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Deborah Mullane
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Dear Ms Mullane

Which? response to the FCA's consultation on the fair treatment of mortgage customers in payment shortfall: impact of automatic capitalisation.

Which? welcomes the FCA's consultation on the fair treatment of mortgage customers in payment shortfall and the impact of automatic capitalisation.

By including arrears balances in the contractual monthly instalments (CMIs) when recalculating payments, firms may set new CMIs that lead to consumers inadvertently overpaying their mortgage, underpaying their arrears, and so remaining in arrears for longer, with an impact on their credit reference agency file. It is right that the FCA acts to ensure that consumers are treated fairly and receive compensation in these circumstances.

However, it is not clear how the FCA has arrived at its suggested level of compensation. When regulators set compensation levels, they should refer to clear and consistent principles. Our report last year, *Compensation for consumers when things go wrong*, set out that those principles should include consideration of the financial and non-financial harm experienced by the consumer as a result of the failure, the impact of the compensation on prices paid by consumers, and the incentives the compensation places on firms to avoid the error in future.

Compensation levels should also be informed by consumer expectations, particularly when compensation is in part intended to remedy non-financial detriment. In the example given in 'John's Story', the consumer's credit record is affected for a further six months than it should have been due to the failure. Our research with consumers suggests that they may assign greater value to this impact than the FCA does. The best people to advise on what consumers consider to be fair are consumers themselves.

We hope that future remediation or redress schemes will take these points into account.

Yours sincerely,

Caroline Normand
Director of Policy