



Association of  
Mortgage Intermediaries

---

*Association of Mortgage Intermediaries' response to FCA CP 23/13 Strengthening Protections for Borrowers in Financial Difficulty: Consumer Credit and Mortgages*

---

This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI) and the Association of Finance Brokers (AFB). AMI is the trade association representing over 80% of UK mortgage intermediaries. AFB sits within AMI and represents second charge (formerly secured loan) brokers.

Intermediaries active in this market act on behalf of the consumer in selecting an appropriate lender and product to meet the individual consumer's mortgage requirements. AMI members also provide access to associated protection products. AFB members also provide access to unsecured products.

Our members are authorised and regulated by the Financial Conduct Authority (FCA) to carry out mortgage, insurance mediation and consumer credit activities. Firms range from sole traders through to national firms and networks, with thousands of advisers.

## Our View

AMI welcomes the proposal to extend the current guidance on the actions that a firm can take to assist customers in financial difficulty to encompass customers who may experience financial difficulty. Due to the specific, focused nature of the questions in this consultation we feel there is not appropriate room to fully set out our views and concerns therefore we would be grateful for our comments in this section to be considered alongside our responses to the set questions. We are concerned that the Mortgage Charter provisions supersede this consultation and would welcome discussions with the policy team to ensure that final policy and guidance works comprehensively.

## Mortgage intermediaries

We have noted that the consultation paper has not made any direct references to the role that mortgage intermediaries may play in this situation to assist customers. A significant proportion of the mortgage market is intermediated and it would be beneficial for customers to have all of the sectors of the industry working together cohesively. It would be helpful if FCA guidance embraced the role that intermediaries can play in providing full advice to customers at a point of financial stress.

Downsizing may be a suitable option for a number of customers that may find themselves facing financial difficulty in the near future and it is not currently clear how those conversations would develop. We would seek further clarification as to whether firms can consider signposting customers to a mortgage intermediary as well as signposting them to a relevant debt advice body.

Additionally, the FCA has recently added the following provisions to its firm guidance on supporting customers in financial difficulty (insurance):

- A provision that the options available, and the level of support provided by, firms will vary dependent on the nature of the firm's relationship with the customer, the firm's role in the distribution chain and the type and characteristics of the customer and type of product.
- A provision that sets out that firms should consider whether it would be appropriate to refer the customer to another firm in the distribution chain who is in a better position to support the customer.

We feel that this was an encouraging step taken by the FCA and would support amendments to the mortgage guidance that includes a similar or more robust approach which might include intermediaries.

## The Mortgage Charter

We wanted to take this opportunity to respond to the proposed strengthened protections for borrowers laid out in this consultation paper alongside giving a response to the recently implemented Mortgage Charter.

Given the scope and complexity of the mortgage market currently, we appreciate that there is not a simple solution that can be rolled out, however we have concerns that there are likely to be a number of unplanned consequences following the implementation of the Mortgage Charter. We feel that there is a danger that lender risk appetites and mortgage product ranges will be negatively affected as an overcorrection. The short-term solutions laid out in the Mortgage Charter will increase the cost of the loan over the remaining term, giving customers a finite deadline in which they will need to improve their financial situation or find themselves in a worse position than prior to the Mortgage Charter.

We are apprehensive that insufficient consideration has been extended to the Shared Ownership market both in regards to the implementation and consequences this Mortgage Charter may have on customers that may have already had limited options.

As per the government's Mortgage Charter announcement, these measures should offer comfort to those who are anxious about high interest rates and support for those who do get into difficulty. It would be beneficial to understand how the Mortgage Charter is going to be monitored and enforced; the voluntary aspect of the Mortgage Charter suggests that there will be no official enforcement of these measures, however it is difficult to see how customers can feel comfortable leaving their financial future and wellbeing in the hands of an unregulated initiative, in a highly regulated market.

We would welcome any further information on future plans to expand the Mortgage Charter, as in its current voluntary form a sizable portion of the mortgage market is not covered by these changes. Whilst over 80% by volume of customers may be covered, it is less than half of lenders, with those being in this part of the market more likely to encounter distress.

We would also support further clarification on the individual aspects of the Mortgage Charter. Concerns have been raised regarding the scope of aspects customers are able to amend without advice and while we appreciate that lenders will be required to communicate the impact of these options on the total loan repayment, we feel that there are numerous other risks involved that would be mitigated by the inclusion of qualified advice.

Specifically, we consider the deferment of possession activity as sensible. The options to consider utilising Interest Only and term extension allowances are sensible and workable, particularly if it does not impact credit score in the short term. However, we are concerned about how these are applied as consumers already appear confused as to what they can demand – in some cases both options simultaneously. If they are looking to only use the 6 month window, Interest Only is sufficient and any longer should be subject to a fuller advice and guidance process. As lenders currently cannot take a borrower back off term extension without an affordability assessment this may give longer term issues which we consider have not been fully impact assessed. We also know that the no credit score impact is problematic from when applied during Covid payment deferral.

The bigger issue surrounds the options to encourage the offering of new “fixed rate products” up to six months in advance. This may drive “price” upwards. Also, the key issue is who is responsible for tracking that offered product against any new products on sale prior to completion. Will lenders automatically offer and what does that do to any advice provided. Will it be incumbent on brokers to track pipelines – runs against the principle that advice is correct at point of delivery. Or are we to operate on a customer request only to fulfil changes. The industry would welcome clarification of conduct expectations in a world bound by Consumer Duty and outcome management.

## The proposed changes to MCOB

We have concerns that the proposed protections are individually helpful and innocuous but once they are layered together, they have the potential to create a significant strain for lender firms which means customers will not be supported sufficiently. We feel that many lenders do not currently have the staffing resources nor the system capabilities to fully implement all of the proposed amendments and this will have a substantial impact on the quality of service delivered to brokers and customers and may have unintended consequences on complaint levels. We feel there is likely to be a tremendous burden placed on lender arrears departments who may find themselves in a position where they are expected to provide services that start to border on financial advice, which they are neither qualified nor permitted to do. We would welcome further input on these proposals from the Financial Ombudsman Service.

## Questions

### Q1: Do you agree with our proposed changes to the scope of:

#### a. CONC 5 & 7?

No comment.

#### b. MCOB 13?

We agree for the most part with the proposed change in scope to incorporate the fair treatment of customers who may have payment difficulties. We are concerned that these changes may be difficult for Lenders to implement in a timely manner.

The proposal also states that firms **must** react to information indicating a customer may be at risk of a shortfall, and that firms can get that information from 3<sup>rd</sup> parties or if the customer has multiple products with that firm. It is our concern that many firms intentionally keep their product systems separate, for data security purposes and in that case amending their IT systems to accurately flag potential financial difficulty will be a costly and time-consuming endeavour.

As mentioned in the consultation paper, the options communicated to the customer must be adequate and appropriate and we feel that for a customer to be presented with all appropriate options, they will most likely need to speak to a qualified mortgage intermediary - the best option moving forward may not sit with a lender. The architect of the Charter stated on national television that advice from a broker was the best solution.

### Q2: Do you agree with our proposals to include a new Handbook rule and associated Handbook guidance, covering the reviews of the effectiveness of policies and procedures:

#### a. in CONC 7?

No comment.

**b. in MCOB 13?**

We agree with the proposed addition to the handbook related to firms ensuring the effectiveness of any policies and procedures put in place for customers in or at risk of payment difficulty.

**Q3: Do you have any comments on our updated references to the fair treatment of vulnerable customers:**

**a. for CONC 7?**

No comment.

**b. for MCOB 13?**

We agree with the proposed updated references but would note that the Consultation Paper only mentions reminding firms of FG21/1 and changing language to include customers who may have payment difficulty. It is not clear whether that is the exhaustive list of proposals or whether future amendments should be expected.

**Q4: Do you agree with our proposals to add to the existing list of forbearance options at:**

**a. CONC 7.3.5G & CONC 5D 3.3(4)G?**

No comment.

**b. MCOB 13.3.4AR?**

We agree with the proposal to add the list of options available to firms to MCOB 13.3.4AR. We are also in favour of the FCA expectation that a firm employs a sufficient range of options to help customers facing financial difficulties.

**Q5: Do you agree with our proposals on the transparency and accessibility of forbearance options:**

**a. to CONC at CONC 7.3.13A, CONC 5D 3.9G and CONC 5D 3.3G(7)?**

No comment.

**b. to MCOB 13.3.4C?**

We agree that firms should be providing customers with a range of ways to engage with them regarding any payment support both online and offline.

**Q6: Do you agree with our proposals relating to effective customer engagement and communication around money guidance and debt advice:**

**a. in CONC 7.3.7A?**

No comment.

**b. in MCOB 13.3.2AR?**

We agree with this proposal. It would be beneficial for customers to be informed at the earliest opportunity of any money guidance and debt advice that may be appropriate for them but would add that it may be appropriate for them to speak with a mortgage intermediary to discuss all available options.

**Q7: Do you agree with our proposals to include further Handbook provisions on our expectations relating to customer engagement and communication:**

**a. in CONC 7.3.13A and CONC 5D?**

No comment.

**b. in MCOB 13.3.4AR(2)?29**

We are supportive of the proposal to include any potential impact to the overall mortgage balance and credit file to the existing requirements on adequate information for customers entering into an arrangement.

**Q8: Do you have any comments on these consequential amendments:**

**b. in CONC?**

No comment.

**b. in MCOB?**

We are supportive of the amendments to include a broader scope of customers in payment difficulties.

**Q9: Do you agree with our proposals to introduce requirements on escalating balances where a firm has put in place a sustainable repayment arrangement as a forbearance measure and the customer is meeting the terms of that arrangement?**

We agree with this proposal to make the expectations laid out in the Tailored Support Guidance, relating to second charge mortgages and the risk of escalating balances, permanent.

**Q10: Do you agree with our proposals on introducing guidance to help firms determine necessary and reasonable charges?**

We agree.

**Q11: Do you agree with our proposals on sustainable repayment arrangements?**

We agree.

**Q12: Do you agree with our proposals requiring firms to take reasonable steps to ensure that forbearance measures remain appropriate?**

No comment.

**Q13: Do you agree with our proposals for firms to objectively undertake income and expenditure assessments?**

No comment.

AMI

July 2023

**Q14: Do you agree with our proposed guidance for income and expenditure assessments on clear policies, assessing whether arrangements are appropriate and sustainable and making available to the customer a record of any income and expenditure assessment made to allow them to share with other lenders and debt advice providers?**

No comment.

**Q15: Do you agree with our proposals on repossessions?**

No comment.

**Q16: Do you agree with our proposals on voluntary termination?**

No comment.

**Q17: Do you agree with our proposed amendment to CONC App 1.2?**

No comment.

**Q18: Do you have any comments on the increasing balances proposals?**

We agree with the proposal to have firms investigate and justify any additional fees that may be added to an account during the forbearance process.

**Q19: Do you agree with our proposal to change and extend the scope of the rules in MCOB 13.4.1R and MCOB 13.5.1R to ensure more timely disclosure of information on any payment shortfall?**

We agree.

**Q20: Do you agree with our proposals to amend the guidance in MCOB 13.3.4DG?**

We agree.

**Q21: Do you agree with the factors we propose a firm considers when determining whether capitalisation is appropriate?**

We agree.

**Q22: Do you have any comments relating to determining the affordability of future capitalised payments?**

No comment.

**Q23: Do you agree with our proposals for firms to ensure that forbearance arrangements remain appropriate?**

We agree.

**Q24: Do you agree with our proposed guidance on what we consider to be reasonable steps?**

We agree.

**Q25: Do you agree with our proposals to provide additional guidance at MCOB 13.3.4CG to include taking account of wider indebtedness?**

We agree.

**Q26: Do you agree with our proposal for firms to share income and expenditure assessments with customers where possible?**

We agree.

**Q27: Do you agree with our proposal to extend the rule in MCOB 13.3.9R to include customers who have or may have payment difficulties?**

We agree however we do feel the wording of 'customers who have or may have payment difficulties' to be a little broad and would suggest 'customers who have or are at risk of payment difficulties' so as not to overinflate the number of customers covered by this extension.

**Q28: Do you agree with our proposed clarification on recording video calls in MCOB 13.3.9R? Do you agree with our proposal not to extend this to those facing payment difficulties?**

We agree and would add that further guidance on recording calls, we feel that conversations with customers can often taken unexpected turns and it would be helpful to be able to refer back to guidance on conversation triggers that would warrant the call being recorded. Any future Financial Ombudsman Service interaction would benefit from thorough documentation.

**Q29: Do you have any comments on the proposed amendments to MCOB 13.8?**

We agree.

**Q30: Do you have any comments on the consequential impacts to:**

**a. MCOB 14?**

No comment.

**b. MCOB 15?**

No comment.