R came towards the end of the Review Period. As for the discussion of vulnerable customers taking place in the May 2018 meeting, the Authority confirmed it did not relate to C&R but to the difficulty identifying customer vulnerabilities via online channels.

- 4.51. The review by the Authority confirmed that the RCMAT reports relating to C&R were first discussed at UK RBWM RMM in July 2018 at which it was noted that the FCA would be conducting a site visit the following week, and that a full update would be provided following that visit.
- 4.52. The review conducted by the Authority supports the finding of the Skilled Person that the MI in the meeting packs mentioned C&R and vulnerable customers sporadically and not in the context of a holistic overview but in relation to, among others, operational performance; therefore, with sporadic information related to C&R spread across multiple meeting packs it would be difficult to obtain a consolidated picture and enough information to garner substantial attention from UK RBWM RMM members.
- 4.53. Finally, the Authority also confirmed that there was limited discussion of C&R BAU in the UK RBWM RMM during the Authority visits, and that discussion was centred around updating the members of the committee about engagement with the Authority, as well as remediation plans, including the proposed engagement of the Consultants.

Conduct Risk metrics not discussed in Tier 2 Committees

- 4.54. The Skilled Person's Report identified that there was limited discussion of C&R related conduct risks at Tier 2 forums and outlined a summary of discussion in each of them. However, the Authority's review did identify discussions of different aspects of C&R conduct and customer outcomes in several documents presented and discussed, particularly at the FD RMOC, MSB RMM and UK RBWM RBOC during the Relevant Period.

UK RBWM CRMM

- 4.55. The Skilled Person considered that there was no discussion of conduct risk or outcomes during the 11 meetings that took place during the Review Period, and that the MI focused on credit risk-based metrics and was discussed through a credit risk lens rather than doing so alongside customer outcomes.
- 4.56. It also noted that there was continuing challenge from UK RBWM Senior Management around the usefulness and visibility of the MI from March 2018 onwards, and several improvements and revisions to the MI were requested towards the end of the Review Period.
- 4.57. The review conducted by the Authority revealed increased clarity and focus on customer journeys and outcomes towards the end of the Relevant Period, including the introduction of a 'Conduct' metric in the RBWM Key Risk Indicators Dashboard.
- 4.58. The Authority also confirmed that as early as January 2018 the UK RBWM CRMM noted the RCMAT review highlighting the need for improvements in the MI, taking the necessary action to comply with those recommendations.

C&R Forum

- 4.59. The C&R Forum is a sub-committee of the UK RBWM CRMM. The Skilled Person's findings in relation to this forum indicated that it was responsible for reviewing conduct and consumer outcomes, producing a customer solutions pack detailing the forbearance applied to customer accounts. The Skilled Person considered, however, that these packs focused on volume of forbearance applied rather than customer outcome.
- 4.60. The Skilled Person also noted limited discussions on this pack in C&R Forum meetings, with most of the minutes stating the pack was 'duly noted' or factually noting a rise or drop in the volume of forbearance applied.
- 4.61. Based on the material reviewed by the Authority, the C&R Forum's responsibility for reviewing conduct and consumer outcomes was included in its ToR in 2018.
- 4.62. The review conducted by the Authority supported in general the findings by the Skilled Person that the customer solutions packs focused on volumes of forbearance applied rather than customer outcomes and that the discussions on their content in C&R Forum meetings were limited to noting data changes in the volume of forbearance applied.
- 4.63. Nevertheless, the investigation undertaken by the Authority identified a significant overall shift towards a more conduct and customer outcome focus in MI and, specifically, in the format and content of the customer solutions packs from February 2018.

Monitoring and Testing - Oversight

Call quality QA and monitoring

- 4.64. During the Relevant Period, and prior to August 2018, the QA framework for monitoring call quality involved checks undertaken at team manager level, by which each month agents would have four calls selected by a randomiser checked by their team leader.
- 4.65. This framework was supported by a process involving an independent QA team within C&R Operations which would check ten calls per team manager per month, focusing on the team manager's ability to accurately assess the agents' adherence to the standards.
- 4.66. Alongside these team manager and independent QA team checks, and since 2014, the C&R function undertook 'customer journey reviews', which involved a 'deep dive' into the full journey of two customers each month (one each by the QA team and the C&R Operations team) and identified lessons for improvement in C&R practices. Findings in respect of the cases reviewed were presented as a standing agenda item at a monthly senior leadership meeting.
- 4.67. In January 2018, the RCMAT issued reports in relation to its risk-based review of the treatment of secured and unsecured banking customers in financial difficulty. Two of those reports identified a medium risk issue that call quality checking failed to measure or assess customer outcomes, as it only considered a single call in isolation and did not provide a view on whether the conversations held and actions performed led to a fair outcome for the customer.
- 4.68. The end-to-end customer testing model was established in August 2018 and developed in part based on the methodology of the 'customer journey review', with a mix of random sampling and thematic sampling. It was expanded on an incremental basis, with roll out to all brands and a larger sample of customers

underway at the end of the Relevant Period. The 'customer journey review' was phased out when C&R implemented the formal end-to-end outcome testing procedures.

- 4.69. The Skilled Person acknowledged the January 2018 RCMAT finding in respect of 'lack of end-to-end outcomes testing' and noted that '1LOD C&R oversight activity was enhanced in August 2018 to include end-to-end customer outcomes testing (...) to mitigate the finding raised by the RCMAT reports'.
- 4.70. The Authority considers that the measures in place to check call quality and the operation of the call quality framework / monitoring during the Relevant Period were inadequate.

2LOD monitoring

- 4.71. The Skilled Person did not observe any oversight of 1LOD policy and strategy execution conducted by the 2LOD Collections Strategy and Credit Risk Oversight team to ensure it was operating as intended, other than through formal governance forums.
- 4.72. In response to an Information Requirement by the Authority aimed at explaining the remit of the Collections Strategy and Credit Risk Oversight (CSCRO) team and how it conducted oversight of UK C&R Operations policy and strategy execution, HSBC UK informed the Authority that oversight was conducted through governance forums, case sampling and testing and customer outcomes testing.

Senior Oversight

- 4.73. The SMCR Framework within HSBC UK was designed to ensure there was Senior Management awareness and delivery of their role responsibilities.
- 4.74. The Global ORMF was an internal framework in place to identify, manage and oversee financial and non-financial business risks.
- 4.75. The Skilled Person found that during the Review Period the responsibilities and accountabilities set for management between these frameworks for the C&R function and activities did not fully align.

Collections and Recoveries metrics and complaints

- 4.76. There were various meetings and forums which considered issues relating to C&R complaints and vulnerability.
- 4.77. Meeting packs for the monthly CEF contained the forum agenda and slide deck which contained details of complaints data, call quality results and C&R customer service results. HSBC UK escalated issues from this meeting to monthly collections direct report meetings.
- 4.78. The monthly collections direct report meetings included conduct risk issues such as complaints data, collection tools and potential improvements to the customer journey. The meetings were led with reference to "TCF Dashboards" which highlighted, via a traffic light system, metrics feeding into outcomes relating to consumer confidence, information, advice, post-sale barriers and appropriate products and services. The dashboards did not highlight any trends or root cause analysis to provide context to the metrics reported. Complaints data was reported to the UK RBWM Operations Committee via quarterly updates.

- 4.79. Monthly meetings between the C&R Function and the Service Recovery team took place which discussed the results of the Complaints Performance Dashboards. These contained detail relating to complaint levels, and outcomes, timeliness, and redress metrics. The dashboards presented a high-level overview of complaints performance but no underlying MI addressing the root cause of the complaints. The meetings themselves contained limited information on the underlying issues and where issues were noted there was in some cases little to identify root cause or detailed proposed actions to address them. The metrics contained within the dashboards were compared to historical levels in discussions and there was a lack of detail around reasons for both improvement and reduction in the performance levels of these metrics to establish meaningful insights into the results. It was identified at the monthly complaints meetings that there were quality issues with agents identifying complaints on calls, and with the handling of complaints once identified.
- 4.80. Where additional training needs were identified in relation to complaint handling there was only an anticipated timeframe to address this, with no action discussed or owner detailed and no escalation of the issues identified was made to governance forums, or to Risk and Compliance. However interim resource was in place to provide support. UK RBWM ExCo did track complaint trends, but as the data was so aggregated, no C&R related complaint trends were identified during the Relevant Period.
- 4.81. Throughout the various meetings and forums, metrics were discussed and often compared to historical levels to comment on areas of improvement or where issues were noted. Updates to the tolerance levels applied in relation to conduct metrics were noted by HSBC UK in July 2018 within the Collections and Strategy Update, having been self-identified as needing improvement, while setting out the questionable level of insight they provided and noting that a more meaningful set of metrics would be extracted from the 'Customer Centric Reporting' that was in the process of being built. The tolerance levels were set by a data analytics team and have been in place for a number of years. HSBC UK have been unable to establish when the methodology was established.

Policies and procedures

- 4.82. The RBWM section of the Global Risk FIM set out the mandatory policies relevant to the C&R function, which was owned by Global RBWM Risk and applicable to all Group entities in the RBWM business. The local C&R policy and procedure was contained within a combination of the Retail Credit BIM as well as C&R specific policies and procedures. RC policies existed which contained policy material relevant to C&R. These were the UK Country Mortgages policy (covering regulatory requirements from MCOB 13) and the UK Consumer Credit policy (covering regulatory requirements from CONC 7). They were expected to be considered in both the Credit Risk BIM, which was the overarching policy that governed C&R during the Relevant Period, and the C&R procedures.

Forbearance

- 4.83. During the Relevant Period, HSBC UK had global policies in place to cover various areas of the product lifecycle, which included relevant sections on collections and recoveries in the context of post-sales servicing requirements. Those policies were further supplemented by UK policies. The information contained in those policies on the forbearance options for secured and unsecured products was limited and failed to clearly detail the circumstances in which each of these options might be suitable.

- 4.84. The policies failed to address how the various brands at HSBC UK dealt with disputed debt and the circumstances in which an account might be considered for repossession or litigation action.
- 4.85. Further, the policies failed to detail all the circumstances in which the waiving, suppressing of interest, fees and charges should be considered. They provided general information on the options available. HSBC UK relied instead on procedures that provided some guidance on specific instances in which agents could take such actions. However, the guidance was not comprehensive in nature and relied on the personal judgment of collections agents.

Customers in financial difficulty

- 4.86. The policies in place provided little information on the treatment of customers in financial difficulty, for example those who were impacted through a change in their employment circumstances, or who were struggling to manage their debt. Though HSBC UK had policies in place addressing the treatment of vulnerable customers generally, it did not address specifically how it should treat customers in financial difficulties.

Potentially vulnerable customers

- 4.87. During the relevant period, HSBC UK had various policies, guidelines and procedures in place on the treatment of vulnerable customers, for example customers suffering from ill health or injury preventing them from maintaining employment, or those with caring responsibilities for those with additional needs. The policies were global and general in nature, and they focused on the treatment of vulnerable customers in the context of design, sales and servicing.
- 4.88. Though one of the UK sub-brand policies dealt with potentially vulnerable customers in the context of collections, it was not specific and detailed enough to ensure agents had all the information necessary to recognise and deal fairly with customers who were either vulnerable or potentially vulnerable.
- 4.89. Those policies were further supported by HSBC UK guidance and procedures. During most of the Relevant Period there were two procedures in place that dealt with the treatment of potentially vulnerable customers. One of these was targeted at the specialist team who were engaged once a customer had been recognised as suffering from a mental health condition. The other procedure was not comprehensive in nature and did not cover in detail the challenges that might arise when dealing with potentially vulnerable customers. Where a customer was not identified as potentially vulnerable under this procedure, they were unlikely to be subject to the procedures for managing such customers.
- 4.90. Before September 2018, none of HSBC UK's policies and procedures included a detailed step by step procedure on the best practice processes that should be adhered to by agents when engaging with customers who were either vulnerable or potentially vulnerable. For instance, the policies provided general definitions of the factors that could make a customer vulnerable, but the policies did not go far enough to explain how this might present challenges for customers going through the collections process. This assessment was instead left to the judgment of individual agents, when following the guidance provided, which meant there was a lack of consistency in the treatment of such customers in the context of collections and recoveries.
- 4.91. From September and October 2018, HSBC UK implemented procedures streamlining the process and providing detailed guidelines on the procedures

agents should follow. The failings and weaknesses identified prior to this, combined with the poor customer outcomes observed, suggest that the firm failed to consider sufficiently the treatment of vulnerable customers in collections and recoveries during the Relevant Period.

- 4.92. The review conducted by the Consultants and the Skilled Person concluded that there was a lack of embedding of RC policies into C&R operations, and weaknesses and omissions in the credit risk and vulnerable customer policies.

HSBC UK's failure to treat customers fairly

- 4.93. Collectively the internal reviews conducted by HSBC UK, the voluntarily commissioned independent review of C&R conducted by the Consultants, the Skilled Person's Report and the Authority have identified a number of areas where HSBC UK had been treating customers unfairly. The failures fall into the following categories;

- Establishing customer circumstances;
- Identification and treatment of vulnerable customers;
- Insufficient consideration of and use of forbearance;
- Inconsistent approach to fees and charges;
- Disproportionate application of default, litigation, and repossession process; and
- Training and agent competency deficiencies.

Customer Circumstances

- 4.94. Establishing appropriate contact with customers is fundamental to gaining an understanding of their individual circumstances, including whether they are a PVC or suffering financial difficulties, to ensure they are dealt with appropriately.
- 4.95. Failure to identify customer circumstances which have led to arrears, or their long-term financial situation, impacts ability to provide appropriate forbearance and sustainable and affordable solutions for the customer, leading to unfair customer outcomes.
- 4.96. The Skilled Person's Report and subsequent analysis by the Authority found fundamental weaknesses in establishing the customer's circumstances and root cause of arrears.
- 4.97. The customer's circumstances and root cause of arrears were not sufficiently probed or established in 46 cases of the population sample data. This led to the customer receiving an unfair outcome in 27 of these cases, and the customer experiencing a poor journey in the remaining 19 cases.
- 4.98. This analysis also highlighted that customer's financial circumstances were not sufficiently explored or evaluated to determine the customer's financial situation in 59 cases, with a lack of affordability assessment for payments and promises to make payment. This led to the customer receiving an unfair outcome in 39 of these cases, and a poor journey in the remaining 20 cases.

- 4.99. The root cause of the lack of sufficient probing and exploration of a customer's circumstances appears to be attributed to the inability of agents to identify potential financial difficulty or complex customer circumstances.

Vulnerable Customers

- 4.100. Analysis of the population data conducted by the Skilled Person and the Authority, identified weaknesses in the dataset relating to the way potentially vulnerable customers and customers in financial difficulty were recorded. There was a lack of consistency in how PVCs and customers in financial difficulty were recorded across the different teams and brands within C&R, impacting the ability to produce meaningful data regarding total PVCs and customers in financial difficulty.
- 4.101. Vulnerability markers could be applied on HSBC, JLFS and MSB systems and also enter a 'class-queue', meaning accounts were removed from automated actions and received manual handling from a specialist team. Sometimes the vulnerability marker was applied but no class queue action, and vice versa. FD operated a diary system and had no consistent way of recording vulnerable customers. This gave rise to uncertainty in the completeness of the vulnerable customer data in C&R, which could also lead to poor customer outcomes. Inconsistently applied vulnerability markers and / or class queue actions impacted on future customer interactions and resulted in the inappropriate treatment of PVCs or customers in financial difficulty.
- 4.102. There was no group-wide vulnerable customer flag, and the methods for recording vulnerability worked in isolation, with no automation of markers applied in collections also being applied to front-end systems, with the responsibility for the application of markers falling to the agents.
- 4.103. The Skilled Person identified from the customer sample that there was a failure to identify or appropriately handle 53 customers that displayed signs of potential vulnerability, and that in 34 of these cases the customer experienced an unfair outcome. Examples were identified of a failure to record customers as vulnerable on the system, failure to transfer customers to the appropriate specialist team, and a lack of understanding of the customers' circumstances and the impact on their finances, as well as their ability to interact.
- 4.104. This was despite C&R Operations providing additional agent training on the identification of, interaction with, and strategies to help and support, PVCs in April and October 2018.
- 4.105. The lack of vulnerable customer flag / markers on accounts also had an impact on the processes in place in respect of default for vulnerable customers. Customers identified as vulnerable were provided with a specifically designed cover letter to Default Notices and Final Demands. This provided additional context on the reasons for the letter being sent and worded in a softer manner. However, there were 23 cases identified where the customers were considered vulnerable by the Skilled Person but were not identified as such by HSBC UK. These customers did not receive the relevant cover letter and also did not benefit from manual review prior to default confirmation.

Forbearance

- 4.106. During the Relevant Period, HSBC UK were required under CONC 7.3.4R to treat customers in default or in arrears difficulties with forbearance and due consideration. As detailed, there were numerous forbearance options available,

including payment deferral, acceptance of token payments, and breathing space holds.

- 4.107. Flaws in HSBC UK's forbearance suite were initially identified in respect of mortgage customers through a review of the treatment of mortgage customers in financial difficulty. This highlighted that not all of the forbearance options that the Authority would have expected to have been used, were used, thereby impacting on customer outcomes. Specifically, the option to extend a customer's mortgage term and reduce their SMP.
- 4.108. The Skilled Person identified further weaknesses in the forbearance approach applied by HSBC UK, with the potential to lead to poor customer outcomes. The forbearance options across the brands were split, with "curing tools" that could be applied to assist customers in resolving their arrears, and "non-curing tools" which could support customers but did not address arrears repayment.
- 4.109. The non-curing tools in place relied on agent discretion to apply measures such as freezing of interest and charges and did not prevent customers from heading to default. Forbearance measures were used inconsistently across the different brands. The options available to both secured and unsecured customers were predominantly short-term solutions, meaning that regular review and reset of arrangements was required for customers experiencing longer term repayment difficulties. This relied on appropriate customer contact, but in practice this was absent in some cases resulting in a detrimental effect on customer outcomes.
- 4.110. Additionally, the core collections telephony team lacked knowledge in the full suite of forbearance options, despite being responsible for identifying customers in financial difficulty for referral to the FGT who applied them. This prevented the core collections team from sufficiently exploring customer circumstances and outlining all the help potentially available to them.
- 4.111. As a result, analysis of the population data conducted by the Skilled Person, and verified by the Authority, highlighted insufficiencies in the use of forbearance. Forbearance had not been considered or applied in 41 of the 198 files reviewed when it would have been appropriate for the customer. With a further 15 cases identified where the forbearance applied was not sufficiently considered and did not assist the customer in resolving their arrears. In addition, there were ten examples identified where the forbearance option provided to the customer was not actioned correctly on the system.

Fees and charges

- 4.112. The Skilled Person's Report identified ten cases where there was inconsistency in waiving interest, fees and charges applied. Agents could waive and refund fees and charges at their discretion up to certain amounts (above which team manager approval was required) either when a customer informed them of vulnerability or financial difficulty, and / or when an I&E assessment highlighted a negative disposable income. The Skilled Person's Report ascertained that this was not actioned consistently amongst agents or across the brands. The root cause of this issue was noted by the Skilled Person as appearing to be mis-informed agent judgement which may have been caused by a lack of guidance and training.
- 4.113. In addition to inconsistent application of the waiving of interest, fees and charges, there were instances identified where the incorrect interest rate was charged to JLFS Partnership Card customers. This related to a reversion of an interest rate increase set out in a letter to customers, which did not take effect. This resulted in customers continuing to be charged the higher rate of interest (other than in

three of the 10 cases reviewed, due to a freeze in interest having been applied to those accounts by way of forbearance).

Default, litigation, and repossession

- 4.114. During the Relevant Period, CONC 7.3.14R stated that a firm must not take disproportionate action against a customer in arrears or default. A credit file default should only be used as a last resort, as they remain on a customer's credit file for up to six years.
- 4.115. The default process across all HSBC UK brands and products was automated, with no evidence of manual review or intervention, with system controls in place to restrict default issuance beneath a threshold of £50. This automated process resulted in Default Notices and Final Demand issuance to accounts with low arrears balances which resulted in disproportionate action against a customer's arrears in one case reviewed.
- 4.116. A further issue linked to the automated nature of the default process were instances where customers were defaulted during or after a breathing space or STNA hold, without further contact following the expiry of the hold. The application of these types of forbearance measures did not prevent accounts from moving through collections, meaning the accounts moved closer toward default. Following the expiry of the holds a plan expiry letter was sent to the customer informing them of the expiration and requesting the customer made contact. However, the absence of any attempts by the bank to contact the customer revealed a lack of consideration of customer circumstances and showed that HSBC UK had not taken all reasonable steps to resolve the customer arrears position prior to issuing a Default Notice, purportedly "as a last resort".
- 4.117. Serious issues were identified relating to the use of default, and consideration of litigation and repossession, without due consideration of individual customer circumstances. This included instances of customers who were defaulted where there was evidence of rehabilitation. This was identified through the RCMAT reviews in 2018.
- 4.118. The Skilled Person identified 17 cases where a default had been registered on the customer's credit file despite there having been potential to rehabilitate the account and avoid default within a reasonable period.
- 4.119. Analysis also identified 24 cases where a default notice had been issued, and 21 cases in which a Final Demand had been issued. In both circumstances this action was also taken despite the customers having demonstrated the potential to rehabilitate their accounts within a reasonable period.
- 4.120. The population data sample contained 15 cases that were subject to litigation or repossession, analysis of which identified 10 cases where the decision to litigate or attempt to repossess the customer's property was inappropriate due to the potential for rehabilitation of the account.
- 4.121. The detrimental impact that the absence of a vulnerable customer flag had on accounts has been described above, such as preventing PVCs from receiving appropriate contact and consideration in relation to HSBC UK's default process. In addition to this, in half of the relevant cases where HSBC UK had identified the customer as vulnerable, there was no evidence of manual review taking place prior to progressing the default process, and where manual review did take place there was no evidence of the rationale used to reach a decision or evidence of what criteria was considered when making a decision.

- 4.122. Where a PVC was identified, the approach to the default process was not consistent, with most relevant cases reviewed showing Default Notices and Final Demands being issued to PVCs without the PVC cover letter. This was important, as the cover letter provided additional context for the customer and was more softly worded.
- 4.123. Failings by a firm in dealing appropriately with customers facing default, litigation and/or repossession, potentially have a significant and ongoing impact on a customer, not least on their ability to obtain future credit or lending at competitive rates on mortgage products and access to full market options, or at all.

Training

- 4.124. Many of the failings described in this Notice originated from deficiencies in HSBC UK's training of its agents, with the consequence that they failed to perform their roles competently, particularly in the areas of:
- Forbearance;
 - Complaints handling;
 - Establishing customer circumstances;
 - Customer communication;
 - Vulnerable customers;
 - Fees and charges, and
 - Default, litigation, and repossession.
- 4.125. There was a lack of training for front line collections agents to make them aware of all available forbearance options, and the circumstances in which they might be used. Although collections agents received CEM training which highlighted the importance of understanding the customer's circumstances, members of the Core Collections telephony team did not have an adequate knowledge of all of the forbearance solutions that could be offered, nor the criteria for being able to access those solutions, or their features and how they might impact on customer accounts. This resulted in agents being unable to adequately explore a customer's circumstances or engage in a meaningful conversation with them to establish the root cause of their arrears, so agents were not in a position to outline to the customer the help that was available to them.
- 4.126. Inadequate training also resulted in agents being unable to adequately explain how forbearance solutions operated. Poor explanations can impact customers' ability to manage their accounts. This led to instances where the impact to a customer's credit file were not outlined in solutions letters (such as arrangements being registered, which would potentially impact future creditworthiness assessments), key forbearance solutions were not confirmed in writing, delays in issuing solution confirmation letters, and poor explanation in verbal interactions. The root cause of which was human error and highlights a potential training issue where manual processes are involved.
- 4.127. There was an identified gap in complaint handling training and resourcing issues were addressed through support from other departments.

- 4.128. This was also identified in the Collections Complaint Performance Review meetings where it was noted that the “skill set” across the majority of the collections team was “not where it needs to be”. There was also noted to be a capacity issue in relation to staff competent to deal with mortgage complaints where these staff were unavailable due to holidays or sickness, which could on occasion result in no one being available to resolve these complaints.
- 4.129. On occasion, the inadequate training of front-line agents manifested itself directly in communications with customers. For example, in a telephone call with a vulnerable customer relating to an account in default where the repossession process had started, an agent highlighted their own lack of knowledge on how to assist the customer. When asked about the arrears on their account, they stated:
- “If you just bear with me a second. The only problem is I’m not actually trained in this sort of...” “...that’s the only issue otherwise I would try and help you”*
- 4.130. Additional training for agents on the theoretical concepts of vulnerable customers, including the types of vulnerability that can be encountered, how to interact with vulnerable customers and the types of strategies that would help and support these customers, was rolled out in April 2018 and refreshed in October 2018. However, some issues in relation to the identification of PVCs continued, including failings in respect of the default process for vulnerable customers, which was impacted by the failure of agents to effectively identify and deal with vulnerable customers.

Remediation and improvements

- 4.131. Following the outcome of the internal RCMAT reports and awareness of the issues they highlighted, HSBC UK swiftly recognised the need for a more comprehensive approach.
- 4.132. In September 2018, HSBC UK proactively launched a remediation and redress programme, the ICOC&R, initially supported by the Consultants, who were commissioned to start their review in November 2018. The programme was subsequently refined and extended to address issues self-identified by HSBC UK; findings from the Consultants’ Review; and findings from the Skilled Person which had not already been self-identified by HSBC UK or through the Consultants’ Review (although the Skilled Person acknowledged that a “significant proportion” of its findings reflected the issues already self-identified by HSBC UK and/or the Consultants).
- 4.133. The ICOC&R programme comprised two workstreams;
- **Forward-fix** – a transformational programme split into seven workstreams of delivery, aimed at improving the C&R operations and supporting the governance and oversight framework.
 - Policy and Strategy
 - Operational Excellence
 - Customers in Vulnerable Circumstances
 - Customer communications
 - Governance, MI and Business Model

- Remediation
 - Linked Programmes/Initiatives
 - **Remediation** – a redress exercise aimed at providing redress to customers where there was a potential for detriment.
- 4.134. All issues identified by the Skilled Person were addressed within one of the forward-fix workstreams and tracked through to completion via HSBC UK's Helios system. With continued monitoring of the fair treatment of customers and delivery of good customer outcomes on an ongoing basis.
- 4.135. HSBC UK allocated significant money and resource to the ICOC&R, investing £94 million in the programme associated to technology upgrades, internal resources, external professional resources to assist with implementation costs, and costs associated to advice received from third parties.
- 4.136. In July 2019, to mitigate the risk of continued customer detriment, HSBC UK made the decision to stop applying interest charges and fees incurred by current account and credit card customers who were in arrears and were engaged with HSBC UK. The freeze of such interest and fees was back dated to all customers in Collections from 1 June 2019. Alongside this, and importantly, a pause was instituted on all default and demand notices to allow implementation of new customer engagement and communications strategy, while mitigating potential customer detriment during this process.
- 4.137. HSBC UK put in place and appropriately resourced a redress workstream designed to identify customers who may have suffered financial detriment, harm or distress and inconvenience, as a consequence of the weaknesses identified with HSBC UK's treatment of customers in arrears, and to offer them remediation.
- 4.138. The redress exercise was extensive and wide reaching, extending back to 2010, far outside of the Relevant Period. It was offered to customers based on the following categories:
- Customers in financial difficulty;
 - Inappropriate application of the default and demand process;
 - Poor customer journeys;
 - Inappropriate litigation decisions;
 - Reversal of rate increase notification not followed through;
 - Under-utilisation of rate switch; and
 - Re-age forbearance tool incorrectly actioned.
- 4.139. The Skilled Person noted, and the Authority agrees, that in most cases the redress exercise design likely over-remediated customers. Ultimately the exercise resulted in approximately £233,186,073 million of redress being offered to 1,535,136 HSBC UK customers. As a result of the redress offered, HSBC UK have made payments totalling £185 million to fully redress any customer detriment.
- 4.140. HSBC UK recognises that its customers suffered varying degrees of detriment as a result of the unfair outcomes identified by the Skilled Person. However, in

respect of the overall seriousness of the issues, HSBC UK highlighted that in the majority of the sample cases financial detriment was either non-existent or minimal.

- 4.141. The seriousness of the issues cannot be fully quantified purely through reference to financial detriment, as doing so would fail to recognise the significant worry, inconvenience and stress experienced by many customers, or the detriment caused through disproportionate default, litigation, or repossession action taken by HSBC UK which can negatively impact on a customer's ability to obtain future credit and potentially prevent access to prime market products.
- 4.142. This was recognised by HSBC UK; the remediation and redress programme took a more holistic approach and did not only consider financial detriment. It also considered the potential distress and inconvenience suffered by customers as a result of the failings and took appropriate measures to address them.

5. FAILINGS

- 5.1. The regulatory provisions relevant to this Notice are referred to in Annex B.
- 5.2. Based on the facts and matters detailed above, the Authority considers that HSBC UK breached Principles 3 and 6, as well as CONC 7.2.1R, 7.3.4R, 7.3.14R, and MCOB 13.3.2A.

Principle 3 breaches

- 5.3. Principle 3 requires that a firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
- 5.4. HSBC UK breached this requirement as follows;

Treating customers fairly

- 5.5. By failing to have in place effective policies and procedures to enable agents to obtain adequate information from customers relating to their circumstances to ensure fair treatment.
- 5.6. Through inadequate training, including gaps in or absence of training leading to weaknesses in agent knowledge and mis-informed judgement in dealing with customers, including the ability to effectively identify PVCs. The procedures and processes in place allowed for agent discretion to implement some forbearance options, which relied on the agents' ability to identify customers in need of forbearance and required them to be knowledgeable on the suite of available options to effectively implement them. Additional training and effective QA were required to ensure the competency of agents.

Governance and Oversight

- 5.7. By failing to have in place a clear and consistent governance and oversight model for C&R across the various risk and control frameworks implemented across HSBC UK, and to ensure that C&R related MI metrics discussed in forums have a customer outcome-centred focus.
- 5.8. Through inadequate call QA that did not measure or assess customer outcomes, and did not provide a view on whether the conversations held, and actions performed led to a fair outcome for the customer.

Principle 6 breaches

5.9. Principle 6 requires that a firm must pay due regard to the interests of its customers and treat them fairly.

5.10. HSBC UK breached this requirement as follows;

Customer circumstances

5.11. By failing to establish individual customer circumstances, including how and why some customers fell into arrears or their short-term and long-term financial situation and to ensure sufficient probing of their financial circumstances.

5.12. By failing to undertake appropriate affordability assessments for payments and promises to pay.

5.13. By failing to identify when some customers presented indication of financial difficulty or potential vulnerability.

Forbearance

5.14. Due to insufficient information obtained on customer circumstances HSBC UK failed to identify, consider, and apply appropriate forbearance. Resulting in some customers not being offered forbearance when it would assist them, and some customers obtaining forbearance that did not positively impact their arrears position.

5.15. Coupled with failures in setting up forbearance plans and not actioning agreed forbearance options on the system.

Default

5.16. By failing to treat some customers fairly in taking disproportionate action in relation to placing customers into default, litigation, and repossession activity and by not taking all reasonable steps to resolve customer arrears positions prior to instigating default action.

6. SANCTION

Financial Penalty

6.1. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of DEPP. In determining the financial penalty, the Authority has had regard to this guidance.

6.2. The Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5A sets out the details of the five-step framework that applies in respect of financial penalties imposed on firms.

Step 1 – Disgorgement

6.3. Pursuant to DEPP 6.5A.1G(1), at Step 1 the Authority seeks to deprive a firm of the financial benefit derived directly from the breach where it is practicable to quantify this.

- 6.4. HSBC UK has undertaken a significant remediation exercise to compensate customers who have suffered quantifiable harm as a result of its actions. The Authority is satisfied that this negates any direct financial benefit that HSBC UK obtained.
- 6.5. DEPP 6.5A.1G(2) states that, where a firm agrees to carry out a redress programme to compensate those who have suffered loss as a result of the breach, or where the Authority decides to impose a redress programme, the Authority will take this into consideration. In such cases, the final penalty might not include a disgorgement element, or the disgorgement element might be reduced.
- 6.6. HSBC UK has provided extensive financial redress and remediation, with approximately £233,186,073 million of redress being offered to 1,535,136 customers. To date HSBC UK has made redress payments totalling around £185 million to customer accounts impacted or potentially impacted by the failings subject of this Notice. The Authority therefore considers that it is not appropriate for there to be a disgorgement element within the penalty.
- 6.7. Step 1 is therefore £0.

Step 2 – the seriousness of the breach

- 6.8. Pursuant to DEPP 6.5A.2G(1), at Step 2 the Authority determines a figure that reflects the seriousness of the breach. Where the amount of revenue generated by a firm from a particular product line or business area is indicative of the harm or potential harm that its breach may cause, that figure will be based on a percentage of the firm's revenue from the relevant products or business area.
- 6.9. The Authority considers that the revenue generated by HSBC UK is indicative of the harm or potential harm caused by its breach. The Authority has therefore determined a figure based on a percentage of HSBC UK's relevant revenue. HSBC UK's relevant revenue is the revenue derived by HSBC UK from their customers who were and whilst they were in arrears, during the period of the breach. The period of HSBC UK's breach was from June 2017 to October 2018. The Authority considers HSBC UK's relevant revenue for this period to be **£179,433,545**.
- 6.10. In deciding on the percentage of the relevant revenue that forms the basis of the Step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 20%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on firms there are the following five levels:
- (1) Level 1 – 0%
 - (2) Level 2 – 5%
 - (3) Level 3 – 10%
 - (4) Level 4 – 15%
 - (5) Level 5 – 20%
- 6.11. In assessing the seriousness level, the Authority takes into account various factors which reflect the impact and nature of the breach, and whether it was committed deliberately or recklessly. The factors that the Authority has determined to be relevant to the Bank's breaches are set out below.

Impact of the breach

- (1) The loss or risk of loss caused to individual consumers (DEPP 6.5A.2G(6)(c));
- (2) Whether the breach had an effect on particularly vulnerable people, whether intentionally or otherwise (DEPP 6.5A.2G(6)(d)); and
- (3) The inconvenience or distress caused to consumers (DEPP 6.5A.2G(6)(e)).

Nature of the breach

- (1) The nature of the rules, requirements or provisions breached (DEPP 6.5A.2G(7)(a)) which in this case had particular application to the fair and appropriate treatment of vulnerable customers and those experiencing payment difficulties; and
- (2) Whether the breach revealed serious or systemic weaknesses in the firm's procedures or in the management systems or internal controls relating to all or part of the firm's business (DEPP 6.5A.2G(7)(c)).

6.12. DEPP 6.5A.2G(11) lists factors likely to be considered 'level 4 factors' or 'level 5 factors'. Of these, the Authority considers the following factors to be relevant;

- (1) The breach caused a significant loss or risk of loss to individual consumers (DEPP 6.5A.2G(11)(a)); and
- (2) The breach revealed serious or systemic weaknesses in the firm's procedures or in the management systems or internal controls relating to all or part of the firm's business (DEPP 6.5A.2G(11)(b)).

6.13. DEPP 6.5A.2G(12) lists factors likely to be considered 'level 1 factors', 'level 2 factors', or 'level 3 factors'. Of these, the Authority considers the following factors to be relevant;

- (1) Little, or no, profits were made, or losses avoided as a result of the breach, either directly or indirectly (DEPP 6.5A.2G(12)(a)); and
- (2) The breach was committed inadvertently (DEPP 6.5A.2G(12)(e)).

6.14. Taking all of these factors into account, the Authority considers the seriousness of the breach to be level 3 and so the Step 2 figure is 10% of **£179,433,545**.

6.15. The Step 2 figure is therefore **£17,943,355**.

Step 3 – aggravating / mitigating factors

6.16. Pursuant to DEPP 6.5A.3G, at Step 3 the Authority may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the breach.

6.17. The Authority does not consider that there are any factors aggravating the breach.

6.18. The Authority considers that the following factors mitigate the breach:

- (1) HSBC UK brought the breaches quickly, effectively and completely to the Authority's attention. HSBC UK self-identified many of the issues and proactively engaged a third party to undertake an independent review, promptly self-reporting to the Authority (DEPP 6.5A.3G(a));
- (2) HSBC UK have fully co-operated with this investigation, dedicating time and resource to respond fully to information requirements, proactively offering and delivering presentations to the Authority and making itself available to the Authority when requested (DEPP 6.5A.3G(b));
- (3) HSBC UK undertook on its own initiative a significant remediation exercise, where approximately £233,186,073 million of redress has been offered to 1,535,136 customers who may have suffered financial detriment, harm or distress and inconvenience as a result of the failings identified with HSBC UK's treatment of customers in arrears. The exercise was wide reaching, went well beyond the Relevant Period, and by its design was likely to over-remediate customers (DEPP 6.5A.3G(d)); and
- (4) HSBC UK took significant steps to remedy the failings in C&R to remediate the identified issues and ensure that similar problems could not arise in future. A forward-fix programme was undertaken through HSBC UK's ICOC&R, which along with the redress exercise consisted of a transformational set of workstreams to improve C&R operations and supporting the governance and oversight framework. All of the issues identified within the Skilled Person's Report were addressed by this programme, which HSBC UK invested approximately £94 million on facilitating (DEPP 6.5A.3G(d)).

6.19. Having taken into account these mitigating factors, the Authority considers that the step 2 figure should be decreased by 50%.

6.20. Step 3 is therefore **£8,971,677**.

Step 4 – adjustment for deterrence

6.21. Pursuant to DEPP 6.5A.4G(1), if the Authority considers the figure arrived at after Step 3 is insufficient to deter the firm who committed the breach, or others, from committing further or similar breaches, then the Authority may increase the penalty.

6.22. The Authority considers that the Step 3 figure of **£8,971,677** represents a sufficient deterrent to HSBC UK and others, and so has not increased the penalty at Step 4.

6.23. The Step 4 figure is therefore **£8,971,677**.

Step 5 – settlement discount

6.24. Pursuant to DEPP 6.5A.5G, if the Authority and the firm on whom a penalty is to be imposed agree the amount of the financial penalty and other terms, DEPP 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the Authority and the firm reached agreement. The settlement discount does not apply to the disgorgement of any benefit calculated at Step 1.

6.25. The Authority and HSBC UK reached agreement at Stage 1 and so a 30% discount applies to the Step 4 figure.

6.26. The Step 5 figure (rounded down to the nearest £100) is therefore **£6,280,100**.

Penalty

6.27. The Authority hereby imposes a total financial penalty of **£6,280,100** on HSBC UK for breaching Principles 3 and 6.

7. PROCEDURAL MATTERS

7.1. This Notice is given to HSBC UK under and in accordance with the section 390 of the Act.

7.2. The following statutory rights are important.

Decision maker

7.3. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.

Manner and time for payment

7.4. The financial penalty must be paid in full by HSBC UK to the Authority no later than 6 June 2024.

If the financial penalty is not paid

7.5. If all or any of the financial penalty is outstanding on 7 June 2024, the Authority may recover the outstanding amount as a debt owed by HSBC UK and due to the Authority.

Publicity

7.6. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates. Under those provisions, the Authority must publish such information about the matter to which this notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to HSBC UK or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

Authority contacts

7.7. For more information concerning this matter generally, contact Kate Gentle or Alex Brown at the Authority (email: kate.gentle@fca.org.uk or alexander.brown@fca.org.uk).

Kerralie Wallbridge

Head of Department

Financial Conduct Authority, Enforcement and Market Oversight Division

ANNEX A

CUSTOMER CASE STUDIES

- 1.1. The following case studies are drawn from the customer files reviewed by the Authority. They illustrate some examples of the detriment caused to customers through HSBC UK's failings, across all brands.

Customer A – HSBC Mortgage Accounts

- 1.2. Customer A was a 47 year old unemployed female who had been an HSBC customer for 15 years. In March 2007, Customer A took out two capital repayment mortgages with HSBC, totalling approximately £77,000.
- 1.3. Prior to the review period both Mortgage accounts had fallen into arrears and Customer A made lump sum payments to the Mortgage accounts in October and December 2015. The payments were not enough to repay the accounts in full, due to a missed SMP.
- 1.4. As a result, HSBC systems had expected the SMP every month since, leading to arrears reporting being higher than the accounts outstanding balance. This resulted in incorrect letters, CRA reporting, and distress being caused to Customer A.
- 1.5. Customer A received Final Demand letters in November 2017 and July 2018 that mentioned amalgamated balances between the two accounts and that failed to offer Customer A the possibility of setting up a payment plan or other suitable forbearance option.
- 1.6. Following the first Final Demand letter, Customer A detailed in a call in November 2017 that she was experiencing problems at home due to the breakdown of the relationship with her partner and due to her son having had brain surgery, meaning she had to give up her job to become his full-time carer. There was no exploration on the impact of this and no note made that the situation involved a PVC.
- 1.7. During this call, Customer A also explained that she had already paid one of the mortgages, in reference to the lump sum payments. However, again there was no exploration in an attempt to understand the situation in relation to the mortgage Customer A stated had been paid off, as Customer A wished to go into branch to discuss this further.
- 1.8. Customer A repeated her circumstances and again raised the issue in subsequent calls in November 2017, April 2018 and on two occasions (once by Customer A and once by her partner) in May 2018, with no note made on the system regarding her circumstances until the call in April 2018.
- 1.9. Action to charge off the accounts and pass to HRS was made in August 2018, and Customer A was told on a call on 6 August 2018 that the account was in default. Customer A received communications detailing the account was in default which meant the repossession process had started. During interactions Customer A dealt with agents lacking the knowledge and training to assist her and was told there were no managers available to assist.
- 1.10. The communications received by Customer A were not clear or consistent. There was a lack of communication between HRS and Collections, which led to

uncertainty on behalf of Customer A, as they received different information from both departments.

- 1.11. HSBC did not follow up on calls after communicating to Customer A that they would, meaning Customer A was made to wait longer and call themselves. Customer A was subsequently called back on 6 August 2018 and told that the account was in default.
- 1.12. Customer A received a letter following a retrospective review of the account, due to the Skilled Person's Report, recognising that HSBC had not provided the customer with an acceptable level of service. HSBC wrote off the balance and ensured no adverse CRA data was registered. Customer A also received a cheque for £250 by way of apology.
- 1.13. Customer A suffered a poor journey and an unfair outcome until retrospective action was taken because of the Skilled Person's Report, where HSBC eventually took steps to address the issues.

Customer B – John Lewis Financial Services Credit Card

- 1.14. Customer B was a 32 year old single male in full time employment with no dependants. Customer B had been a John Lewis customer since September 2009 when he took out a John Lewis Partnership Mastercard account.
- 1.15. Customer B's John Lewis Partnership Mastercard account initially entered collections in October 2017 until a payment was made in November 2017 to clear the arrears and overlimit amount. The account entered collections for a second time in January 2018. This resulted in an Arrears Notice being issued in February 2018 and JLFS suspending use of the credit card.
- 1.16. Customer B made a call on 16 February 2018 where Customer B explained that the person he had been in a relationship with used the card and following breakdown of the relationship he had been left with a "maxed credit card". There was discussion around the payments that were required to bring the account out of arrears and the I&E assessment process, where the agent stated a payment plan wouldn't be put in place if Customer B could afford the minimum payments and that a direct debit could be set up for that.
- 1.17. There was no attempt to ascertain whether the minimum payment was genuinely affordable despite being informed of changes in Customer B's circumstances due to the relationship breakdown and subsequent house move, which may also mean changes to recorded contact information. There was no exploration around the impact of this and whether Customer B's circumstances indicated he was a PVC, and no I&E assessment took place, however the agent did ask for confirmation prior to taking payment that Customer B was comfortable that making such payment would not leave him in financial difficulty which may impact any of his bills. Customer B made a payment to bring the account back within limit and stated he would pay the balance by 10 March 2018.
- 1.18. In subsequent calls in April 2018, there was limited exploration of how Customer B's circumstances could affect his ability to pay bills in the future. Customer B stated that he had a new job with a £5,000 salary increase but where he would not receive his first full salary payment until the end of the following month (May 2018). Customer B detailed he had obtained an advance on his wages, was seeking additional work, and later stated that he had to move back in with his mother due to the financial difficulty he was suffering. Following this JLFS did not

carry out a full assessment to determine whether the payment proposed by Customer B was affordable. JLFS agreed to hold the account.

- 1.19. When the next payment was missed in April 2018, JLFS revoked the credit card and no further interest was charged from this point. A Default Notice was issued in May 2018 before a Final Demand was issued in June 2018. The account was then charged off to HRS in August 2018. While JLFS agreed in April 2018 to hold the account when Customer B promised payment, this call and earlier calls did not indicate sufficient efforts to assess Customer B's circumstances or ascertain any appropriate forbearance options to assist Customer B in dealing with the situation.
- 1.20. Following Customer B making a payment towards the account in October 2018 a letter was sent containing the statement "it is important that we have a full understanding of your financial circumstances", this is surprising given the multiple occasions where JLFS should have obtained a full understanding of Customer B's circumstances before charging off the account.
- 1.21. It is noted that JLFS acted in February 2020 to provide an interest rebate to Customer B following a review of the account and ascertaining that an interest rate increase reversion had not been applied when it should have been. While it is welcome that JLFS eventually took steps to provide a rebate to Customer B, this appears to have happened following the scrutiny of this customer file as part of the wider remediation, some two years after the event.

Customer C – Marks and Spencer Bank Credit Card

- 1.22. Customer C was a 39 year old male and a self-employed taxi driver living with his partner. Customer C had been a MSB customer since December 2015 upon opening a Credit Card account.
- 1.23. Customer C's account first entered Collections in October 2017 when a payment was missed, and the account fell into arrears. Customer C made payments to bring the account up to date four days later.
- 1.24. Customer C made a payment two days late on the account in December 2017, which resulted in an Arrears Notice being sent after the payment had been made. Customer C continued to make late payments incurring interest and late payment fees each month up until April 2018, when the account entered arrears and was not brought back up to date.
- 1.25. Calls were made in January 2018, March 2018, and June 2018 by the collections team and in March 2018, May 2018 and June 2018 by Customer C to discuss the account, arrears, and overdue balance. During these interactions there was insufficient exploration of Customer C's circumstances and no consideration of forbearance to assist in dealing with the situation.
- 1.26. In May 2018 Customer C detailed that he had no funds available and could not pay. There was no exploration of this, merely a response that a note will be made and a question as to whether Customer C would consider setting up a Direct Debit on the account.
- 1.27. Following this, in calls in June 2018, Customer C asks if he can put his partner on the phone as she dealt with his finances. Despite this indicating potential financial vulnerability there was no probing as to why Customer C cannot deal with his own finances or establish the circumstances for this. Again, Customer C remarks that

he did not have funds available to make payment at that point but that he would have funds in around a week to make a debit card payment.

- 1.28. In July 2018, Customer C highlights an injury he had sustained which required an operation and rendered him unable to work due to damage to his leg, requiring the operation to reattach the tendon, and he is a self-employed taxi driver. On providing this information a two month breathing space forbearance was applied and the customer was informed that not making payments during this period would impact his credit score and that an update from Customer C in September when the breathing space expires would be helpful to work to find a way forwards.
- 1.29. Customer C was sent a Default Notice in September 2018 and a Final Demand in October 2018. MSB did not attempt to contact Customer C by telephone between the period when breathing space forbearance ended in August 2018 and the Final Demand being issued in October 2018. Finally, in November 2018 the Default was registered.

Customer D – First Direct Loan (Overdraft converted into Unsecured Loan)

- 1.30. Customer D was a 25 year old unemployed, single male, with caring responsibilities for a family member. He had been a FD customer since January 2015. Prior to the Review Period Customer D had an overdraft debit card account which was converted by agreement into an unsecured loan in order to allow Customer D to repay the balance of the overdraft at £10 per month, with the interest frozen, as part of the forbearance offered by FD in relation to the overdraft.
- 1.31. The account fell into arrears prior to the Review Period. Subsequently, Customer D missed payments in November 2017 and December 2017 and there was no communication from FD to address the arrears, until FD initiated outbound contact in January 2018, which was unsuccessful, as well as sending a text message.
- 1.32. At this point the account arrears total £30 and the same day as the unsuccessful attempt at contacting the customer a Default Notice was sent relating to the £30 arrears. The Default Notice was issued without attempts to contact Customer D, other than the outbound call and text message the same day, however the Default Notice was issued in accordance with statutory time scales.
- 1.33. Customer D returned this call the same day and explained that he had not realised payments had not been received and explained that he thought this was because he had recently changed banks and the standing order had not moved over. Customer D made a debit card payment of £20. Customer D went on to detail a change in his circumstances due to becoming his father's carer and said he may want to discuss a reduction in his repayment amount, stating that it was not that the repayment was unaffordable but that it was not as affordable as it had been. He was offered an I&E assessment at that point to check affordability. Customer D decided he would like to complete it at a later time and stated that he would call back to do so, and the contact number and opening times were confirmed to him. There was, however, no attempt to facilitate this and no attempt to determine the extent of the change in customer circumstances by FD, until the contact initiated in February.
- 1.34. FD attempted contact with Customer D later on in January 2018 by telephone and text message, but both were not responded to. In February 2018, a full new I&E assessment was carried out in relation to affordability, including a lengthy discussion of Customer D's circumstances, during a call initiated by FD. This call was said to have been initiated due to non-payment for January and FD wanting

to better understand the change in circumstances Customer D had noted in January. It was established in this call that there was a lack of affordability to make any payments to the account and that it would not be fair or right for FD to take payments from the customer in these circumstances, and that FD would look to pass the account to HRS and that default and final demand letters would need to be sent to action this. It was explained to Customer D that this would result in adverse information registered against him on his credit file. Customer D challenged this action, asking to remain on the same agreement and stating that adverse information on his credit file would be a "really bad outcome". There was discussion around whether the agreement was still currently in place and Customer D was informed that it was. It was left in place by FD, with Customer D understanding at the end of the call that the existing agreement for £10 per month was maintained, but with arrears on the account for January. It was suggested to Customer D that if he needed more time to make any payments in the future he call and let FD know.

- 1.35. When no payments were made for February and March 2018, an arrears notice was sent to Customer D noting the missed payments and asking Customer D to make contact. When a further payment was missed in April 2018, a Default Notice was issued to Customer D in April 2018, for £30 of arrears. This was without attempt to contact Customer D by telephone. A Final Demand was issued a month later in May 2018 which stated that the account may be charged-off to HRS if payment was not made within 7 days.
- 1.36. During July 2018, there was further contact at FD's instigation which failed to probe Customer D's circumstances. Customer D seemed unaware that the account had been charged off, despite the Final Demand letter, and was under the belief the matter had been dealt with following his engagement with the debt charity 'StepChange' in June. Discussion led to 30 days breathing space forbearance being applied. However, at no point in this call was Customer D verbally informed that the default had been registered against him, however a Default Notice and Final Demand letter were sent.
- 1.37. In August 2018 FD received contact from StepChange offering repayments of £1 per month, which was accepted by FD and confirmed in a letter to Customer D on 23 August 2018. No repayments were received and on 4 October 2018 a notification was received by FD from StepChange advising they no longer acted on Customer D's behalf.
- 1.38. FD attempted to contact Customer D in October 2018 by letter and telephone. Contact was made and in a call on 12 October 2018, there was limited probing from FD, with the only question being asked to confirm whether Customer D's finances had changed. Customer D detailed they were the same, but that he hoped to return to work in November. Customer D expressed dissatisfaction with the help he has received from StepChange which was why they no longer acted for him. Customer D was informed for the first time verbally that a default had been registered against him in June 2018. Customer D detailed his confusion and noted that he was not informed of this in the call in July 2018. By chance he was speaking to the same agent from the call in July 2018, who explained that he was not told verbally however letters had been sent to Customer D's last known address. FD suggests that a compliant is raised in relation to the default being registered but Customer D does not wish to proceed. A payment arrangement for £10 per month was agreed, following Customer D stating he could afford to pay more than StepChange had offered and that this proposal was affordable.
- 1.39. Customer D subsequently called back the same day and asked for the payment arrangement to be set to £1 which FD accepted.

- 1.40. During this contact, the issue of a complaint is discussed further and Customer D wished to raise a complaint due to not receiving correspondence. It was explained by FD that letters were sent to an address originally provided by Customer D and no letters were returned undelivered. The HRS representative states that an investigation cannot be raised as the correct procedure was followed and that FD will send a final complaint outcome letter. Customer D did thereafter receive a letter acknowledging the complaint, and there was a complaint logged. A final response was sent to Customer D which echoed the challenge from the HRS representative.
- 1.41. While FD agreed to the reduced payment arrangements and while breathing space forbearance was applied, these were post default being registered, and there were no attempts made prior to the Default Notice being sent to apply any forbearance tools or come to a decision which would alleviate the financial pressure on Customer D.
- 1.42. There was a failure to identify Customer D as a PVC until 20 May 2019, when Customer D informed FD during a telephone call that he was now homeless, suffering depression, anxiety and PTSD. On 12 June 2019, as a result of this information, the account was recalled by FD from external agents, moved to the specialist vulnerable customer team, placed on a 30 day hold and FD took action to write off the account in full, which was subsequently done.

ANNEX B

RELEVANT STATUTORY PROVISIONS, REGULATORY REQUIREMENTS AND GUIDANCE

1. Relevant Statutory Provisions

1.1. The Authority's operational objectives, set out in section 1B(3) of the Act, include securing an appropriate degree of protection for consumers.

1.2. Section 206(1) of the Act states:

"If the appropriate regulator considers that an authorised person has contravened a requirement imposed on the person, it may impose on him a penalty, in respect of the contravention, of such amount as it considers appropriate."

2. Relevant Regulatory Provisions

2.1. The relevant regulatory provisions as they were in force during the Relevant Period are set out below.

Principles for Businesses ("Principles")

2.2. The Principles are a general statement of the fundamental obligations of firms under the regulatory system and are set out in the Authority's Handbook. They derive their authority from the Authority's rule-making powers set out in the Act. The relevant Principles are as follows.

2.3. Principle 3 (management and control) which states:

"A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems".

2.4. Principle 6 (customer's interests) which states:

"A firm must pay due regard to the interests of its customers and treat them fairly."

Consumer Credit sourcebook ("CONC")

2.5. CONC is the specialist sourcebook for credit-related activities, and it forms part of the Handbook. The relevant provisions of CONC are as follows.

2.6. CONC 7.2.1R which states:

"A firm must establish and implement clear, effective and appropriate policies and procedures for:

(1) dealing with customers whose accounts fall into arrears;

(2) the fair and appropriate treatment of customers, who the firm understands or reasonably suspects to be particularly vulnerable.

2.7. CONC 7.3.2.G which states:

"When dealing with customers in default or in arrears difficulties a firm should pay due regard to its obligations under Principle 6 (Customers' interests) to treat its customers fairly."

2.8. CONC 7.3.4R which states:

"A firm must treat customers in default or in arrears difficulties with forbearance and due consideration."

2.9. CONC 7.3.5G which states:

"Examples of treating a customer with forbearance would include the firm doing one or more of the following, as may be relevant in the circumstances:

(1) considering suspending, reducing, waiving or cancelling any further interest or charges (for example, when a customer provides evidence of financial difficulties and is unable to meet repayments as they fall due or is only able to make token repayments, where in either case the level of debt would continue to rise if interest and charges continue to be applied);

(2) allowing deferment of payment of arrears:

(a) where immediate payment of arrears may increase the customer's repayments to an unsustainable level; or

(b) provided that doing so does not make the term for the repayments unreasonably excessive;

(3) accepting token payments for a reasonable period of time in order to allow a customer to recover from an unexpected income shock, from a customer who demonstrates that meeting the customer's existing debts would mean not being able to meet the customer's priority debts or other essential living expenses (such as in relation to a mortgage, rent, council tax, food bills and utility bills)."

2.10. CONC 7.3.14R which states:

(1) A firm must not take disproportionate action against a customer in arrears or default.

(2) In accordance with (1) a firm must not, in particular, apply to court for an order for sale or submit a bankruptcy petition, without first having fully explored any more proportionate options.

Mortgages and Home Finance: Conduct of Business sourcebook ("MCOB")

2.11. MCOB is the specialist sourcebook for mortgage and home finance activities, and it forms part of the Handbook. The relevant provision of MCOB is as follows.

2.12. MCOB 13.3.2A which states:

"A firm must, when dealing with any customer in payment difficulties:

(1) make reasonable efforts to reach an agreement with a customer over the method of repaying any payment shortfall or sale shortfall, in

the case of the former having regard to the desirability of agreeing with the customer an alternative to taking possession of the property;

(2) liaise, if the customer makes arrangements for this, with a third party source of advice regarding the payment shortfall or sale shortfall;

(3) allow a reasonable time over which the payment shortfall or sale shortfall should be repaid, having particular regard to the need to establish, where feasible, a payment plan which is practical in terms of the circumstances of the customer;

(4) grant, unless it has good reason not to do so, a customer's request for a change to:

(a) the date on which the payment is due (providing it is within the same payment period); or

(b) the method by which payment is made;

and give the customer a written explanation of its reasons if it refuses the request;

(5) where no reasonable payment arrangement can be made, allow the customer to remain in possession for a reasonable period to effect a sale; and

(6) not repossess the property unless all other reasonable attempts to resolve the position have failed.

Decision Procedure and Penalties Manual ("DEPP")

- 2.13. Chapter 6 of DEPP, which forms part of the Authority's Handbook, sets out the Authority's statement of policy with respect to the imposition and amount of financial penalties under the Act. In particular, DEPP 6.5A sets out the five steps for penalties imposed on firms.

The Enforcement Guide

- 2.14. The Enforcement Guide sets out the Authority's approach to exercising its main enforcement powers under the Act.
- 2.15. Chapter 7 of the Enforcement Guide sets out the Authority's approach to exercising its power to impose a financial penalty.