MONEY ADVICE TRUST

BUSINESS DEBTLINE NATIONAL DEBTLINE WISER ADVISER

Consultation Response:

FCA Mortgages and coronavirus: updated draft guidance paper

Response by the Money Advice Trust

Date: May 2020

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Introduction

About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

In 2019, our National Debtline and Business Debtline advisers provided help to more than 199,400 people by phone and webchat, with 1.97 million visits to our advice websites.In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2019 we delivered this free training to over 981 organisations.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Find out more at www.moneyadvicetrust.org

Our response to Covid-19

As a result of the Covid-19 outbreak, all Money Advice Trust staff – have been working from home since Monday 23rd March. This includes all National Debtline and Business Debtline advisers, who are advising clients by phone and webchat after a significant infrastructure project to support this transformation, delivered at speed.

We have published new National Debtline and Business Debtline Coronavirus factsheets to provide information and advice to people whose household and small business finances have been affected by the Covid-19 outbreak. These are being continually updated and are available at www.nationaldebtline.org/coronavirus and www.businessdebtline.org/coronavirus

On 19th March the Money Advice Trust and StepChange Debt Charity published our joint Rescue Package proposal to Government and we continue to share evidence from National Debtline and Business Debtline to help shape the Government's, regulators' and creditors' policy responses. For more information on the Money Advice Trust's response to Covid-19 visit www.moneyadvicetrust.org/coronavirus.

Public disclosure

Please note that we consent to public disclosure of this response.

Responses to questions

Executive summary

The FCA is to be congratulated on its continued commitment to taking bold action to help people facing the unprecedented financial disruption of coronavirus. We welcome the announcement from the FCA of proposed measures to continue to support consumers with mortgages through the impact of the Covid-19 outbreak.

- ✓ We welcome the FCA's decision to allow a further three month payment deferral period as a result of coronavirus-related payment difficulties.
- ✓ Mortgage lenders should continue to make it as easy as possible for their customers to access the help on offer and apply for payment deferrals.
- ✓ We welcome the warnings to consumers that they should only take out payment deferrals where necessary. As interest is accruing on the missed payments, it is vital that consumers understand where their mortgage payments will increase as a result of the payment deferral or the length of their mortgage term will be extended.
- ✓ We suggest the FCA considers whether waiving or reducing interest should be applicable across all lenders, and not a "best practice" option for some.
- ✓ Whilst we welcome the continued support provided by this guidance in relation to the impact of payment deferrals on credit reference files, it is vital that firms and the regulator are clear with consumers and explain whether future mortgage applications or remortgage applications (for better interest rates) will be affected by merely having had a Covid-related payment deferral.
- ✓ We welcome the clear and unambiguous statement from the FCA that firms should not *"commence or continue repossession proceedings against customers before 31 October 2020*". On a related note outside of the FCA's remit, we would like to see the government rule out any possession activity in the courts for both mortgages and rent arrears during this time period.
- ✓ We are really pleased to see the FCA include a section in the guidance on its expectations of lenders to refer consumers to sources of free debt advice. However, we would expect the FCA to require all authorised firms to make sure this information accompanies all their communications to customers and is provided in a prominent position on relevant pages on their websites.

Since the FCA has given broad scope for firms to interpret this guidance – for example, on vulnerability the guidance tells firms only that they *"should take account of the particular needs of their vulnerable customers"* – we would welcome reassurance that the regulator is able to dedicate sufficient resources to its supervision responsibilities to ensure that firms interpret and implement the guidance in the best interests of consumers.

On a broader point, we would urge the FCA to use its influence with both government and other regulators to ensure that there is a consistent approach to all debts across sectors. We would suggest that unless protections against recovery and enforcement are put in place for people who rent their homes and for those who fall behind on essential bills such as council tax, then the FCA's plans to protect consumers from the effects of the Covid emergency will not be fully effective. Apart from mortgages, credit payments to the financial sector will be much less likely to be paid if people are unable to pay essential household bills such as rent and council tax.

Consultation questions:

We welcome the proposals set out in the guidance but we are concerned that they do not go far enough in relation to interest accruing on deferred payments. There should be every reason to grant a payment break in such circumstances, as the finance agreement remains secured by an asset. This means there is little risk to the lender who is in possession of a secured finance agreement.

Mortgages and coronavirus: updated draft guidance for firms

The FCA is to be congratulated on its continued commitment to taking bold action to help people facing the unprecedented financial disruption of coronavirus.
We would raise the following points.

Interest and charges

We are pleased to see that the FCA has continued the prohibition on adding charges or fees for the payment deferral. However allowing firms to continue to add interest becomes increasingly problematic over time.

“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.”

We are interested to note that the FCA recognises that some firms may offer more favourable terms regarding the reducing or waiving of interest.

“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.”

We would therefore suggest the FCA considers whether waiving or reducing interest should be applicable across all lenders, and not a “best practice” option for some.

Information on repayment options

We are pleased to see a requirement on firms to provide information on the different options available to repay the payment deferral amounts.

"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 should include clear and simple illustrations of the financial implications of each available option for that consumer's mortgage payments and mortgage term.

Further three month payment deferral

We welcome the FCA's decision to allow a further three month payment deferral period as a result of coronavirus-related payment difficulties.

We are pleased to see the possibility of a partial payment deferral so that consumers can make part mortgage payments if this is affordable. This will help to mitigate the effects of the accruing interest on missed payments being added to the mortgage balance.

We note the guidance states:

"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."

We understand that some firms may not be in a position to assess large numbers of customers' individual circumstances at this point, and we welcome the clear steer that customers do not have to provide potentially difficult to gather evidence of their situation in order to access the further deferral. However, we would urge firms to help their customers to complete individual budgets where possible to see what they can afford to pay. We hope that firms will use the accompanying *"Information for consumers on dealing with financial difficulties"* to actively refer people to sources of free debt advice during this period.

Credit reference files

We welcome the continued support provided by this guidance in relation to the impact of payment deferrals on credit reference files.

"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."

It is also good to see an expectation that where consumers' credit files have been marked for missed payments by mistake, that this should be put right by firms and credit reference agencies.

It is vital that firms and the regulator are clear with consumers and explain whether future mortgage applications or remortgage applications (for better interest rates) will be affected by merely having had a Covid-related payment deferral.

Repossession

We welcome the following statement from the FCA which will give great relief to anyone in existing mortgage arrears facing an uncertain financial future at this time.

“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.”

Clearly, this date may need to be extended depending upon the situation regarding coronavirus at the end of October.

On a related note outside of the FCA’s remit, we would like to see the government rule out any possession activity in the courts for both mortgages and rent arrears during this time period.

Debt help

We are really pleased to see the FCA include a section in the guidance on its expectations of lenders in relation to referring to sources of free debt advice.

However, we are puzzled as to why the FCA has made this a suggestion for firms rather than a requirement.

“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.”

We cannot understand why any firms would make a decision to do any less than signpost to sources of free debt advice where a customer needs debt advice. This would surely be an example of poor practice by a firm.

We believe that the FCA should strengthen these provisions in the guidance. We would expect the FCA to require all authorized firms to make sure this information accompanies all their communications to customers and is provided in a prominent position on relevant pages on their websites.

We also agree that creditors should maintain existing relationships with agencies where they have them or they serve a particular need – for example some firms will refer to Business Debtline specifically for their self-employed customers, National Debtline for their customers who could benefit from assisted self-help, to StepChange Debt Charity for managed debt solutions and to Citizens Advice for cluster issues.

Draft information for consumers: dealing with financial difficulties during coronavirus

We welcome the FCA's information for consumers signposting people to sources of free debt advice. We appreciate that it is difficult to encompass the debt advice process into a single page. We are pleased to see that the information is broad enough to cover all types of debt and therefore suitable to be sent out by all FCA authorised firms who offer mortgages, credit, insurance and so on.

We do have some suggestions to make on wording which we have set out below. We hope these specific detailed comments are helpful.

Understanding your financial position

In the "Guidance for firms" the FCA states that firms should:

"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".

It would be ideal to see this expectation spelt out in the information for consumers on dealing with financial difficulties. In the section on "Understanding your financial position" the guidance could be clearer on paying essential expenses and priority debts first rather than a repeated reference to "payments". We are concerned that this section does not set out how to work out a budget and what constitutes an essential household bill with any clarity at the start.

This section starts with the following.

"If you would find taking any of the steps difficult, a debt adviser can help. See below for organisations you can contact for help."

It is not clear what "difficult" means at this point. It may be better to explain what free debt advice providers can offer and why it would be a good idea to seek advice.
The first bullet point states:

"If you are able to, you should work out how much your payments are and whether you have fallen behind on any of the payments you've agreed to make. To do this, you will need to make a list of all the organisations you make payments to."

We would suggest that this could be confusing as there needs to be a distinction made between household bills/ essential living costs and other non-priority payments such as credit debts. We are not sure this wording will help people to understand their financial situation.

In the second bullet point, the second sentence states:

"Consider contacting the organisations you make payments to, if you haven't already agreed a way forward with them."

We would suggest changing this to the more direct *message "Contact the organisations you make payments to….."* This is a clearer instruction.

The third bullet point looks at priority debts. We would suggest the wording could be clearer that the list contains a couple of examples of priority debts only and that the list is not exhaustive.

As we have said above, we would expect the FCA to require all authorised firms to make sure this information accompanies all their communications to customers and is provided in a prominent position on relevant pages on their websites.

The link goes to a general MaPs budgeting tool that provides a general picture of their finances for users, and is not based on the Standard Financial Statement. There may be a more debt-specific tool to link to that can provide more support for people who are behind on their debts.

Steps you can take to manage your situation

We would suggest a that the wording could be nuanced in this section as it does not necessarily express fully how different types of payments may have legal obligations (such as council tax or TV licensing) not just contractual or payment options.

"If you find it hard to keep up with payments, or if you are already having trouble managing your debts, you should seek free help and advice. Your rights and options depend on the type of agreement you have, and the law can be complex."

Organisations that offer help and advice

We welcome the inclusion of both National Debtline and Business Debtline in the list of organisations that offer help and advice, along with other established free-to-client debt advice providers.

We suggest the list or organisations could be made a little more user-friendly for consumers perhaps by grouping the sources of help together by region e.g. England and Wales, Scotland and Northern Ireland.

We think that further consideration needs to be given to the content and structure of the MaPS pages with the primary goal being to get people directly to qualified debt advisers and both tools and online materials produced by advice agencies quickly. As above it would make sense to refer to Business Debtline specifically for self-employed people, National Debtline for those suitable for assisted self-help, to StepChange Debt Charity for managed debt solutions and to Citizens Advice for cluster issues.

For more information on our response, please contact:

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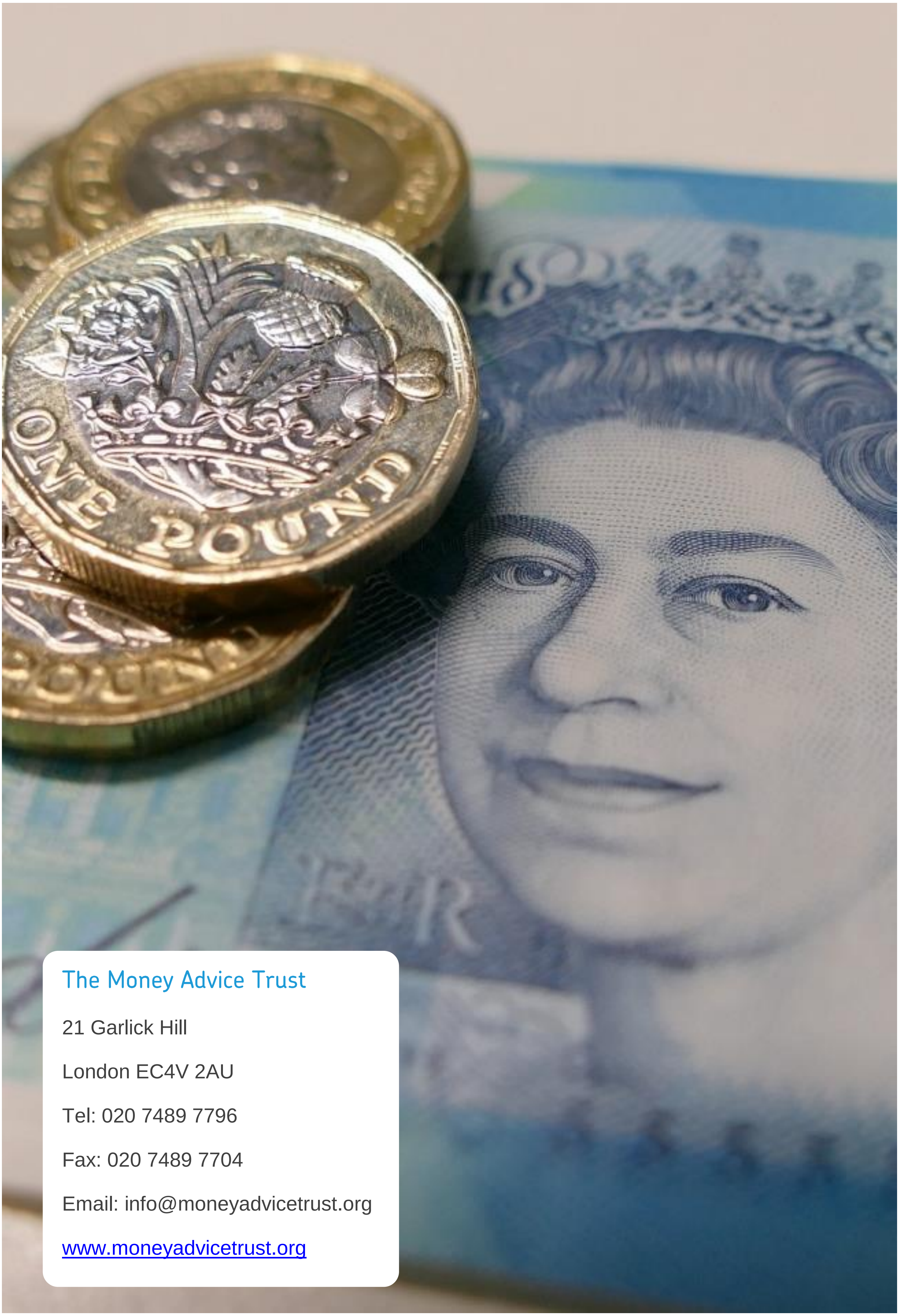

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