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Financial Conduct Authority
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Dear team

I am writing in response to the updated FCA's guidance on payment deferrals and tailored support for mortgage firms to support customers in financial difficulty as a result of coronavirus.

We strongly support the extension of payment deferrals as it reflects the ongoing and evolving nature of the crisis. We are pleased that consumers who will need to access temporary support for the first time will now be treated fairly, and we welcome the recognition that there will be some consumers who have already had a payment deferral but are still in temporary financial difficulty.

It is unclear however how the proposed guidance enacts the policy intent expressed by HM Treasury and FCA that consumers will be able to access a 6 month payment deferral. The payment deferral guidance is proposed to be disapplied from 31 January, and its provisions only allow for a deferral of up to 3 months to be granted at any time. Therefore we cannot see how a consumer who has not yet needed financial support would be able to access a payment deferral for longer than 3 months. We would like the guidance to be clearer around consumer entitlement to a total deferral period of 6 months.

We support the continued application of the principle that temporary difficulties should not be marked permanently on credit files. We agree that consumers who are in longer term financial difficulties should receive tailored support from their lender, and are likely to need full debt advice. However we are concerned about how the eligibility criteria applies in practice due to the lack of clarity in the proposed payment deferral guidance. In particular, we are concerned about groups of consumers who should be eligible under the guidance, but will 'fall through the cracks' and be denied support.

The proposed rules on eligibility to payment deferrals will exclude consumers who have:

- a) already agreed an alternative option to a further payment deferral at the end of their initial payment deferral
- b) not maintained contractual repayments under the mortgage throughout the period since the end of their initial payment deferral
- c) benefitted from 2 payment deferrals granted under previous guidance
- d) experienced payment difficulties as a result of circumstances relating to coronavirus after 31 January, whether or not they have benefitted from a payment deferral or other support

We believe the guidance needs to be explicit so that this eligibility criteria is subject to the requirement on lenders to review their approach to consumers who have been unable to resume payments at the end of their deferral periods¹.

¹ Paragraph 2.3 of FCA Mortgages and coronavirus: updated additional guidance for firms, November 2020



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For example, we are concerned that there will be consumers falling under criteria a) who will have come to the end of their initial payment deferral, but have had to agree to an alternative option because of the existing rules. We would not want lenders to unfairly deny such consumers a further payment deferral if they are eligible.

While we understand the principle of criteria b) to capture those who are in longer term financial difficulties, we would not want consumers who have missed a payment due to poor lender behaviour (such as a lack of communication) be automatically denied support that they should be eligible for. We have already seen instances of lenders treating payment deferrals as arrears, despite these having been agreed, which has led to consumers having their credit files being negatively impacted.

Our recent consumer insight survey² has also shown default rates increasing significantly from 3.8% in September to 5.7% in October. We are concerned about the rise in consumers missing payments during a period when support is meant to have been readily available. As part of its supervisory work we would expect the regulator to be not only monitoring default rates but looking at the reasons why.

We have previously raised concerns about the need for forbearance complaints to be resolved quickly to prevent unnecessary hardship, and have provided the FCA with examples³ where consumers have suffered financially as a result of delays. This is particularly crucial given that we have already seen issues with lender capacity. Our recent consumer research⁴ found that 22% of mortgage holders had contacted, or attempted to contact, their lender since the start of the pandemic and 61% of those requested a payment holiday. Of those who had contacted or attempted to contact their lender:

- 56% reported having a problem,
- 29% customers saying they had to wait on the phone for a long time
- 17% left a phone message but didn't hear back
- 12% emailed but also never heard back from their provider

We urge the FCA to consult on a temporary amendment to its rules so that complaints relating to forbearance are resolved quicker than 8 weeks. This will enable lenders to identify and streamline cases where there is the most significant risk of harm, and in particular ensure that those who are vulnerable are swiftly and appropriately dealt with.

If you have any questions regarding this response, please do not hesitate to contact me.

Yours sincerely,

Aileen Lees
Senior Policy Adviser, Money
Which?

² Which? survey of 2,092 consumers between 16 and 18 October 2020 (weighted to be nationally representative)
<https://consumerinsight.which.co.uk/articles/consumer-sentiment-october-2020>

³ Which? response to the FCA call for input on ongoing support for consumers affected by coronavirus: mortgages and consumer credit, August 2020

⁴ Which? survey of 3,625 UK adults between 26 June and 13 July (weighted to be nationally representative)
<https://press.which.co.uk/whichpressreleases/which-reveals-best-mortgage-lenders-as-coronavirus-hits-customer-service/>