Financial Conduct Authority

Thematic Review

TR16/10

Early arrears management in unsecured lending

December 2016

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Abbreviations used in this paper

CP	Consultation Paper
CAP	Christians Against Poverty
CCJs	County Court Judgments
CCMS	Credit Card Market Study
CFS	Common Financial Statement
CONC	Consumer Credit Sourcebook
CRA	Credit reference agencies
FCA	Financial Conduct Authority
IVM	Interactive voice messaging
IVR	Interactive voice response
MALG	Money Advice Liaison Group
MI	Management Information
PRIN	Principles of Business
PTP	Promise to Pay
QA	Quality Assurance
SLAs	Service Level Agreements
SYSC	Senior Management Arrangements, Systems and Controls
TCF	Treating Customers Fairly
UKCA	UK Card Association

1. Executive summary

Overview

1.1 Consumer credit is an important financial product in the UK. UK consumers owed £188.7 billion of consumer credit lending as at September 2016.[1] 61% of individuals in Great Britain have at least one consumer credit product and 26% hold a credit product for which they have an outstanding debt.[2] Access to unsecured lending provides valuable benefits for consumers, enabling cost of significant purchases to be spread. But for a significant minority, debt can be a burden, and when things go wrong, meeting debt repayments can exacerbate financial hardship and distress. Research the FCA recently commissioned shows that debt problems can have a significant impact on wellbeing. The research found that 17% of those with outstanding consumer credit debts report they are in moderate to severe financial distress and this is associated with lower levels of life satisfaction and higher levels of anxiety. [3]

1.2 In the FCA Business Plan for 2015/16, we set out five key objectives for supervising the consumer credit market, including that firms seeking to recover debts are treating customers fairly and exercising appropriate forbearance. We noted our intention to broaden the focus of our supervisory work in the sector away from the highest risk sub-sectors to include an examination of forbearance across the market. We also said we would conduct a thematic review into the collection of unsecured debts. This report sets out the findings of that review.

1.3 We did this review to examine how firms are treating customers who fall into arrears. This included reviewing how firms are engaging with customers, what forbearance options they offer and what outcomes this leads to. We chose to focus on early arrears because we consider that the ways in which firms engage with customers in the early stages of arrears are likely to be critical to the ultimate outcome.

1.4 Our review examined a range of unsecured lending products including credit cards, personal loans, store cards and point-of-sale finance. The firms we looked at varied from large retail banks to smaller single product providers. We looked at firm practices from the point of identification of customers in probable difficulties at a pre-arrears stage to the point at which the lender formally defaults the customer or charges off the debt.

1 Bank of England, Statistical Release 31 October 2016: www.bankofengland.co.uk/statistics/documents/mc/2016/sep/moneyandcredit.pdf

2 FCA Occasional Paper 20: Can we predict which consumer credit users will suffer financial distress? August 2016: www.fca.org.uk/publication/occasional-papers/occasional-paper-20.pdf. In this paper the analysis is of consumer credit debts and excludes mortgages, student loans and other household debts. Further, the outstanding debt amounts do not include credit card transactions paid off at the next statement.

3 Ibid. The paper relies on data from the ONS Wealth and Assets Survey and uses both objective measures of financial distress (where a customer is two or more payments behind on a commitment) and subjective measures (where customers report that managing their debts is a burden or that keeping up with them is a struggle).

1.5 This report sets out how we conducted the review, our findings and, where relevant, how the firms are currently meeting the relevant rules and guidance.

Key findings

1.6 Our findings indicate that consumer credit lenders are improving the way they deal with customers in arrears. In many cases, firms are thinking about what would constitute fair outcomes for their customers and organising their staff, systems and processes to deliver this. However, in some areas firms still need to improve their practices.

1.7 Overall, most firms were complying with the majority of the requirements under the Consumer Credit Sourcebook (CONC) and other relevant standards. But in some instances, firms were breaching our rules or had only recently implemented changes to ensure they were fully complying with our requirements. We have highlighted in section three of the report some of the specific breaches we have observed.

1.8 Although we found some areas of specific concern in individual firms, the retail banks and credit card providers in our sample were generally more effectively complying with the rules and more consistently achieving fair outcomes for customers. In contrast, this was not evidenced to the same degree across the retail finance and online personal loan providers in the sample. We saw some of the worst practices in these firms.

1.9 A firm must treat customers in default or in arrears difficulties with forbearance and due consideration (see our rules CONC 7.3.4R). We reviewed the forbearance (a form of payment relief granted by the lender by not exercising its legal rights under the agreement) firms offered and saw that the repayment solutions offered to customers varied quite significantly; both in terms of short, medium and long term solutions offered and the way in which payment difficulties were classed as temporary or longer term. Further, our findings show that firms' intentions towards helping customers in arrears varied across the sample. Some firms focused on identifying customers who can recover quickly and those who cannot. When customers could not recover quickly, depending on the customer's circumstances, these firms sought to obtain an affordable repayment solution or end the agreement to prevent further detriment. Some other firms primarily sought to collect payment as soon as possible. Our findings indicate that a firm's culture influences how much due consideration and forbearance it gives to customers in arrears difficulties.

1.10 Overall, a small number of firms we reviewed had a culture that was explicitly and strongly focused on achieving fair customer outcomes, offered forbearance that supported this and were well organised to deliver forbearance effectively. These firms typically took a pragmatic commercial approach, recognising the cost savings of not expending resources continually phoning unresponsive debtors, and of positively engaging with customers and agreeing sustainable repayment solutions. In some cases these firms cited benefits of this approach, such as reduced complaint levels and greater staff job satisfaction. We did observe some instances where these firms were sometimes misdiagnosing customer circumstances and missing opportunities to help customers tackle their arrears at the earliest opportunity. However, these instances occurred less often compared with other firms in the sample.

1.11 In slightly under two thirds of firms, we found that culturally there were broadly good intentions to try and achieve fair outcomes for customers in light of their circumstances. Although the firms were making significant improvements in the way they dealt with vulnerable customers, the firms' intentions and policies were not matched by execution in practice. These firms were typically still implementing new approaches and embedding treating customers fairly (TCF) principles within their collections functions. As a result, at the time we reviewed them, firms were failing to apply these new approaches effectively and consistently. Often the impact of not applying firm policy correctly was that it took longer for customers to get to an appropriate solution which addressed their arrears difficulties and their overall level of indebtedness increased in the meantime. These firms were also failing to consistently pick up on indicators of vulnerability and to effectively apply their policies for dealing with vulnerable customers in arrears.

1.12 Around a third of the firms had a culture that was less customer-centric than other firms in the sample and focused on securing payment as quickly as possible, often at the expense of giving due consideration to the customer's circumstances. In these firms we saw widespread evidence of poor customer outcomes, for example avoidable exacerbation of the customer's financial and emotional distress. Further, consideration of customer journeys, experiences and outcomes featured less frequently in the firms' management information, governance structures and quality assurance programmes.

1.13 Our findings indicate that most customers in early arrears paid their missed payment quickly and that not all customers who pay late are facing repayment difficulties. However, we found that the majority of firms missed early opportunities to identify and offer appropriate forbearance to customers who were showing signs of financial difficulty. Often the firm engaged many times with the customer before it recognised their circumstances. Firms engaged in additional collections activity such as sending letters or attempting to reach the customer by phone. The customer debt had often increased because firms applied fees and charges which, under their policies, they would not have applied if they had identified the customer's circumstances earlier. In the cases we reviewed, customers' ongoing arrears difficulties were often more effectively addressed later in the arrears cycle when the customer's persistent inability to pay made it more obvious that their position was unrecoverable.

1.14 We saw a lot of ongoing change prompted by the commencement of FCA regulation. Some firms told us that the Occasional Paper on Consumer Vulnerability[4] (February 2015) had prompted them to review and enhance their policies and procedures for dealing with vulnerable customers. Much of the change we saw was positive and reflected a clearer awareness within firms of the interests and needs of customers in arrears. However, a lot of the change appears to have only been recently implemented and in some cases change programmes were ongoing and still embedding.

1.15 We set out our findings in section three of this report.

Next steps

1.16 We have given feedback to each of the firms in our sample on the good and bad practices we observed in their businesses. We expect these firms to review their practices in light of our feedback and make relevant changes. Some firms within our sample told us that they had already identified areas for improvement and were actively exploring ways to improve their current policies and procedures. In some instances, where we have found unfair practices, we have already begun supervision dialogue and risk mitigation action with firms. Depending on

4 FCA Occasional Paper No.8: Consumer Vulnerability February 2015: www.fca.org.uk/publication/occasional-papers/occasional-paper-8.pdf.

the seriousness of the issues identified and firms' responses, we may take further supervisory or enforcement action.

1.17 For firms that are still undergoing the authorisations process, we will continue to liaise with our authorisation colleagues, where appropriate, to share relevant findings and to help assess these firms' applications for authorisation.

1.18 We have seen that there is a lot of good practice in the industry when dealing with customers in early arrears. However, as our report outlines, in some areas there is room for significant improvement. We encourage all firms across the wider industry, which collect consumer credit debts to read this report, to consider their approach to arrears in light of our findings and to make improvements where necessary.

1.19 We expect firms to promote, embed and enforce the right culture within their organisations, which has the primary objective of doing the right thing for the market and consumers. We encourage all firms to continue to focus on achieving fair customer outcomes as well as regulatory compliance.

Who should read this report?

1.20 This report will be of primary interest to firms engaged in lending activity. It will also be of interest to trade bodies representing lenders, debt collection firms and debt advice providers, as well as to consumers and groups which represent consumers.

1.21 While the review focused on credit and store cards, personal loans and retail finance, we believe many of the report's findings will be of interest to firms offering other forms of lending. Likewise, although the operating context for other firms involved in the collection of consumer credit debts is different to that for the sample of firms we reviewed, we believe elements of our findings are likely to interest other debt collection firms.

2. Background and approach

Background

2.1 For most consumers, access to unsecured lending provides valuable benefits, enabling the cost of important purchases to be spread. However, for a significant minority debt can be a burden, and when things go wrong, meeting debt repayments can exacerbate financial hardship and distress. Being in arrears on credit commitments can have significant consequences for customers. It can result, for example, in damage to customer credit files, affecting their ability to secure further credit in future, additional fees and charges, the risk of litigation and enforcement action to recover the debt, bankruptcy and loss of assets. Recent research also indicates that problem debt is associated with negative impacts on a person's well-being, particularly their life satisfaction and anxiety levels.[5]

Research figures on problem debt

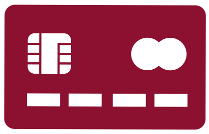
£188bn

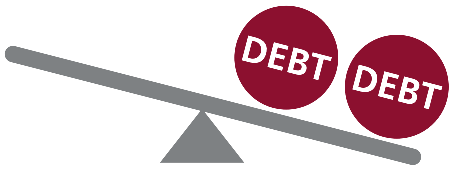
The total consumer credit amounts outstanding as at September 2016 were **£188.7 billion**. This was a **10.3% increase on the previous 12 months**.[6]

30 million

credit card holders in the UK.[7]

It is estimated **2 million** credit cardholders have persistent high levels of debt and further **2 million of cardholders are in arrears** or defaulted.[8]





3 million customers are currently struggling with debt.[9]

26% of individuals hold a credit product with outstanding debt.[10]

17% of individuals with outstanding consumer credit debt are facing financial distress.[11]

The Financial Ombudsman Service 2015/2016 annual review noted that a significant proportion of the complaints they received in the 2015/2016 financial year, were from customers in financial difficulty and that, in many situations, if firms and their customers had open conversations at an earlier stage, further detriment could have been avoided.[12]

5 FCA Occasional Paper 20: Can we predict which consumer credit users will suffer financial distress? August 2016: www.fca.org.uk/publication/occasional-papers/occasional-paper-20.pdf.

6 Bank of England, Statistical Release 31 October 2016: www.bankofengland.co.uk/statistics/documents/mc/2016/sep/moneyandcredit.pdf.

7 FCA MS14/6.2 'Credit Card Market Study – Interim Report' 3 November 2015: www.fca.org.uk/credit-card-market-study/market-overview.

8 ibid

9 FCA Business Plan 2016/17: www.fca.org.uk/publication/corporate/business-plan-2016-17.pdf. Note: This statistic originally appears in StepChange debt charity's report Cutting the cost of problem debt.

10 FCA Occasional Paper 20: Can we predict which consumer credit users will suffer financial distress? August 2016: www.fca.org.uk/publication/occasional-papers/occasional-paper-20.pdf. In this paper the analysis is of consumer credit debts and excludes mortgages, student loans and other household debts. Further, the outstanding debt amounts do not include credit card transactions paid off at the next statement.

11 ibid. Note: this statistic is based on a broader definition of financial distress as discussed in the paper.

12 2015/2016 Annual Review, Financial Ombudsman Service: www.financial-ombudsman.org.uk/publications/annual-review-2016/ar16.pdf.

2.2 In our Business Plan 2015/16, we set out five key objectives for supervising the consumer credit market, including that firms seeking to recover debts are treating customers fairly and exercising appropriate forbearance. We noted our intention to broaden the focus of our supervisory work in the sector away from the highest risk sub-sectors to include an examination of forbearance across the market. The plan included a commitment to carry out a thematic review to examine the ways in which consumer credit debts are collected and the extent to which firms involved in the collection process are following our rules, treating customers fairly and showing appropriate forbearance.

2.3 After an initial analysis we decided to focus the review on the early stages of the collections process to examine how customers are treated by lenders when they first experience arrears and payment difficulties. This is because the way in which firms engage with customers in the early stages of arrears can be critical to the ultimate outcome for those customers. A firm's early arrears approach often establishes the tone of its relationship with customers and sets the customer on a particular path.

Our approach

2.4 We began by selecting a sample of firms for the review. We drew these firms from across the credit cards, personal loans, store cards and point-of-sale finance markets, with some firms offering multiple products to consumers. The size of the firms varied from large retail banks to smaller single product providers. The firms reviewed have an estimated combined customer base for these products of around 14.5 million customers. Some customers borrowed from, and were in arrears with, more than one of the firms in the sample.

2.5 Once we identified the sample we did a desk-based review of documentation including firms' policies, procedures, contact strategies and management information.

2.6 We also conducted customer case file reviews for each of the firms in the sample. This involved listening to call recordings, reading correspondence and case notes, as well as tracing the account history to see how the firms treated customers and what outcomes were achieved.

2.7 We visited the sites of each firm in the sample, to observe staff handling live collections calls and correspondence, conduct interviews with management and collection agents, and to discuss findings from case file reviews to fill gaps in our understanding.

2.8 We organised our evidence gathering and analysis under the following themes:

1. Engaging with customers pre-arrears
2. Strategies for contacting customers
3. Written communications
4. Assessing customers' circumstances
5. Forbearance policy and appetite
6. Effective delivery of forbearance
7. Vulnerable customers

8. Dealing with debt advisers

9. Fees and charges

10. Outsourcing early arrears

11. Customers with multiple accounts

2.9 Further details of our findings under each of these themes are in section three of this report.

Relevant framework

2.10 As well as seeking to better understand firm practices, considering whether firms had embedded treating customers fairly within their approach and examining whether they were delivering good customer outcomes in the round, we also assessed firms' compliance with the relevant rules and guidance. In particular, the requirements set out in the CONC, especially Chapter 7: Arrears, default and recovery (including repossessions), relevant provisions of the Consumer Credit Act and subordinate regulations, the Principles for Businesses (PRIN) and the rules on Senior Management Arrangements, Systems and Controls (SYSC).

Other regulatory work

2.11 Some firms in our sample offer credit cards. We recently published the final findings of our Credit Card Market Study (CCMS).[13] While our main finding was that although the credit card market is working fairly well for most consumers, we raised concerns about the scale of potentially problematic credit card debt. Amongst other matters, we believe that credit card firms can do more to help customers at an earlier stage, before they fall into arrears and we announced our intention to consult on rules requiring firms to identify early signs of debt problems and intervene accordingly. The findings of this project support that analysis.

2.12 The firms in our sample have either gone through, or are going through, the consumer credit authorisation process which began on 1 April 2014. We have found that the authorisation process has influenced the conduct of the firms within our sample. Throughout the review, we shared our findings with our authorisations colleagues to help in the authorisations process where relevant.

13 MS14/6.3: Credit card market study final findings report July 2016: www.fca.org.uk/publication/market-studies/ms14-6-3-credit-card-market-study-final-findings-report.pdf.

3. Findings

3.1 We organised our evidence gathering and analysis under a number of themes. The following sections set out our detailed findings under each theme.

Engaging with customers pre-arrears

3.2 CONC 6.7.2R requires firms monitor the repayment history of their customers and take appropriate action where they see signs of actual or possible repayment difficulties. This action should generally include notifying the customer of the risk of escalating debt and providing contact details for free and independent debt advice. In considering this theme, we reviewed how firms in the sample engaged with customers before they fell into arrears. We considered both how firms responded to customers who contacted them to seek help before they missed a payment and the actions some firms are taking to try to proactively identify customers at risk of arrears before they occur. The following outlines the practices we observed in firms in this area.

Reactive engagement

3.3 We considered the way that firms responded to customers who contacted them before going into arrears to say they would have difficulties meeting a payment. We found that generally most firms treated customers who contacted them pre-arrears in a manner consistent with their treatment of customers in actual arrears. For example, by routing them to a conversation with a trained collections agent and offering the same forbearance options.

3.4 One firm operated a highly developed pre-arrears strategy relative to the other firms we saw. It had a dedicated team to handle all inbound contact from customers who expected to have difficulties meeting their payments. The firm's agents obtained income and expenditure information for most cases pre-arrears, to assess in detail the customer's financial circumstances and consider the most appropriate forbearance options to offer the customer.

3.5 Widespread industry practice was to treat a customer contacting the firm to say they expected to have trouble making their scheduled payment the same as a customer who was already in arrears. One firm in the sample did not explore solutions with the customer or offer any forbearance options until the customer missed a payment. These customers were sometimes signposted to sources of free and independent debt advice. In these cases, the firm would attempt to take automated payments on the due date and, if the payment was missed as expected, would initiate collections activity until contact was made with the customer again to discuss options to deal with their arrears. We remind firms that, while there is no requirement in our rules to offer forbearance until a customer is in arrears, they must pay due regard to the interests of all customers and treat them fairly.

3.6 Although most firms reacted positively to pre-arrears contact from customers, most firms' policies and procedures for dealing with customers pre-arrears that we reviewed were not clearly defined or documented.

Proactive engagement

3.7 We require firms to monitor the repayment history of their customers and take appropriate action where they see signs of actual or possible repayment difficulties (CONC 6.7.2R). This action should generally include notifying the customer of the risk of escalating debt and providing contact details for free and independent debt advice.

3.8 All the firms we reviewed took action where they saw signs of repayment difficulties, typically contacting customers in writing to remind them that they had missed a payment and attempting to make telephone contact. Further details of firms' approaches to contacting customers can be found at 3.16.

3.9 We found that most firms offering credit or store cards also had a proactive approach to monitoring customers' repayment records and identifying customers at risk of possible repayment difficulties before they fell into arrears. For example, all the credit card providers we reviewed issued 'minimum payment' letters to customers who regularly made only minimum payments on their accounts, in line with voluntary industry commitments in the Lending Code. However, in some instances the issuing of the minimum payment letter did not happen in line with firm policy, generally due to system faults or manual errors.

3.10 As we note in the CCMS final report, the ability to reduce payments towards minimum payment amounts may mask financial difficulties for some time. For this reason we proposed in the final report to take forward remedies that would require credit card firms to monitor other sources of information available to them, with a view to detecting financial difficulties at an earlier stage. Firms have advised us that monitoring drawdown behaviour, credit reference agency data and, where available, data from other credit products held with the same firm can provide early indicators of potential difficulties and many firms do this already.

3.11 Several firms in our sample reviewed information obtained from other sources such as credit reference agencies about the customer's wider financial standing. This included information about missed mortgage payments, unsecured lending defaults or arrears, debt management arrangements and County Court Judgments (CCJs). Some firms also combined this with internal risk scores which took account of the way customers used their accounts, such as the level of utilisation of the available balance and velocity of spending.

3.12 A number of these firms told us that they thought their criteria had proved too narrow in practice, for example, only identifying customers once they had missed a payment or where the customer's difficulties in meeting other financial commitments were already entrenched. These firms were actively reviewing, or planning to review, their approaches with a view to capturing earlier indicators of potential difficulties.

3.13 Once they had identified a customer as being at risk of potential financial difficulties, firms adopted a broad range of strategies to contact the customer and manage the risks to both them and the firm. Examples of these strategies include:

- lowering the customer's credit limit
- excluding the account from future marketing offers
- blocking the customer's card to prevent further spending

- sending letters, emails, SMS and outbound phone calls to encourage the customer to engage and discuss their circumstances and to signpost them to free and independent debt advice

3.14 Firms which responded to the interim report of the CCMS told us there are challenges in getting customers to engage before a payment was missed. This was reflected in our discussions with firms in the thematic sample, which reported mixed results from their pre-arrears engagement strategies. We welcome the appetite in the industry to collaborate on developing the most effective ways to engage with and support consumers at risk.

3.15 Some credit card firms also offered customers the opportunity to set up bespoke text alerts enabling them to manage their accounts better and avoid arrears. For example, some alerts informed the customer when a payment due date was approaching or that they had reached a certain level of utilisation on their account. In the final report of the CCMS we announced that all credit card providers represented by the UK Card Association (UKCA), have committed to sending a digital communication to all consumers that cross a threshold between 80% and 95% of their available credit limit, informing them that they are close to their credit limit.[14]

Strategies for contacting customers

3.16 Under this theme, we evaluated the ease with which customers could access information from firms about what to do when they were experiencing financial difficulties and what strategies firms adopted for contacting customers to inform them about their situation and seek repayment of their arrears.

Firm accessibility

3.17 All the firms in our sample provided contact details that were easily accessible to customers, both in the letters they sent to customers and on their websites.

3.18 Although most firm websites provided specific information and guidance for customers in actual or potential financial difficulties, this information was difficult to find on some firms' websites. In one instance there was no information on financial difficulties on the firm's website.

Risk-based segmentation

3.19 We found that most firms in our sample operated a contact strategy driven by a risk-based segmentation of accounts in arrears. This risk-based approach typically meant that firms initially made more limited attempts to engage with customers identified as low risk, reflecting the fact that they were more likely to 'self-cure', and prioritised the allocation of resources and effort to higher risk accounts. Firms' approach to measuring and defining risk varied. Some used customers' underling risk score. Others included factors such as the size of the outstanding balance or any previous history of arrears on the account.

Coordination and intensity of contact strategy

3.20 The intensity of firms' attempts to contact customers varied, but typically we saw that firms made up to three contact attempts per day on each contact number held for a customer and gave a 48 hour break from dialling after leaving a voicemail, to enable a customer to respond. Most firms also planned their outbound dialling attempts according to the risk segmentation and number of days an account had been in arrears, varying the intensity of their attempts to contact the customer through the arrears cycle rather than trying to call each customer

14 MS14/6.3: Credit card market study final findings report July 2016: www.fca.org.uk/publication/market-studies/ms14-6-3-credit-card-market-study-final-findings-report.pdf.

every day. Some firms also monitored their contact strategies closely to ascertain the most effective channel and time to reach customers, to coordinate the use of different channels and to optimise the use of their resources. As a result some firms had implemented or were considering implementing what they regarded as smarter contact strategies, in an effort to move away from resource-intensive blanket calling to less resource-intensive approaches which they judged were more likely to result in an effective contact with the customer.

3.21 A small number of firms' contact strategies involved a greater level of contact than this. For example one firm's approach, in principle, allowed for up to 18 attempted telephone contacts with a customer per day, although we did not observe this in practice.

3.22 We also saw cases where agent error or limitations in firm systems meant that customers were contacted through outbound dialling campaigns even where the customer had agreed a repayment solution with the firm and there was no apparent reason to continue calling the customer. In addition, we identified a number of cases where a firm refused to change the time of its calls in response to a reasonable request from the customer. We listened to calls from a small number of firms where agents pressed customers to have conversations at unsuitable times, for example, when a customer was at work and stated that they could not take the call or when a customer was driving. In some cases we witnessed agents telling customers they were not able to schedule a call back at a more convenient time, but when we questioned firm management said it was possible to do so. Firms are reminded of the requirement set out at CONC 7.9.4R not to contact customers at unreasonable times and to pay due regard to the reasonable requests of customers in respect of when, where and how they may be contacted.

Use of technology

3.23 There has been a growth in the use of technology to assist firms' effort to contact customers, particularly the use of automated interactive voice response and messaging (IVR/IVM) services, text messaging and personalised alerts for payment reminders and account usage.

3.24 Although the level of sophistication of the technologies used varied across firms, we found that most firms were implementing or exploring ways to take advantage of the opportunities that technologies present to enhance customer engagement. These included using interactive text messaging to enable customers identified as low risk to have a dialogue with the firm about their arrears via text message as opposed to using text messages purely to ask customers to call the firm to discuss their payment difficulties. IVM systems call customers and then present a selection of automated options, which typically include the option for customers to make their payment immediately or to make a promise to pay within a given timeframe. IVR systems also typically provide the option for customers calling the firm to process their payment automatically. These systems reduce the need to have agents available to handle all calls and minimise waiting times for customers. Firms that tracked management information (MI) on the use of these technologies reported an increased uptake in their use by customers and they provided an increasingly important share of cash collected by firms from accounts in arrears.

3.25 Some of the firms we reviewed were aware that although these technologies presented opportunities, they also presented risks – for example, the risk of failing to identify particularly vulnerable customers at an early enough stage. We found that most firms using IVM and IVR systems sought to mitigate associated risks by always giving customers the option of speaking to an adviser. One firm noted that the kept rate for promises to pay made via its IVM system was lower than for promises to pay agreed as a result of a conversation with an agent. So the firm had configured its IVM so that the option to make a promise to pay, or to advise the firm that they had already made a promise to pay, was not available to a customer who had broken two previous promises to pay made via the IVM. Where firms choose to use new technologies to engage with customers, we encourage them, in line with normal risk management practices, to consider the risks that could arise and take appropriate steps to measure and mitigate these risks.

Actions one firm took to enhance its contact strategy

One firm changed its contact strategies after reviewing their effectiveness. This had previously involved attempting to call customers daily (excluding Sundays). The firm used its data to analyse how successful its attempts to contact customers through different channels and at different times were and which approaches were more likely to result in a conversation.

The firm concluded that a lot of its attempts to contact customers were a poor use of resources. For example, it was repeatedly calling customers at the same time each day, even though it was not getting a response. The firm's analysis also showed that sending customers text messages often led to a spike in the volume of inbound calls from these customers shortly afterwards.

The firm revised its contact strategy so it did not phone customers every day. It also stopped calling in the days following a letter or an SMS being sent to give customers time to respond and increased staffing levels on the phone bank in the hours after sending text messages to ensure that customers calling in response could get through to an agent quickly. The firm decided that by stripping back the contact methods it could analyse which ones seemed to be working. It also changed the times it attempted contact, identifying that contact made at certain times such as the early evening was more successful.

As a result of these changes, the firm had a better success rate at making contact with customers to discuss their accounts.

Written communications

3.26 We evaluated the extent to which firms' written communications with customers in arrears were fair, clear and not misleading (CONC 3.3.1R). We also looked at the timing, frequency and coordination of firms' communications.

Consequences of missed payment

3.27 All of the firms in our sample notified customers in arrears about their overdue payments in writing. The content of these letters generally tended to escalate over time, progressing from notification of a missed payment to warnings about the consequences of failing to make consecutive payments and to address their arrears.

3.28 Most firms set out the consequences of non-payment in a clear, fair and not misleading way. However, some firms wrote to customers in arrears to encourage them to contact the firm, setting out the consequences of non-payment in potentially misleading ways. For example we saw letters:

- which suggested the customer could be charged default interest, where the firm's process and policy was to not charge default interest

- stating that the non-payment of arrears would result in the firm taking legal action where the firm did not take legal action against customers in arrears
- stating that the firm intended to begin legal action where the customer did not meet the firm's set criteria for such action
- indicating that home visits would be undertaken to recover the debt when the home visit's aim was to re-establish contact with the customer and/or to gather information on their circumstances

3.29 We consider that some of the statements we observed are misleading and unfair in breach of PRIN 7 and CONC 3.3.1R. Firms should not mislead customers by stating that they will take action against them, which the firm knows it will not take. We have set out our expectations to affected firms that they remedy any breaches and may take further action as necessary.

Firm misleading customers about home visits

We found that one firm terminated accounts when entering into certain repayment plans with customers. The letters it wrote to customers to inform them that their account had been terminated were generic letters which were most frequently sent to customers who failed to engage with the firm and agree a solution to their arrears problems. The letter stated that the firm might pass the customer's account to an external debt collection agency if the customer did not contact the firm or agree a repayment plan. The letter informed the customer that the debt collection firm could carry out a visit to the customer's home 'to recover the outstanding amount' and stated that the firm would '*much rather agree a more satisfactory agreement with you*'.

In one of the customer case files we reviewed, a customer who had already agreed a repayment plan received this letter shortly afterwards and rang the firm in distress, believing that bailiffs might be about to visit her home. The collections agent she spoke to reassured her that this would not happen and confirmed that the repayment plan was still in place.

The firm told us that the aim of home visits is to make contact with customers that it has not engaged with and to encourage them to call the collections department to agree a solution to their arrears difficulties. Field agents visiting customers in the home would never directly recover funds or assets from a customer's home. The firm has acknowledged that these letters are misleading and has agreed to make changes to their communications suite.

Signposting customers to sources of free and independent advice

3.30 Firms should provide any customer identified as showing signs of actual or possible repayment difficulties with contact details for sources of not-for-profit debt advice bodies and, where appropriate, firms should direct customers in default or arrears difficulties to sources of free and impartial debt advice from not-for-profit debt advice bodies (CONC 7.3.7AG). CONC 7.3.7AG sets out a number of ways in which firms can do this.

3.31 Firms in our sample sent the FCA arrears information sheets, which set out details of not-for-profit debt advice bodies, to customers in arrears, as required under the Consumer Credit Act (this is one of the examples set out in CONC 7.3.7AG). Some firms also, as a matter of good practice, included details of not-for-profit debt advice in the main body of their letters to customers.

Assessing customers' circumstances

3.32 Firms must treat customers in default or arrears difficulties with due consideration (CONC 7.3.4R). The purpose of this theme was to examine how firms assess the circumstances of customers in arrears and how this drives their approach to forbearance. We considered what conversations firms had with their customers, and what information and tools they used to assess payment offers or to decide what options they offered to customers.

Identifying and assessing customer circumstances

3.33 A common theme across many of the firms we examined was that firms failed to take into consideration indicators that a customer may be in financial difficulties or vulnerable. Some firms missed triggers altogether, while in other cases the firms only realised the significance of this information after a number of engagements with the customer. For example, when customers told them they had had a change in or loss of employment or health issues which were affecting household finances. Firms were also failing to pick up on general comments such as 'I have been burying my head in the sand' and 'I'm struggling, juggling lots of bills'. This resulted in missed opportunities to identify vulnerable customers and those in financial hardship. Most firms had a policy of freezing or reducing fees and charges when customers were identified as being vulnerable. We saw that customers often went through multiple conversations with the firm before their circumstances were recognised and addressed. This frequently resulted in the customer incurring more interest and charges, accumulating greater arrears and being subject to more collections activity than what would otherwise have been the case had the firm identified the customer's circumstances in an earlier conversation and applied its vulnerable customer policy.

3.34 In around a third of the firms we reviewed, this was a consistent pattern. We found that these firms' approaches were highly payment-orientated and conversations between agents and customers in arrears were primarily focused on obtaining payment of arrears or a promise to pay (PTP) the arrears at the earliest possible date, regardless of the customer's ability to pay. In our review of case files for these firms we found agents frequently failing to react to indicators that customers in arrears were vulnerable. We saw a correlation between this approach to engaging customers and performance management systems for agents, which were heavily weighted towards one particular metric such as cash collected or short call times.

3.35 The remaining two thirds of firms we reviewed took an approach focused on seeking to establish the customer's circumstances. These firms were missing indicators of financial hardship or vulnerability in occasional instances but were also frequently probing customers' circumstances to arrive at a fuller picture of their position. Typically, in these firms, frontline agents questioned customers about why payments were missed to judge whether there was a need to further explore the customer's situation. Most firms took a proportionate approach to how detailed this dialogue and any further investigations were. The information requested generally depended on the individual customer, and ranged from checking a few facts about the customer's position, such as, for example, whether they expected their current payment difficulties to be temporary or longer-term, to exploring the customer's income and expenditure in more detail. In some cases, this included getting a customer to complete an income and expenditure form, whereas in others, agents had a more general discussion with customers about their finances and their capacity to pay.

3.36 In some firms, agents encouraged customers to think through their position, and to consider whether they could afford the repayment proposals in light of their other financial commitments. However, in half of firms, we saw cases where agents accepted at face value statements by customers which were clearly likely to have been over-optimistic given the information the agent had. For example, accepting payment offers from customers who repeatedly informed the firm their financial difficulties were only short term even though they had been in arrears for a prolonged period. We also observed firms accepting repayment offers from customers with no income who indicated that they expected to be in work imminently but without a credible justification. In most of these cases the customer's indebtedness worsened, sometimes significantly, over the period. An illustration of this was a case where a customer had given up work to care for her husband who was being treated for lung cancer. The customer, who was up to the maximum credit limit on her card, had regularly been using the card to take out cash advances and consistently made only the minimum payment, was offered two options: to let the account fall into arrears while she tried to recover her situation or to agree a repayment plan. The customer said she thought she could quickly get back up to date with her minimum payments, so did not enter a repayment plan. The firm accepted the customer's optimism despite the fact that she did not offer any concrete details of how she planned to get back on track. When the customer eventually completed an income and expenditure assessment a number of months further down the line, it transpired that she had significant other debts in addition to the more than £10,000 she owed on her credit card. She was eventually put on a repayment plan at a reduced interest rate five months after she first missed a payment. During those five months she had paid more than £600 towards her outstanding balance but accrued more than £1,000 in interest and charges and her overall debt had increased by more than £600.

3.37 In some firms, frontline staff were regularly using readily available information they already held on their IT systems about a customer's personal or financial circumstances to help them assess the customer's current circumstances. In others, agents were expected to do so, but did not always consistently put it into practice. In a minority of cases, firms were not taking account of evidence available to them that indicated that the customer in arrears could not make a proposed payment. Readily available information includes, for example, data visible on agents' computer screens showing that customers had been making minimum payments for prolonged periods, that customers had recently been in arrears and that customers had previously failed to fulfil promises to pay or agreed repayment plans. In some firms we also observed incomplete call notes on files which meant that in subsequent conversations agents did not have useful information which might have helped them to form a clearer picture of the customer's circumstances.

Firm missing signs of financial difficulties and vulnerability

A young customer took out a store card but due to numerous missed payments in the first seven months of using the card she incurred £48 in arrears fees, the last of which pushed her over her £50 credit limit.

Then, over a 48-day period, the firm called and spoke to the customer on five occasions to obtain payment. On each occasion she did not have enough money to clear the arrears so she promised to make a payment, usually in the next week. During the third call the customer asked if she could set up a payment plan to repay her arrears in instalments but the agent discouraged this, stating that it would be likely to have a negative impact on her credit file. The customer said she didn't want negative information recorded on her credit file so she again promised to call the firm and make a payment the following week.

The customer again didn't pay after this call or the fourth call, by which point arrears fees and interest added to the account meant the minimum payment due was now more than £30 compared to £3.65 at the point she went into arrears. On the fifth call, the collections agent asked the customer why she hadn't made the payment as previously agreed. The customer told the agent that she was suffering from mental health problems, problems at home and financial problems. She told the agent that 'everything was getting on top' of her and she was struggling with her priority bills.

The agent continued to ask the customer to make a payment and she did. After the payment had been taken the agent asked the customer what she was doing about her financial difficulty. The customer said she was getting help and advice from an individual who collected payments from her which were due on another debt she owed. She stated that this individual had become 'a sort of friend' who was willing to sit down with her and assess her finances.

The agent did not react to the information provided or probe any further. They did not signpost the customer to debt advice, but reiterated that the customer should ensure that she made her next payment on time. The agent made no notes of this conversation on the customer's account. The only note on the system was one to indicate that the payment had been made.

Use of income and expenditure assessments

3.38 Where firms did enter into more detailed dialogue with their customers, they operated a range of approaches to gathering and assessing customer information such as income and expenditure. All firms allowed customers time to gather relevant information, often providing an income and expenditure form for the customer to complete where the firm considered it appropriate. Some firms provided additional guidance for customers on what information they might wish to include. In many cases agents would run through the customer's income and expenditure on the phone. Some firms sense-checked figures supplied by the customer and encouraged customers to think about items of expenditure they might have missed or underestimated.

3.39 Some firms accepted income and expenditure information without question or challenge. Others used Common Financial Statement[15] (CFS) triggers to benchmark and assess income and expenditure and a few firms used third party information such as credit reference agencies (CRA) data to validate the information provided.

3.40 We saw instances where the information from an income and expenditure assessment was not used in the way intended by the firm's policy. For example, in one firm we saw cases where agents amended the results of income and expenditure assessments to ensure that the customer fitted the criteria for a particular repayment solution. Another failed to re-evaluate the information despite customers insisting that their circumstances had changed.

Assessing affordability

At one firm we observed an agent assess affordability by completing an income and expenditure (I&E) form with a customer over the phone. The customer had lost her job and was receiving benefits. Due to the change in her circumstances the customer had fallen into arrears on her loan.

The agent explored the customer's income with her and noted that the customer received irregular maintenance payments from a former partner. The agent erred on the side of caution and recorded the lowest monthly payment amount the customer had recently received.

During the conversation the customer expressed a desire to cut her energy bills. The agent acknowledged this but informed the customer that they should record what she currently pays and could come back to the figures in future if anything changed.

The I&E was completed and showed the customer had an income deficit of £108 per month. After informing the customer of free sources of advice on benefits and budgeting, with the customer's permission, the agent then transferred the customer to a specialist team to help her work out a repayment plan.

Forbearance policy and appetite

3.41 Under this theme we sought to assess firms' overall appetite for forbearance and to what extent firms are offering and agreeing forbearance options that help mitigate the impact of arrears on their customers. This included evaluating the clarity of written policies, the criteria firms adopted for granting any given forbearance option, and the nature of those options.

15 The Common Financial Statement budgeting tool, facilitated by the Money Advice Trust: www.cfs.moneyadvicetrust.org/faqs.asp?page_id=30.

Forbearance policy

3.42 In most firms we found that forbearance options were not set out clearly in policies, procedures or guidance and there were inconsistencies between firm policy and what was offered in practice. In some cases these gaps were significant and we consider firms may be in breach of the requirement in CONC 7.2.1R to establish and implement clear and effective policies and procedures for customers whose accounts fall into arrears.

3.43 Some firms trained their staff to consider all the available solutions the firm was willing to agree to. In other firms frontline agents were only able to agree certain, generally shorter term, forbearance options, and acted as gatekeepers to other options available in specialist teams.

3.44 Some firms told us they had identified a need to improve their forbearance policies as they felt they were not achieving good enough customer outcomes, and were taking measures to put new options and procedures in place. One firm whose forbearance options were not clearly set out in their policies and procedures had drafted a new clearer policy. Another firm had introduced new QA checks to ensure that customers who had fallen into arrears were consistently being dealt with as per policy requirements.

Forbearance options

3.45 Firms offered a range of forbearance options. These included: deferred payment of arrears, breathing space, interest and charges concessions and repayment plans of varying durations, including accepting token payments for those in severe financial difficulty.

3.46 All firms allowed customers experiencing payment difficulties the time to pay their arrears off, while continuing to meet their scheduled payments. This often took the form of the firm accepting a promise to pay (PTP) from the customer at some future date. In most cases, firms would remove the customer from their contact strategy while the PTP was in place. Most firms also provided customers the option to repay the arrears in instalments on top of the standard monthly payment over a short period of time, for example 3 months. In a few firms these repayment plans had the ability to go longer, in one case up to 18 months.

3.47 Where customers could not meet their scheduled payments on an ongoing basis, a few firms provided an option of suspending collections activity, further interest and the scheduled payments for a period of time, usually six to twelve months, to enable the customer to make smaller regular payments to get back on track. This option was available where firms believed customers could in this way recover from their arrears over the period, possibly regaining the use of the account.

3.48 Where the firms considered that customers were unlikely to be able to recover from arrears difficulties – with or without interest rate concessions – within what the firm considered to be a reasonable period of time, firms' focus shifted from seeking to encourage customers to clear their arrears to exploring ways to recover the whole debt owed. We saw varying approaches to this across the sample of firms. A few credit card providers offered a structured repayment plan to pay the full debt at a reduced rate of interest over no more than five years. If the customer could not afford to do this the firm would accept a lower, affordable, monthly repayment but would terminate the account and register a default on the customer's credit file. The remaining firms all chose to suspend interest and charges and terminate the agreement of any customer who they considered would not recover from their arrears difficulties regardless of how long it would take the customer to repay the debt in full. The point at which the account termination took place varied. Some firms would agree a repayment plan with the customer and then allow the account to run through to terminate automatically at a set number of days in arrears, in the same way as would occur for accounts where the firm had been unable to come to an arrangement with the customer. Other firms made the decision to manually terminate the account where the customer was identified as having long-term financial difficulty. Some personal loan providers offered the option to refinance the loan, if the customer met certain criteria set by the firm.

3.49 Long-term outcomes, once customer accounts were terminated and moved to recoveries, varied across the firms. All firms were willing to accept repayment plans or settlement offers from customers in this position. Some firms referred the accounts to a debt collection agency to try recovering the debt on their behalf. Some firms sold accounts to debt purchasers. Firms took varying approaches where there was a repayment plan in place. Some firms would sell any account which was subject to a repayment plan as long as they did not meet any other exclusion criteria (for example, all firms had a policy of not selling the accounts of customers identified as vulnerable under their own policies). Other firms did not sell accounts that were in a repayment plan at all and others excluded certain plans, such as token agreements. Typically, firms did not litigate where an agreed repayment plan was in place and performing.

Accessing the right options

3.50 How repayment and forbearance options were presented to customers varied. Only one firm routinely explained the full range of options to customers who needed some form of forbearance. Most generally took a 'waterfall' approach, ruling out shorter-term options before introducing the possibility of longer-term solutions.

3.51 Some firms focused heavily on immediate payment of arrears or securing a promise to pay the full arrears before the next billing cycle and exhausted all routes to this (including, for example, asking whether other members of the household could pay) before offering longer-term solutions. As noted above, this approach was frequently at the expense of giving due consideration to clear evidence about customers' circumstances. At firms where this practice was observed, these short-term promises often failed, leaving customers at best in the same financial position and at worst a deteriorating position due to the addition of fees and charges.

3.52 In some firms we found that customers had frequently agreed to an option that might not be best suited to their circumstances because agents appeared to favour one repayment option provided by the firm over another. In some firms, the way that the implications of different repayment options were explained risked distorting customer choices (see the explaining consequences section found at 3.64 for more detail). In other cases, agent incentives risked encouraging a disproportionate focus on securing higher payments in the short term rather than on agreeing potentially more affordable longer-term plans.

3.53 In most firms, when a customer reached the stage where a structured payment plan was deemed the most appropriate forbearance option then firms did affordability assessments to decide what instalments the customer could afford, how long the plan would last and the approach to freezing interest and charges. Some firms' decision-making was driven solely by what the customer could afford, but others applied additional eligibility criteria. For example, a customer must make an initial payment to set up a payment plan or that a customer is only entitled to certain forbearance options if they have held the account for a certain period of time.

3.54 In some firms we saw some apparent inflexibility in moving payment dates for customers in arrears, for example, to take account of a change in the date a customer's salary was paid. Firms identified a number of reasons for this – for example, systems constraints or the concern that changing a due date could in some circumstances amount to granting the customer a payment holiday which would mask impairment on the account. In one firm we found that customers could change their due date to a later date in the month if they were or became a manual payer rather than paying by direct debit. One store card provider would not change payment dates at all, as these dates were linked to the retailer's marketing strategy.

3.55 While we recognise that some firms are constrained in their ability to amend payment dates for customers in arrears, we welcome the fact that credit card providers represented by the UKCA have committed to allowing all customers not in arrears, to request a 'later than' payment date for their future payment.[16] This should help ensure that customers are able to request payment dates which align with their income patterns. Credit card firms have also committed to signpost customers who miss a payment to the ability to make a 'later than' payment date request to help avoid future payment difficulties and late fees. There is more information on this in the CCMS final findings report.

3.56 The majority of firms we reviewed would accept credit card payments as a form of payment for arrears. Generally, customers incur an additional charge for making a payment by this means. One firm would not allow this where it was also the credit card issuer but would accept payments on other credit cards. Where we observed this, agents typically advised customers of the fee for using a credit card. On one occasion we saw an agent asking the customer to consider whether making a payment on credit might exacerbate their financial position. This was done via a set script provided by the firm.

Firm unwilling to agree an instalment plan

A customer, who had missed a contractual payment and fallen into arrears, called the firm to advise that he was ill, unemployed and had been in and out of hospital. The firm's policy states that these circumstances would warrant referral to a specialist team but the collections agent did not refer him.

The customer asked if he could pay the arrears of £90 over the next three months in addition to his contractual payments to prevent the account from falling into default but was told by the agent that he needed to make the full £90 arrears payment that month. The agent advised that if he could pay the arrears in full, then the firm would waive a £50 fee that had been applied to the account. The customer made the full arrears payment on the agreed date but another contractual payment was due three days later. The firm tried a direct debt for the contractual payment but it was returned due to insufficient funds and the account went into arrears. The customer did not recover from these arrears and the account subsequently defaulted.

Effective delivery of forbearance

3.57 We sought to assess how effective firms were at putting their collections and forbearance policies into practice.

16 MS14/6.3: 'Credit card market study final findings report' July 2016: www.fca.org.uk/publication/market-studies/ms14-6-3-credit-card-market-study-final-findings-report.pdf.

IT & systems

3.58 Firms used a variety of IT systems and business processes in their collections functions. In all firms systems and process limitations (or in some cases flaws) impeded, to some extent, firms' ability to consistently deliver their forbearance policies. While in most firms these shortcomings amounted to minor issues resulting in no or little consumer detriment; in a few firms we saw some serious systems failings or process gaps, which at best caused inconsistent outcomes for customers and at worst, a significant risk of systematic consumer detriment. These included customers who paid on time being charged late payment fees in error and a reliance on manual processes without effective checks resulting in customers being over-charged. We are working with firms where serious failings were found to rectify matters.

3.59 Some firms operated multiple legacy systems with different products and/or processes served by different systems. In most cases, staff were adequately trained to overcome any challenges which arose from this but in one firm staff were only trained on core systems, which meant collections staff were generally unfamiliar with how to handle non-routine tasks such as moving pre-arrears customers into collections or changing payment instructions. In some firms, core aspects of their forbearance policy, such as giving a customer breathing space to seek independent debt advice, were not consistently applied due to an over-reliance on manual processes.

3.60 In some of the systems firms used, key customer information was either not prominent or entirely absent from the agent's view of the customer account. So agents were unable to see that the customer they were dealing with had previously been identified as vulnerable or in financial difficulty, or that a repayment option had failed recently. In some cases this was because the system did not have the ability to flag a customer's status in this way and in others it was a result of the way agents recorded system notes.

3.61 All firms' systems had the functionality to make notes about customers but these were not used consistently well across the sample. In some firms the quality of system notes agents made appeared to be at least in part driven by performance measures and targets for call handling and wrap time. In firms where these factors appeared to have a negative influence, this meant that agents did not have the time to clearly and accurately record information about the customers at the end of calls or to read notes left by their colleagues at the start of calls.

Staff training & guidance

3.62 While all firms invested in tools and guidance for their staff, some firms' support for agents was primarily focussed on collection of arrears. In firms where this was true we found that conversations were limited to discussions of when arrears could be paid and did not look to identify reasons for arrears. Typically such firms dedicated less training to areas such as identifying and dealing with vulnerable customers, effective questioning and listening skills. In some firms there was a lack of guidance available to staff on how to:

- probe customer circumstances
- determine what solutions may be appropriate for a given customer
- decide what forbearance to offer

3.63 Across the firms there were varying quality assurance (QA) models. Most firms conducted quality assurance of agent phone calls. Others also quality assured agents' execution of any tasks associated with those calls such as making system notes or setting up a repayment plan, as well as written correspondence and the administration of payment offers received from debt advisers. A minority went further and conducted end-to-end customer case reviews. Firms generally used the results of QA to inform staff coaching and training on both an individual and firm level. The maturity of firms' QA models varied. Some were introducing or had only recently introduced new approaches, whereas some firms had mature QA systems in place which they could demonstrate had helped to drive process enhancements, consistent adherence to policy and improvements in the quality of conversations with customers.

Tools to support collections agents

A number of firms had implemented useful tools to help agents to deliver forbearance effectively.

For example, one firm's system highlighted on screen if certain accounts were eligible for a particular forbearance option and also calculated for the agent how much the customer would need to pay monthly if they chose to take up the option over a six or a twelve month period.

Customers who were flagged as vulnerable or in financial difficulty were also highlighted on screen to agents prior to outbound dialler calls being connected so that agents were aware of the customer's circumstances and could prepare for the type of conversation they would be having.

Another firm gave its agents a calculator to help them go through customers' income and expenditure over the phone. This provided prompts about different sorts of expenditure which the customer might otherwise forget to declare, such as the costs of keeping a pet. It also converted expenditure amounts between weekly, monthly and annual sums, enabling the customer to present their expenditure in terms they could readily remember rather than relying on them to work out a monthly amount.

Some firms gave agents who dealt with customers in financial difficulties access to data from the customer's credit reference file. This allowed the agent to take account of any additional debts which the customer might have forgotten about. One firm also had internal and CRA credit risk scores on screen to help agents better understand any potential that the customer may be in a poor financial position or how likely they were, based on the firm's risk scoring, to fall back into arrears.

Explanation of consequences

3.64 We found issues with the way that firms explained the consequences of different forbearance options to customers. In some firms agents overstated or understated the consequences of particular options, or omitted certain facts from their explanations. Sometimes this behaviour appeared to be driven by collections staff taking it upon themselves to deliver information in this way; in other cases it seemed due to the guidance they were given by the firm. We saw instances of agents overstating, understating or omitting information in relation to the firm's own forbearance options, for example agents:

- explaining that a given option would result in a default being registered on a customer's credit file, emphasising the seriousness of this and the implications for the customer's ability to access further credit, but omitting to mention the downsides of the alternative options (such as the continuing accrual of interest or that continuing to accrue arrears would also be reflected on the customer's credit file)

- being unclear regarding the length of the forbearance option or implying that it would last for several years when this was unlikely to be the case
- emphasising that under certain options they would have to terminate a credit card account for good, but omitting to mention the potential advantages of such options, such as the freezing of interest and charges
- presenting the fact that accounts which were subject to certain types of repayment plan were likely to be sold to a debt purchaser as a negative outcome for the customer, while not presenting the advantages of these plans, such as frozen interest and charges

3.65 We saw evidence that an unbalanced presentation of the facts led to customers being guided towards selecting a forbearance repayment option that may not have been in their best interest, such as a potentially unaffordable plan that resulted in interest continuing to accrue on their account. Where the arrears, and interest accruing, are ultimately unrecoverable, this approach may also not be in the best commercial interests of the firm.

3.66 The timing of the discussion of the consequences of forbearance options (and therefore the customer's ability to take account of this information) varied across firms, for example – before any repayment option being agreed, after the repayment option had been agreed or in the call summary when the agent wrapped up the call. Where firms are offering customers options and the consequences are discussed after an option has been agreed, there is the risk that customers will not have made a fully informed choice about their options.

3.67 We remind firms that we require their communications with customers to be clear, fair and not misleading (CONC 3.3.1R). Where firms are presenting options to their customers they should give them enough information to enable them to make an informed choice. Firms should not disguise, diminish or obscure important information and equal weight should be given to both the benefits and risks of forbearance options.

Administration

3.68 We saw weaknesses in administrative processes in some firms. In one firm we saw cases where correspondence from customers and third parties went missing between different teams and locations or was not attached to or linked to the relevant accounts. In some firms, delays in processing customer correspondence or generous service level agreements (SLAs) of up to 14 days for correspondence handling meant it took some time to set up customer repayment plans, during which time additional fees and charges accrued.

3.69 Most firms are using call handling MI (both in call talk times and wrap up times) to monitor agent performance. Generally these appeared to be applied in a balanced way. In one firm, however, we saw management place significant emphasis on call times with the average call handling time (both in call talk times and wrap up times) being significantly lower than other firms reviewed. This appeared to be having a negative impact on the agents' ability to assess customer circumstances and forbearance options.

Use of management information

3.70 Most firms' collections MI covered cash collected, credit risk and operational measures but few included information on consumer outcomes. Only a few firms monitored the performance of different repayment options, typically focused on short-term kept rates or cure rate, although some were seeking to improve their sustainability measures. Some firms only monitored outcomes for certain repayment options, so they were unaware of the success of the options they did not track. While all firms collected agent-level operational metrics like average talk or handling time, cash collected and cure rates, some collected these as general performance measures to support management whilst others used them to set performance targets for individual agents. Our thematic review of staff remuneration and incentives in consumer credit, is considering how the performance management of customer-facing staff may affect the risks to consumers.

Vulnerable customers

3.71 We require, firms to establish and implement clear, effective and appropriate policies and procedures for dealing with customers whose accounts fall into arrears, and treat those the firm understands or reasonably suspects to be particularly vulnerable fairly and appropriately (CONC 7.2.1R). We explored firms' approach to vulnerable customers in arrears, including how they identify a potentially vulnerable customer and how these customers are treated in practice.

Vulnerable customer policies

3.72 All firms we visited appeared to have placed a greater emphasis on customer vulnerability in recent months. Several firms told us that this had been prompted by our Occasional Paper No 8 - Consumer Vulnerability.[17] Firms had made improvements to their approach to vulnerable customers in arrears, including developing and updating training for frontline staff, establishing new specialist teams, reviewing policies and procedures and expanding definitions of vulnerable customers. Some firms had adopted the TEXAS model[18] to help agents have effective conversations with vulnerable customers and handle the information provided appropriately.

3.73 Some firms handled cases of customer vulnerability with sensitivity and forbearance, for example: applying effective procedures for identifying vulnerable customers in arrears, referring them effectively to well-trained specialist teams, providing a single point of contact for all issues, handling sensitive data with appropriate care, suspending normal collections activity, freezing interest and writing off debts in certain cases.

3.74 That said, some firms' policies for vulnerable customers in arrears were limited or high level – describing the firm's overall approach, but not providing specific guidance to staff about how to implement it in practice. Where firms had developed new policies in recent months, in some cases the policy had not been fully embedded and the firm's approach was inconsistent in practice.

Identifying vulnerable customers

3.75 Despite the increased focus, we saw evidence in most firms of failures to identify particularly vulnerable customers in line with their policies. This meant that customers were often not dealt with in the way specified in their policies, for example being referred through to specialist teams which existed to provide additional support. We saw occasions where this had led to distress and the compounding of customers' financial difficulties. In some firms these failures were occasional, in others they appeared more systematic. Some examples we saw of clear triggers of vulnerability presented to agents but not acted on, in line with firm policy, are:

- a customer suffering from mental health issues which had led to her being off work who had asked a family member to contact the firm on her behalf because she felt unable to

17 'FCA Occasional Paper No.8: Consumer Vulnerability' (February 2015): www.fca.org.uk/publication/occasional-papers/occasional-paper-8.pdf

18 The Royal College of Psychiatrists and Money Advice Trust have developed the TEXAS model which is a practical tool to help with conversations around vulnerability. Further information on this model can be found in FCA Occasional Paper No.8: Consumer Vulnerability' (February 2015).

deal with the firm directly

- a self-employed customer who had been unable to work because he had been caring for his wife who was in hospital with a serious illness
- customers undergoing long-term hospital treatment and unable to engage with their creditors, including one case where the customer was in a coma
- a customer with extensive debt, who had been ill and unable to work for three months and was close to bankruptcy
- a customer who had lost her job, was in temporary accommodation and had had to change her phone number because she was a victim of domestic violence

3.76 How firms recorded or flagged a customer as vulnerable varied between firms, with some firms developing vulnerable customer codes or flags to act as an indicator to help manage the account. In contrast, a few firms did not apply any kind of flag so were unable to readily identify how many or which customers they had contact with who had notified them of a particular vulnerability.

Appropriate treatment of vulnerable customers

3.77 Even when customers were identified as particularly vulnerable, we saw some examples where firms failed to treat them appropriately, or did so inconsistently. Some firms had inflexible processes for how vulnerable customers could contact firms. For example, in two firms, agents were unable to transfer customers on the phone to specialist teams as they would only deal with vulnerable customers in writing. Another firm would only speak to the customer on the phone and would not accept emails - creating a potential barrier for customers with speech impediments or hearing difficulties, or those who might struggle to phone the firm during normal office hours.

3.78 In two firms we saw evidence that the firm had sold vulnerable customer accounts contrary to their policy to exclude such accounts from debt sale. In both cases the firms acknowledged this failure in their processes.

3.79 We saw one instance of a potential breach of the Data Protection Act as the firm had a policy of recording sensitive customer information even if the customer requested that they do not do so.

3.80 Our Occasional Paper on consumer vulnerability includes a practitioners' pack, which gives examples of ways to identify and interact with vulnerable customers. Firms considering their approach to vulnerability may find this a useful resource. There are also a number of good practice guides issued by industry bodies and other expert organisations which firms may find helpful. We have listed some of these guides in Annex A of this report.

Dealing with a vulnerable customer

A customer was assaulted and suffered injuries that prevented him from working and left him with short-term cognitive difficulties. Once this came to light, the customer was identified as vulnerable and transferred to a specialist team who managed the customer's credit card, loan and current account together. The customer was given breathing space in order to seek debt advice and current account charges were frozen to prevent the customer's circumstances deteriorating. Credit card interest and fees were also frozen. The agent sought permission to record the customer's medical details and followed up in writing to ensure the customer had an appropriate understanding of what had been agreed.

The customer sought advice from Christians Against Poverty (CAP). The firm later received a token offer of £1 from CAP to allow the customer a period of time to save for an insolvency fee. The offer was accepted and a plan was set up for both the credit card and loan.

Dealing with debt advisers

3.81 Providers of debt advice and debt management services can help customers who are, or may, experience repayment difficulties, particularly where customers are struggling to meet multiple commitments or lack the capacity to effectively represent themselves in negotiations with their creditors. This can be of benefit to lenders too, as good debt advice can help customers to work through their budget, review their options and develop sustainable solutions to clear their debts. We looked at this to ascertain how firms are engaging with debt advisers who represent their customers and how this affects the outcomes for customers who use debt advice to help them deal with their creditors.

3.82 We found that most firms appear to be appropriately engaging with debt advisers and, in most cases, offer the same forbearance repayment options to customers who use debt advisers and those who deal directly with the firm. In some instances, although not the firms' deliberate policy, debt advice customers were able to access certain forbearance quicker as they were fast-tracked to particular account statuses or processes. This reflected the fact that involving a debt adviser gave the firm some assurance of the customer's commitment and that the customer's budget and repayment offer was in light of holistic advice.

3.83 When notified by the customer that they were seeking the support of a debt advice agency to help manage their debts, all firms gave customers breathing space and removed them from their collection contact strategies. We observed a range of practices on when firms would trigger this breathing space. Some would do so when the customer first mentioned they were seeking debt advice, whereas others required some evidence that the customer had taken steps to use a debt adviser, for example by providing a reference number from the debt advice agency. Some firms went a step further and froze or reduced interest and/or charges at the time the breathing space is applied. All firms also provided breathing space for customers who were not being supported by a debt adviser, particularly where a customer indicated they were in financial difficulties and were completing an income and expenditure assessment.

3.84 Firms adopted a range of practices in reviewing and assessing offers of payment and income and expenditure assessments received from debt advisers, including whether and how they would challenge or query any aspects of these. Some firms accepted income and expenditure assessments and payment offers from debt advisers without significant scrutiny. Generally where firms did review income and expenditure assessments, they did so against the CFS trigger figures and were only likely to query them where an item of expenditure was outside the figures without explanation or where the offer made to the firm was not proportionate to its share of the customer's outstanding unsecured debt.

3.85 Firms must comply with our requirement to monitor a customer's repayment record and take action where there are signs of actual or possible repayment difficulties (CONC 6.7.2R). One way to do this is to give the customer contact details of free and independent debt advice (CONC 6.7.3G). This applies whether the customer is in actual arrears or not. In addition, under CONC 7.3.7AG, where appropriate, firms should direct customers in default or arrears difficulties to sources of free and independent debt advice.

3.86 We saw in most firms that where different customers were in similar circumstances, there was inconsistency in the way that agents chose to sign post customers to debt advice during verbal conversations. Firms missed opportunities to point customers to sources of expert help and advice, where it would have been appropriate to do so. We observed in some cases that verbal sign posting generally did not occur at all. In others, where sign posting occurred, it appeared to depend on the experience and capability of the agent. In some firms the debt collection policies and procedures were unclear and lacked detail on when customers should be sign posted.

Fees and charges

3.87 We examined how firms are applying fees and charges to accounts in arrears. We also looked at firm practices on freezing or reducing fees and interest and in what circumstances this happens.

Fees

3.88 The majority of firms charge customers default fees or other charges such as for late payments, exceeding a credit limit and having a direct debit or other payment returned. One firm did not have a general late payment fee but charged customers separately for each letter or notice it sent about the failure to make a payment. The amount of the fees charged varied across the firms we looked at. Most credit and store card providers in our sample charged up to £12 for each type of fee. For loans and point- of- sale finance, these fees were typically higher, around £25 for each fee. None of the retail banks in our sample currently charge a late payment fee for personal loans.

3.89 Customers could be charged multiple fees or charges stemming from a late or missed payment within a single month or payment cycle in most of the firms we reviewed. This occurred in different ways across the various firms. Multiple fees was one of the concerning practices we identified in the CCMS in a few firms, although this was not found to be widespread. Our review also observed multiple fees being charged within a single payment cycle in relation to both credit cards and other product types. Some firms have indicated to us that they felt the way their particular fee-charging structure worked was inappropriate and have amended them as a result. As noted in the final report of the CCMS, we expect all firms to consider the fairness and impact of their default fees and charges. It is important that firms, where they identify concerns in relation to their fees, disclose those concerns to the regulator, proactively act on those concerns and keep the regulator informed.

3.90 Firms have the contractual right to apply fees. Despite this, we saw that most firms had factored into their policy on default fees consideration of the impact that fees may have on customers, particularly those who may be vulnerable or in financial hardship, bearing in mind the firm's wider responsibility to pay due regard to the interests of its customers and treat them fairly. Some firms had a policy of waiving fees where they considered that their continued accrual would exacerbate a customer's financial hardship (see paragraph 3.95 below). In addition, some firms capped the total fees a customer could incur when in arrears by supressing fees after they had been in arrears for a consecutive number of payment cycles or by capping the total amount of fees it could apply to an account.

Interest charges

3.91 There is no obligation for firms to reduce or suspend fees or interest for customers in arrears. However, CONC 7.3.5G(1) states that firms should consider suspending, reducing, waiving or cancelling further fees and interest as part of treating customers with forbearance. Generally, credit and store card providers continued to add interest as the account progressed through early to late arrears. The addition of interest typically stopped when the accounts were defaulted and terminated. Generally personal loan providers did not charge additional interest on sums in arrears although one firm did charge this for certain types of loans.

3.92 Where customers had medium or long-term financial difficulties and they engaged with the firm to agree a repayment plan, firms generally granted interest concessions. The nature of these concessions varied. All firms completely froze or reduced interest and charges for customers in long term or severe financial difficulties who agreed a repayment plan or who had entered into an insolvency solution. A number of credit card providers also offered plans at a reduced rate of interest where the customer was able to pay down the full balance over the medium term. The level of this reduced rate varied. Rates we saw varied between 0% and 12.7%.

3.93 Some credit card providers we reviewed did not offer short term interest concessions. Other credit card firms were willing to suspend interest on a temporary basis, usually for a six or twelve month period, to enable customers with shorter-term financial difficulties to rehabilitate.

3.94 Firms' criteria for agreeing to interest rate concessions varied across the sample. For example, some firms required evidence of financial difficulties such as a completed income and expenditure assessment or evidence that the customer was working with a debt advice provider. We saw one firm which routinely suspended interest and charges when a customer verbally informed it that they were in financial difficulties.

Waiving and refunding fees and interest

3.95 All firms waived or refunded fees charged on accounts in some circumstances. Only a minority were willing to refund interest charges. Collections staff generally had clear but limited mandates to waive or refund fees and, where the firm allowed this, interest. The circumstances and the frequency with which they did so varied from firm to firm. Some firms limited fee refunds to situations where the fee was levied as a result of the firm's mistake or as a gesture of goodwill the first time a fee was levied. Some firms waived or refunded fees to mitigate the impact of arrears on customers in serious financial difficulties. Others waived certain fees to influence customer behaviour, for example offering to waive the fee if the customer agreed to pursue a particular course of action. If firms choose to waive fees to influence or incentivise customer choices in particular circumstances, they should be mindful of their obligations to treat customers fairly.

Outsourcing early arrears

3.96 Under this theme we examined a number of firms which outsourced the handling of accounts in arrears. We examined what impact, if any, the outsourcing had on the customer journey and customer outcomes.

3.97 A number of firms in our sample outsourced early stage collections activities to third-party service providers. The extent of the outsourcing varied across the firms. For example, one firm outsourced the entire early stage collections of a particular product, while another outsourced the handling of customers with specific needs. We also saw outsourcing arrangements to provide additional capacity to handle outbound telephone calls to customers via an overflow model.

3.98 Generally, firms appeared to have reasonable controls over their outsourcers, with firms subjecting the service providers to appropriately detailed oversight and monitoring. Some examples of practices we saw included, but were not limited to:

- services providers reporting directly to senior management of the firm
- the service provider's employees receiving the same training as the firm's own employees
- service providers working within the same mandates and policies as the firm
- firms having staff located on the site of the service provider to directly oversee their work

3.99 One firm in the sample outsourced the handling of customers who were in long-term financial difficulty, both those who were using the services of a third party and those managing their finances themselves. A specialist team within the firm would carry out some initial checks and acquire information from the customer before referring the account to the outsourced service provider. In the case of this firm, customers were clearly informed of the outsourcing and the service provider had evident expertise in handling these types of cases, driving positive customer outcomes. The service provider received the firm's own training and had access to the firm's relevant systems.

3.100 We generally found that communication to customers about outsourcing arrangements was clear and appropriate. We also found that the outsourcing did not adversely affect the customer journey, with accounts smoothly transferred between firms and third party suppliers. We did not see evidence of unfair treatment arising as a result of activities being outsourced, although in one firm we observed some inconsistency in forbearance appetite and approach between the firm and the outsourcer.

Customers with multiple accounts

3.101 In most firms, we observed customers who were in arrears on more than one account or more than one product held with that firm. We sought to examine how lending firms approach customers with multiple accounts or products, where this was applicable.

3.102 The ability of firms to identify customers with multiple accounts or products varied across the sample. Some firms systematically identified multiple account-holdings by customers. Other firms were limited in their ability to identify customers with multiple accounts or products due to systems limitations and differences in the way collection models for different product types operated. These firms tended to rely on customers bringing other products or accounts to their attention.

3.103 Where firms did identify multiple account-holdings, some firms responded to a customer falling into arrears on one account by taking action on their other accounts. For example: placing a hold on all credit cards, whether in arrears or not, until a customer had paid off their arrears, reducing the customer's credit limit on other accounts, or closing current accounts held by the customer.

3.104 We found that firms were far more likely to take a joined-up approach where a customer held two accounts of the same type, for example, two credit cards. None of the firms we looked at that offered both cards and loans held all of their products on the same collections management platform, making it hard to view multiple product-holdings of their customers.

3.105 We acknowledge that this is a complex area and there are no specific requirements on firms on how they treat customers with multiple products. In addition, there are systems and potential data protection implications of dealing with multiple products or accounts together that may not be easily overcome. But some firms told us they are looking to implement ways to effectively approach multiple account or product holders, such as establishing a single customer or a holistic product view. In addition, while most of the firms offering card and loan products used different teams in different locations to collect each product, they had generally established a specialist team to support particularly vulnerable customers. This team could manage all of a customer's accounts in one place. We welcome this best practice by firms and encourage firms to continue to explore and share ways to effectively manage multiple account holders.

4.
Conclusion and next steps

4.1 We have given feedback to each of the firms in our sample on the good and bad practices we observed in their businesses. We expect these firms to review their practices in light of our feedback and make relevant changes. In some instances, where we found unfair practices, we have already begun supervision dialogue and risk mitigation action with firms. Depending on the seriousness of the issues identified and firms' responses, we may take further supervisory or enforcement action.

4.2 For firms that are still undergoing the authorisations process, we will continue to liaise with our authorisation colleagues, where appropriate, to share relevant findings and to help assess firms' applications for authorisation.

4.3 We have seen that there is a lot of good practice in the industry when dealing with customers in early arrears. However, as our report outlines, in some areas there is room for significant improvement. We have highlighted a number of areas which firms within our sample have identified as areas for improvement where they are exploring ways to improve their current policies and procedures. We encourage all firms across the wider industry, which are involved in collecting consumer credit debts to read this report, to consider their approach to arrears in light of our findings and to make improvements where necessary.

4.4 The FCA expects firms to promote, embed and enforce the right culture within their organisations, which has the primary objective of doing the right thing for the market and consumers. We encourage all firms to continue to focus on achieving good customer outcomes as well as regulatory compliance. Our ongoing supervisory activity will allow us to monitor and gauge any improvements across the sector.

Annex 1
Vulnerable Customers: List of good practice guides

1. As discussed in the findings section of the report, our occasional paper on consumer vulnerability included a practitioners' pack, which gave examples of good practice in identifying and interacting with vulnerable customers that may support firms to understand what they could be doing to generate better outcomes for consumers in vulnerable circumstances. There are number of existing good practice guides issued by various bodies that firms may find helpful, including:

- BS 18477:2010 – 'Inclusive Service Provision – requirements for identifying and responding to consumer vulnerability': www.bsigroup.com/LocalFiles/en-GB/consumer-guides/resources/BSI-Consumer-Brochure-Inclusive-Services-UK-EN.pdf
- Money Advice Trust – 'Lending, debt collection and mental health: 12 steps for treating potentially vulnerable customers fairly', 2nd edition (November 2014): www.moneyadvicetrust.org/media/news/Pages/12-step-guide-for-lenders-on-treating-vulnerable-customers-fairly.aspx
- The Money Advice Liaison Group (MALG) – 'Good Practice awareness guidelines for helping consumers with mental health conditions and debt' (Third edition 2015): www.moneyadvicetrust.org/SiteCollectionDocuments/Research%20and%20reports/MALG_web%20based%20version%2023.3.15%20and%209.4.15.pdf
- MALG- Briefing Note 4: – 'Appropriately processing data from individuals with mental health problems under the Data Protection Act (1998)': www.rcpsych.ac.uk/pdf/MALG%20Briefing%20Note%20(4)%20-%20DPA%20and%20mental%20health%20(13_04_29).pdf
- Lending Standards Board – 'Standards Development Review - Customers in Vulnerable Circumstances' (15 April 2016): www.lendingstandardsboard.org.uk/wp-content/uploads/2016/06/Customers-in-vulnerable-circumstances-Standards-development-review-Apr-2016.pdf
- British Bankers' Association – 'Improving Outcomes for customers in vulnerable circumstances' (23 February 2016): www.bba.org.uk/news/reports/improving-outcomes-for-customers-in-vulnerable-circumstances/

2. The views and guidance set out in the above good practice guides do not reflect the views of the FCA. They have been listed here as a resource to help firms seeking practical guidance on how to treat vulnerable customers.

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PUB REF: 005296

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