



Mortgages and coronavirus: updated draft guidance for firms

This guidance applies to mortgage lenders, mortgage administrators, home purchase providers and home purchase administrators. This guidance applies in the exceptional circumstances arising out of coronavirus (Covid-19) and its impact on the financial situation of customers of home finance providers. It is not intended to have any relevance in circumstances other than those related to coronavirus.

We originally published this guidance on 20 March 2020. We have updated this guidance with effect from [date]. We will keep this guidance under review and update as necessary. Unless renewed or updated, this guidance expires on 31 October 2020. Guidance is relevant to firm behaviour only to the extent it is current at the time of the behaviour in question. Please check this page for updates to this guidance.

Where a firm has dealt with customers at the end of a payment deferral period before this guidance came into force, it should review whether the outcome the customer has received is likely to be consistent with what the customer would have received under this guidance. If it is not consistent, the firm should make reasonable efforts to contact affected customers and give them an opportunity to take up any further help they may be eligible for under this guidance.

This guidance builds on Principle 6 ('A firm must pay due regard to the interests of its customers and treat them fairly'), Principle 7 ('A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading') and MCOB 2.5A.1R ('A firm must act honestly, fairly and professionally in accordance with the best interests of its customer'). It is potentially relevant to enforcement cases and the FCA may take it into account when considering whether it could reasonably have been understood or predicted at the time that the conduct in question fell below the standards required by Principle 6, Principle 7 and MCOB 2.5A.1R.

A firm is likely to contravene these rules if it acts in a manner inconsistent with this guidance. If an authorised person carries on activity in relation to an unregulated agreement to provide credit which is secured on land (such as an investment property loan under article 61A of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001), then acting in a manner inconsistent with the guidance below could have an adverse effect on satisfying the Threshold Conditions.

Where there has been an assignment of the rights under the mortgage contract to a non-authorised person, the person must still comply with general consumer protection law including the Consumer Protection from Unfair Trading Regulations 2008. A commercial practice may be unfair under those Regulations if (among other things) it contravenes the requirements of professional diligence. Professional diligence means the standard of special skill and care which a trader may reasonably be expected to exercise towards consumers. The guidance below is intended to describe the standards of skill and care we consider may reasonably be expected of lenders in the mortgages market in the current exceptional circumstances of coronavirus. If, therefore, a lender does not follow this guidance, that could call into question whether it is meeting the requirements of the 2008 Regulations, even if the lender is not regulated under FSMA.

In this guidance, 'payment deferral' means an arrangement under which a firm permits the customer to make no or reduced payments under a regulated mortgage contract or a regulated home purchase plan for a specified period without being considered to be in payment shortfall. A 'full payment deferral' is where the firm permits the customer to make no payments. A 'partial payment deferral' is where the firm permits the customer to make reduced payments of any amount.

A customer should have no liability to pay any charge or fee in connection with the grant of a payment deferral under this guidance. The continuing accrual of interest on sums owed under the mortgage contract that remain unpaid would not be inconsistent with this guidance.

If you have any questions or concerns about this guidance, [contact us](#) [1].

Customers who have not yet had a payment deferral

Where a customer is experiencing or reasonably expects to experience payment difficulties as a result of circumstances relating to coronavirus, and wishes to receive a full payment deferral, a firm should grant a customer a full payment deferral for 3 monthly payments, unless it can demonstrate it is obviously not in a customer's best interests.

An example of a situation in which a full payment deferral may be appropriate is where there is or will be a reduction in household income that can be used to make mortgage or home finance payments.

In determining whether a 3 month payment deferral is obviously not in the customer's best interests, firms should consider both the customer's need for immediate temporary support and the longer-term effects of a payment deferral on the customer's situation. In particular, they should consider the customer's ability to repay any accrued interest once the period of payment deferral ends, and over what period. A payment deferral would obviously not be in the customer's interests if it would give them a greater overall debt burden compared to other solutions that could equally meet the customer's needs, and lead to an unsustainable debt burden.

In considering what is in the customer's best interests, a firm should not have regard to its own commercial interests.

Where a 3 month payment deferral is not considered appropriate, firms should, without unreasonable delay, offer other ways to provide temporary relief to the customer in accordance with treating the customer fairly.

If the customer provides information suggesting they may be experiencing – or they reasonably expect to experience – payment difficulties as a result of circumstances relating to coronavirus, the firm should ask whether the customer would be interested in a full payment deferral.

This guidance does not prevent firms from providing more favourable forms of assistance to the customer, such as reducing or waiving interest. Nor does it prevent a customer from agreeing with the firm a longer-term solution, such as an extension of the term or an alternative product that is in the customer's best interest.

Firms can choose to make the enquiries they consider necessary in order to judge if a full payment deferral is obviously not in the customer's interests but there is no expectation under this guidance that the firm investigates the circumstances surrounding a request for a first payment deferral.

A firm should give customers adequate information to understand the implications of a payment deferral including the expected consequences (if any) for the total amount payable under the mortgage contract, the term of the mortgage contract and the amount of contractual monthly instalments.

Customers who had a payment shortfall prior to 20 March 2020

Customers who had a payment shortfall prior to 20 March 2020 who have not yet had a payment deferral, may request one in line with the guidance in the section above. Customers in payment shortfall should not receive less favourable treatment than other customers.

The following sections of this guidance do not apply to a customer who had a payment shortfall prior to 20 March 2020. However, a firm may consider agreeing a further payment deferral with a customer who had a pre-existing payment shortfall and who has already benefitted from a payment deferral if this would be appropriate under MCOB 13.

Where a customer with a pre-existing payment shortfall is given a further payment deferral, the firm's obligations in relation to a payment shortfall under MCOB 13 extend to the amounts deferred (to the extent that these are not repaid at the expiry of the payment deferral period).

Firms are reminded that MCOB 13 includes specific provisions about the capitalisation of payment shortfalls, including that a firm must not automatically capitalise a payment shortfall where the impact would be material.

Fair treatment of customers at the end of a payment deferral period

A firm should ensure that the manner in which it seeks to recover any sums covered by a payment deferral and any increase in the total amount payable under the mortgage contract once the payment deferral period has ended is compatible with Principle 6 and MCOB 2.5A.1R.

Customers coming to the end of a period of payment deferral will be in different financial circumstances. What is fair treatment will differ according to these. Firms should distinguish between those who:

- are able to resume full payments immediately
- are currently unable to resume full payments due to circumstances arising out of coronavirus
- had a payment shortfall prior to 20 March 2020

When implementing this guidance, firms should take account of the particular needs of their vulnerable customers. If using digital channels, firms should make it easy for customers less able to use these to access alternatives.

Understanding customers' needs and circumstances at the end of a payment deferral period

Firms should take reasonable steps to contact their customers in good time before the end of a payment deferral period about resuming payments and to engage with them about their options when it expires.

This contact should inform customers of what will happen if they do not respond, including the impact on their next monthly payment. This should include information about any default arrangements to capitalise the sums covered by a payment deferral over the remaining term of the mortgage or a reasonable extension of the term alongside capitalisation (unless this would take the customer past – or further past – retirement).

Many customers will be able to resume full payments at the end of a payment deferral period. A firm should make reasonable attempts to find out whether this is the case. But if the customer has not responded, the firm may proceed on the basis the customer is able to resume full payments.

Firms may rely solely on information the customer provides to assess if they are able to resume payments. Firms may also use other sources of information to understand the needs and circumstances of customers coming to the end of a payment deferral period, although this is not required by this guidance. These might include: information already held by the firm (such as payment history) or information provided by others (such as data from credit reference agencies or Open Banking sources).

Customers able to resume full payments

Firms must give customers who are able to resume full payments at the end of a period of payment deferral information about how to access different options to repay any sums covered by a payment deferral, in good time before they are bound by any default arrangement the firm puts in place. This can be through a digital or scripted process. The options for repaying these sums should include making a lump sum payment and extending the term to maintain the customer's previous repayment levels where these are legally possible.

In particular, before capitalising any sums covered by a payment deferral, and any associated increase in the total amount payable under the mortgage contract, the firm should give the customer personalised information on the impact of doing so on their monthly payments or the term of their mortgage.

Firms should make clear that the customer could pay more over the lifetime of the mortgage as a result of capitalisation, compared to an alternative means of repaying these amounts, such as in a lump sum.

Where customers have been treated as able to resume full repayments in line with this guidance, but subsequently miss a payment due under the mortgage, we would expect firms to make further reasonable attempts to contact them.

Where the customer responds and is unable to resume payments the firm should offer them additional help in line with the following section of this guidance. The firm should do the same where a customer who has resumed payments subsequently contacts the firm seeking further assistance before missing a payment.

A firm may treat a customer who fails to respond to further communications after missing a payment as being in payment shortfall in respect of the missed payment, and proceed in accordance with MCOB 13.

Customers unable to resume full payments

Where a customer indicates they cannot immediately resume full payments, firms should offer them a further full or partial payment deferral for 3 monthly payments, based on what the customer considers they can currently afford to repay.

A firm should not depart from this unless it can demonstrate that such a deferral is obviously not in the customer's best interests and a different option is more appropriate.

In assessing whether this is the case, firms should consider both the customer's need for immediate temporary support and the longer-term effects of a payment deferral on the customer's situation. In particular, they should consider the customer's ability to repay any accrued interest once the period of payment deferral ends, and over what period. A payment deferral would obviously not be in the customer's interests if it would give them a greater overall debt burden compared to other solutions that could equally meet the customer's needs, and lead to an unsustainable debt burden.

In considering what is in the customer's best interests, a firm should not have regard to its own commercial interests.

This guidance does not prevent firms from providing more favourable forms of assistance to the customer, such as reducing or waiving interest. Nor does it prevent a customer from agreeing with the firm a longer-term solution that enables the customer to resume payments sustainably, such as an extension of the term or alternative product, where this is in the customer's best interest.

Nothing in this section of this guidance requires a firm to verify or investigate a customer's individual circumstances beyond identifying the customer's assessment of what they can currently afford to repay before granting a further 3-month payment deferral.

A firm should give customers adequate information to understand the implications of any support offered, including the consequences (if any) for the total amount payable under the mortgage contract. This should include personalised information on the impact on their monthly payments or the term of their mortgage.

Firms may use a digital or scripted process to assess customer circumstances, offer payment deferral options up to 3 months and provide information to enable the customer to choose between these. This is subject to the guidance above about access to alternative channels for those less able to use them.

If a customer who has agreed a partial payment deferral contacts the firm seeking further assistance before the end of the deferral period, the firm should offer them additional support for the remaining period of the deferral in line with this section. This could include extending the deferral period to 3 months, reducing the agreed payment further, or a full payment deferral to the 3 months.

Firms should take reasonable steps to contact their customers about resuming payments in good time before the end of a payment deferral period under this section. If the customer is able to resume full payments, the guidance on customers able to resume payments above applies.

If the customer indicates that they continue, or reasonably expect to continue, to face payment difficulties, as a result of circumstances relating to coronavirus, the firm should work with the customer to resolve these difficulties in advance of payments being missed. The firm should consider the need to agree a tailored plan leading to a sustainable outcome for the customer through, for example, extending the mortgage term, changing the mortgage type, or deferring payment of interest or capitalisation.

Interaction with MCOB provisions

Unless otherwise specified any sums that are subject to a payment deferral under this guidance should not be considered to be a payment shortfall. For the avoidance of doubt, this does not apply to any further payment deferrals given to customers who were in payment shortfall prior to 20 March 2020.

We remind firms that where a firm varies the terms of a regulated mortgage contract or home purchase plan solely for the purposes of forbearance or to avoid a payment shortfall, MCOB 4.8A.19R and MCOB 11.6.3R(3) continue to have effect. These dis-apply restrictions on execution-only and requirements to assess affordability.

Where an existing Mortgage Credit Directive regulated mortgage contract is being varied, MCOB 7.6.28R and MCOB 7.6.28AR set out the required disclosure about any change in the payments due.

Where a new regulated mortgage contract is entered into, the standard MCOB requirements regarding new contracts apply. In respect of disclosure this means firms will need to issue an illustration.

Training, monitoring, record keeping and credit reference reporting

Firms should ensure that staff are adequately trained to enable them to implement the firm's process for complying with this guidance.

Firms must keep records of how any process was designed so the options presented were consistent with customers' best interests. A record should also be kept of both generic information presented to all customers, and any personalised information presented to a particular customer.

Firms should record and monitor initial and subsequent payment deferrals offered, any alternative forbearance provided, as well as any issues which might impede customers' ability to access the assistance required under this guidance. Firms should use this information to keep their processes for complying with this guidance under review to ensure that customers' interests are being met and to refine their approach.

Firm supervisors may request access to firms' records and the outcomes of a firm's customer monitoring.

The payment deferrals described here should be regarded as being offered in exceptional circumstances outside of the customer's control. In accordance with the relevant Coronavirus Data Reporting Guidance published by the Credit Reference Agencies in consultation with SCOR, firms should not report a worsening status on the customer's credit file during any new or continuing payment deferral period.

Where customers have been unable to reach timely agreement with firms for a payment deferral because of firms' operational difficulties and subsequently miss a payment which is reported to their credit file, we would expect firms to work with customers and credit reference agencies to ensure that any necessary rectifications are made to credit files to ensure no worsening status is recorded during the payment deferral period.

If the firm intends to report any assistance offered to the customer to credit reference agencies in a less favourable way than a payment deferral granted under this guidance, this should be communicated to the customer.

Repossessions

Firms should not commence or continue repossession proceedings against customers before 31 October 2020, given the unprecedented uncertainty and upheaval they face, and Government advice on social distancing and self-isolation. This applies irrespective of the stage that repossession proceedings have reached and to any step taken in pursuit of repossession. Where a possession order has already been obtained, firms should refrain from enforcing it.

We consider that commencing or continuing repossession proceedings at this time is very likely to contravene Principle 6 and MCOB 2.5A.1R - absent exceptional circumstances (such as a customer requesting that proceedings continue). We will not hesitate to take appropriate action where necessary.

Firms should also ensure that their customers are kept fully informed, and discuss with them the potential consequential impacts of their suspending any moves towards repossession. For example, the effect of remaining in the property on the customer's remaining equity should be explained. See our [information for consumers regarding mortgages during the coronavirus situation](#) [2].

Debt help

This section on debt help is provided to assist firms who wish to help customers dealing with financial difficulty during coronavirus. This section does not set out expectations under Principle 6. However, firms should have regard to Principle 7 in any communication with their customers.

Customers who take a further full or partial payment deferral might benefit from some help to manage their mortgage payments or manage their money more generally. Firms can help by providing information on steps that customers can take or on sources of free debt advice that customers may wish to consult.

At the point of granting a further full or partial payment deferral, firms may signpost customers to sources of free money guidance and debt advice. Where the firm believes a customer might benefit from taking self-help steps, firms may also wish to:

- explain that self-help options are open to customers who want to deal with their debts
- provide the customer with a link to the [FCA's information page 'Dealing with financial difficulties during the coronavirus pandemic'](#) [2]
- signpost to the [Money Advice Service coronavirus landing page](#) [3], or to the guidance provider that the firm usually uses if it has signposting arrangements in place or other appropriate sources of help
- explain that free debt advice is also available

In addition, firms may also wish to:

- suggest the customer work out a budget. Firms may find it helpful to refer customers to resources mentioned in the [FCA information page 'Dealing with financial difficulties during the coronavirus pandemic'](#) [2]
- explain to the customer that, for most people, it makes sense to pay essential expenses and priority debts before any discretionary expenses or non-priority debts. To see if this is right for them they can refer to online guides such as the [Money Advice Service 'How to prioritise your debts'](#) [4] page
- recommend the customer contacts all their creditors to discuss their repayments

Where a firm believes a customer might not be able to benefit from these self-help steps, the firm may consider how else the customer could be supported. This might include referring them to free debt advice without providing self-help steps.

Firms should note chapter 17 of PERG in our Handbook which provides guidance on the scope of the regulated activity of debt counselling.

Process and next steps

We want to act quickly to protect consumers in these difficult times. We consider that the delay involved in publishing a formal consultation accompanied by a cost benefit analysis would be prejudicial to the interests of consumers. We are therefore not doing so. There is no statutory requirement to prepare a cost benefit analysis in relation to guidance.

We would welcome comments from stakeholders on this draft guidance by 5pm on Tuesday 26 May. Please send your comments to: MortgagePolicycorrespondence@fca.org.uk

Timing

We will aim to publish the final guidance quickly, and it will come into force shortly after.

The FCA's objectives and regulatory principles

The proposals in this guidance support our consumer protection objective and are designed to protect consumers by providing them with temporary support in the light of the current exceptional circumstances arising out of coronavirus.

Equality and diversity

We are required under the Equality Act 2010 to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and to foster good relations between people who share a protected characteristic and those who do not.

As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. We do not consider this guidance will adversely affect consumers with protected characteristics.

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Links

- [1] <https://www.fca.org.uk/contact>
- [2] <https://www.fca.org.uk/publications/guidance-consultations/draft-information-consumers-financial-difficulties-coronavirus>
- [3] <https://www.moneyadvice.service.org.uk/en/categories/coronavirus>
- [4] <https://www.moneyadvice.service.org.uk/en/articles/how-to-prioritise-your-debts>
- [5] <https://www.fca.org.uk/print/publications/guidance-consultations/mortgages-coronavirus-updated-draft-guidance-firms>

- [7] <https://www.fca.org.uk/publications/guidance-consultations/mortgages-coronavirus-updated-draft-guidance-firms>