

# The Lending Code

Setting standards for banks, building societies, credit card providers and their agents



The voice of banking

THE  
**UKCARDS**  
ASSOCIATION

**March 2011**

(Revised 28<sup>th</sup> September 2015)

To discuss this Code you can contact:

---



The voice of banking

British Bankers' Association  
Pinners Hall  
105-108 Old Broad Street  
London  
EC2N 1EX

Email: [info@bba.org.uk](mailto:info@bba.org.uk)  
Tel: 020 7216 8800

THE  
UKCARDS  
ASSOCIATION

The UK Cards Association  
2 Thomas More Square  
London  
E1W 1YN

Email / contact through the website:  
[www.theukcardsassociation.org.uk](http://www.theukcardsassociation.org.uk)

This edition of the Lending Code includes updates to:

- Remove reference to the Financial Services Authority/Office of Fair Trading.
- Reflect the Financial Conduct Authority's role as regulator of the consumer credit market and the application of the Consumer Credit Sourcebook (CONC).
- Include reference to debt collection agencies and debt purchase firms who can now subscribe to the Lending Code in their own right.
- Amend the wording of some provisions contained within section 4, Credit Assessment.
- Amend the current provisions on unauthorised credit card transactions.
- Clarify the LSB's role in monitoring compliance with UK Cards Best Practice Guidelines, where these are applicable to the Lending Code.

# Contents

<b>Introduction</b>		<b>4</b>
<b>Section 1</b>	<b>Key commitments</b>	<b>6</b>
<b>Section 2</b>	<b>Communications and financial promotions</b>	<b>7</b>
<b>Section 3</b>	<b>Credit reference agencies</b>	<b>9</b>
<b>Section 4</b>	<b>Credit assessment</b>	<b>11</b>
<b>Section 5</b>	<b>Current account overdrafts</b>	<b>14</b>
<b>Section 6</b>	<b>Credit cards</b>	<b>17</b>
<b>Section 7</b>	<b>Loans</b>	<b>26</b>
<b>Section 8</b>	<b>Terms and conditions</b>	<b>27</b>
<b>Section 9</b>	<b>Financial difficulties</b>	<b>28</b>
<b>Section 10</b>	<b>Complaints</b>	<b>39</b>
<b>Section 11</b>	<b>Monitoring</b>	<b>39</b>
<b>Annex A</b>	<b>Summary box for unsecured loans</b>	<b>40</b>
<b>Glossary</b>	<b>Key terms in the Code</b>	<b>43</b>

# Introduction

1. This is a self-regulatory Lending Code setting minimum standards of good practice when dealing with the following customers in the UK:
  - Consumers;
  - Micro-enterprises<sup>1</sup>; or
  - Charities with an annual income of less than £1 million. For ease of reference, in the text of the Code, references to 'micro-enterprise customers' includes charities of this nature.
2. As a self-regulatory Code, it allows competition and market forces to work to encourage higher standards for the benefit of customers.
3. The Lending Code covers good practice in relation to:
  - loans;
  - credit cards;
  - charge cards<sup>2</sup>;
  - current account overdrafts; and
  - debt collection activities related to these products.

It does not apply to merchant services, non-business borrowing secured on land, or to sales finance.

4. The Code applies to lending in sterling. However, subscribers are not precluded from applying the Code's standards to lending in other currencies.
5. Compliance with the terms of this Code is independently monitored and enforced by the Lending Standards Board (LSB). A list of subscribers to the Code and contact details for the LSB can be found at [www.lendingstandardsboard.org.uk](http://www.lendingstandardsboard.org.uk).
6. This Code sets standards of good lending practice but subscribers must - at all times - ensure they are compliant with:
  - the Consumer Credit Act 1974, as amended and associated Regulations made under it;
  - the Consumer Credit (EU Directive) Regulations 2010;
  - the Consumer Credit Sourcebook (CONC);
  - the Equality Act 2010; and
  - other relevant legislation (such as the Payment Services Regulations (PSRs) and, for consumers, the Consumer Protection from Unfair Trading Regulations).

The UK Cards Association produces Best Practice Guidelines (BPGs), where relevant, adherence to the BPGs is subject to monitoring and enforcement by the Lending Standards Board.

7. It is important that, when considering how the Code will affect products and services, all delivery channels are catered for. The Code applies regardless of how a product or service is delivered.
8. It is the responsibility of subscribers to ensure that any third party or agent acting on their behalf complies with the Code in relation to any products or services covered by this Code.

---

<sup>1</sup> A micro-enterprise is defined as a business that employs fewer than 10 persons and has a turnover or annual balance sheet that does not exceed €2 million.

<sup>2</sup> Charge cards are subject to the Key Commitments and general provisions of this Code, where a requirement is not specific to another product.

9. Subscribers should make information available to customers to inform them that they follow the Lending Code. This should include providing a link to the Code on their website and, where appropriate, making reference to the Code within relevant literature.
10. Subscribers should make copies of the 'Guide to the Lending Code' available on request in branch. Additionally, from 1 July 2011, new customers of products covered by the Code should be provided with a copy of the 'Guide to the Lending Code' when they open their product. This can be provided in hard copy or electronically, at point of sale or in account opening material, such as a welcome pack. This requirement to provide a copy of the Guide does not apply in relation to the provision of a new overdraft facility to an existing current account customer.
11. Commitments previously provided by the BBA Statement of Principles for small businesses have been incorporated into the Lending Code and the customer-facing document has been replaced by the 'Guide to the Lending Code for micro-enterprises'.
12. Unless otherwise specified all references in this Code to 'customer' or 'customers' apply to personal and micro-enterprise customers.
13. This Code uses the terms 'provide', 'give', 'tell' and 'make available' interchangeably. These terms are not defined to specify how information is made accessible to the customer. Instead, firms should determine the most appropriate way for customers to access information at the right time in order to make informed decisions.
14. However, where this Code requires that certain information is given to customers 'personally', this means that some form of notification is given or sent to them, rather than being told by a general notice or advertisement. Such notification could be made by letter, by e-mail or by an alternative method that reflects the manner in which the product or service is normally operated.

# Section 1: Key commitments

15. Subscribers will act fairly and reasonably in all their dealings with customers by, as a minimum, meeting all the commitments and standards in this Code. The key commitments are shown below.

- Subscribers will make sure that advertising and promotional literature is fair, clear and not misleading and that customers are given clear information about products and services.
- Customers will be given clear information about products and services before, during and after the point of sale, including how they work, their terms and conditions and the interest rates and charges that apply to them.
- Regular statements will be made available to customers (if appropriate). Customers will also be informed about changes to the interest rates, charges or terms and conditions.
- Subscribers will lend money responsibly.
- Subscribers will deal quickly and sympathetically with things that go wrong and act sympathetically and positively when considering a customer's financial difficulties.
- Personal information will be treated as private and confidential, and subscribers will provide secure and reliable banking and payment systems.
- Subscribers will make sure their staff are trained to put this Code into practice.

# Section 2: Communications and financial promotions

16. This section applies to financial promotions for lending products and services and communications to customers during the lifetime of the product or service.
17. The key consideration for subscribers is to ensure communications are clear, fair and not misleading and that customers are provided with appropriate information at the right time in order to make informed decisions. Subscribers will use plain language in all communications with customers in order to help them to better understand the information being provided and wherever possible avoid the use of technical or legal language.
18. Subscribers should ensure that financial promotions are compliant with relevant advertising legislation and industry codes of practice, such as the Consumer Credit (Advertisements) Regulations 2010, the Consumer Credit Sourcebook and the Committee of Advertising Practice Codes.
19. For promotions to personal customers that are made at a distance subscribers should follow the requirements of the Financial Services (Distance Marketing) Regulations 2004 and where relevant, the Consumer Credit Sourcebook.
20. For direct sales of credit cards, subscribers should follow the relevant best practice guidelines issued by The UK Cards Association, which can be found at [http://www.theukcardsassociation.org.uk/best\\_practice\\_guidelines/index.asp](http://www.theukcardsassociation.org.uk/best_practice_guidelines/index.asp)
21. For unsecured personal loans, if a subscriber chooses to provide key product information within financial promotions and pre-sale information in the form of a summary box, it should follow the standard format set out in Annex A.
22. To ensure financial promotions and communications are clear, fair and not misleading subscribers should have regard to:
  - presenting information in plain language and wherever possible avoiding the use of technical or legal language;
  - the way the communication or financial promotion is being made e.g. direct mail, letter, email, text message, branch or web material;
  - the type and complexity of information that is being presented, the actions the information might elicit from the customer, the channels by which the information is accessible and the passage of time, if any, since the information was last provided; and
  - the appropriate format and content of the communication based on its intended audience. For instance, a communication to a personal customer might include different information to that for a micro-enterprise, where needs may differ.

## Marketing and advertising

23. Subscribers must have the customer's specific permission to pass the customer's name and address to any company, including other companies in the subscriber's group, for marketing purposes.
24. There are various acceptable methods of obtaining the customer's consent. It may, for example, be given by way of a clear and unambiguous clause above a signature box on an application form, or a positive 'click' on an internet application, or a positive reply to a specific question on the telephone. Subscribers should also be aware of the Information Commissioner's Guidance for Direct Marketers and telecoms licensing requirements. Consent should not be required in return for the provision of standard account services.
25. Subscribers can tell customers about another company's services or products but no confidential information about the customer should be passed to the other company by the subscriber without customer consent.

26. If the customer is interested in the other company's products or services and they respond, then they are themselves releasing confidential information. For example, a subscriber may have a subsidiary which offers general insurance products. The subscriber could send their customer details of those products. The subscriber should make clear to the customer that the third party is a separate legal entity, and is not a division of the subscriber's company, since this will not always be clear to the customer from the name of the third party. It is only if the customer chooses to respond positively that the subsidiary will learn any details about the customer, or even that the customer has been sent the information in the first place.
27. Customers must be given the opportunity to opt out of receiving the subscriber's marketing information. They should be reminded of this option at least once every three years.
28. Account opening forms (whether paper, internet-based, questions over the telephone, or other 'welcome pack' information) should contain a section or question to allow customers to signify that they do not wish to receive 'marketing approaches.' Examples of marketing approaches include literature through the post, e-mails and telephone calls. The types of approaches could be listed so the customer can object to some rather than all.
29. Subscribers should ensure that unsolicited promotional emails sent to customers include an option for the customer to 'unsubscribe' from future email promotional material from the subscriber.
30. 'Marketing approaches' means information designed to sell additional products and services. This means that if there is a clear intention to sell a product or service which the customer does not already have it will be caught by these provisions, however it is sent. However, the provision of information relating to product or service improvements or the availability of new channels (e.g. that the customer's existing account(s) can be accessed via the internet) are excluded from these provisions, as are changes to administrative details, such as new branch or telephone helpline opening hours.
31. As an illustration, advising a customer that they have free annual travel insurance with their credit card is not a marketing approach, whereas promoting an enhanced credit card to a standard credit cardholder is.
32. Subscribers should consider carefully whether the purpose of a customer communication is operational or promotional. Where 'combined' messages are used, a non-promotional version may be needed for customers who have opted out of receiving marketing material.
33. Express consent is not required to send information relating to product or service improvements or the availability of new channels of delivery, but customers must be given a clear opportunity to opt out of receiving it. Subscribers should, however, be aware (in the case of direct marketing telephone calls) of the Information Commissioner's Guidance in relation to the Privacy and Electronic Communications (EU Directive) Regulations 2003.
34. It will not be sufficient to state only in terms and conditions that customers can opt out by writing to a particular address; however, provided it is clear and unambiguous, a notification can be included in, for example, an account opening pack. In addition, existing customers have to be reminded, at least once every three years, that they can opt out of receiving this information. This reminder could be by letter, e-mail, telephone or other method, such as being included in an annual mailing, provided it is sent personally to each customer and is clear. Whatever notification method is chosen, subscribers should ensure they are familiar with the various pieces of guidance issued by the Information Commissioner under the Data Protection Act 1998.
35. The three year notice can also be covered by subscribers adopting a more frequent approach, for example on all statements and/or marketing material.



## Section 3: Credit reference agencies

36. When customers apply for a credit product, subscribers should tell them if checks (searches) will be made at credit reference agencies (CRAs) and if a record of the search is kept at the CRA and, if so, that this could impact the customer's ability to obtain credit elsewhere within a short period of time.
37. At the same time, subscribers should also tell customers if details of the account, if opened, will be passed to CRAs and that the information will be accessed and used by others. This will include information about the running of the account such as the limit and balances as well as payment performance. The Information Commissioner accepts that such permission may be made a condition of borrowing.
38. See also the Information Commissioner's Guidance on the Data Protection Act 1998 which sets out the conditions under which data may be collected, shared or processed. (Useful information can be found at [www.ico.gov.uk](http://www.ico.gov.uk))
39. The requirement to share data does not apply in specialist customer segments such as private banking where sharing CRA data is not always appropriate.
40. Subscribers can give CRAs default information about a customer's debts if:
  - the customer has fallen behind with their payments;
  - the amount owed is not being disputed by the customer; and
  - the customer has not made a proposal that satisfies the subscriber for repaying the debt following the subscriber's formal demand.
41. But, in all cases, the customer must be given further notice of the intention to disclose the information at least 28 days before the disclosure is made (for example, when a default notice or formal demand is given). At the same time, customers must be given an explanation about how default information registered against them may affect their ability to obtain credit in the future. This notice will mean that customers have 28 days to try to repay or come to some arrangement with the subscriber before default information is passed to the CRA.
42. For the purposes of the second bullet in paragraph 40, a customer dispute is relevant if it refers to the amount of money owed by the customer and is genuine, reasonable and unresolved. Further detail is provided in the ICO guidance referenced below.
43. Subscribers should refer to the Information Commissioner's Data Protection Technical Guidance on Filing Defaults with CRAs ([www.ico.gov.uk](http://www.ico.gov.uk)).
44. If a customer asks, subscribers should tell them which CRAs they use and how to get a copy of the information CRAs hold about them, or give the customer a copy of the Guide to the Lending Code and/or one of their leaflets that explain how credit referencing works.
45. If an application for credit is declined, subscribers should advise the customer if information from CRAs made a contribution to the decision and advise the customer to obtain a copy of the information that CRAs hold about them, preferably before making any further applications.
46. If a subscriber offers an indicative quotation facility for a risk-priced credit product, it should be transparent about the availability of this facility.
47. If asked by a customer for an indication of the likely interest rate for a risk-priced product, subscribers should either:
  - as industry best practice, provide an indicative quotation, in respect of which any credit search undertaken is not registered as a full application search at CRAs i.e. it is not used by lenders in their risk assessment; or
  - inform the customer that it does not offer an indicative quotation facility and ensure that the customer is aware that, if they proceed, an application search will be registered at the CRA(s).<sup>3</sup>

<sup>3</sup> This paragraph is effective from 1 July 2011.

48. With the customer's permission, subscribers can share information about the day-to-day running of the customer's account, including positive data, with CRAs where the firm has agreed to follow the industry's Principles of Reciprocity. It is consistent with the legal position that any other disclosure to CRAs can be made only with the customer's consent, usually by way of a declaration on an application form. The Information Commissioner accepts that such permission may be made a condition of borrowing.
49. See also the Information Commissioner's Guidance on the Data Protection Act 1998. The 'permission' can be covered in a number of ways, for example, in terms and conditions, in an account opening pack, or it can be obtained at the time the disclosure is made. (Useful information can be found at [www.ico.gov.uk](http://www.ico.gov.uk))

# Section 4: Credit assessment

## Personal customers

50. Before lending any money, granting or increasing an overdraft or other borrowing, subscribers should assess whether the customer will be able to repay it in a sustainable manner. They should do this by considering the potential for the borrowing to adversely impact the customer's financial situation, information from CRAs, including existing financial commitments where provided, as well as the following, as appropriate:
  - The type and amount of credit being sought;
  - How the customer has handled their finances in the past;
  - Any known future financial commitments of the customer;
  - Any future changes in circumstances which could be reasonably expected to have a significant financial adverse impact on the customer;
  - Internal credit scoring techniques (if used by the subscriber);
  - The customer's declared income;
  - Why the customer wants to borrow the money and for how long; and
  - Any security provided.
51. Subscribers should take a view on which of the above factors it is appropriate to consider in any particular circumstance dependent on, for example, the type and amount of credit being sought and the potential risks to the borrower.
52. Assessment may also include other checks that have not been listed above.
53. The requirement to consider information from CRAs does not apply in specialist customer segments such as private banking where use of CRA data may not be appropriate.
54. Where income is one of the factors considered when assessing ability to repay a personal loan and the loan is agreed only if the income of another person is taken into account, normally the loan should be provided on a joint and several basis. However there may be circumstances when it is appropriate to provide a loan on a sole basis.
55. Subscribers should ensure they are familiar with the requirements of the Code Sponsors' Guide to Credit Scoring and the explanations that need to be given to customers if credit scoring is used.
56. If a lending application is declined following credit assessment, the subscriber should explain the main reason why if asked by the customer. If the decline is as a result of information obtained from a CRA search, the subscriber should provide the customer with contact details for the CRA.

## Micro-enterprise customers

57. Before lending any money, granting or increasing an overdraft or other borrowing, subscribers should assess whether the customer will be able to repay it by considering some or all of the following, as appropriate:
  - Why the business wants to borrow the money;
  - The business plan and accounts;
  - The business's cash flow, profitability and existing financial commitments;
  - Any personal financial commitments which may affect the business;

- How the customer has handled their finances in the past;
  - Information from credit reference agencies and, with the customer's permission, others, such as other lenders and the customer's landlord (where relevant);
  - Credit-assessment techniques, such as credit scoring; and
  - Any security provided.
58. If the subscriber requires a micro-enterprise customer to hold a current account in order to get a loan the reasons for this should be explained to the customer before the loan application is completed.
59. Subscribers will confirm the conditions of any facility in writing. The document should include, as appropriate:
- the amount and purpose of the facility;
  - whether the facility is for a particular period or whether it is repayable on demand;
  - details of repayments;
  - the interest rate and any other charges for the facility, and whether these are variable;
  - when the facility will normally be reviewed;
  - the existing or new security and guarantees, including any minimum values to be maintained;
  - what sort of circumstances will lead to an earlier review or require repayment;
  - the information the customer will need to give before they can use the facility; and
  - what action the subscriber will take if repayments are not met.
60. Subscribers should recommend that the customer gets independent advice before accepting the facility.
61. Subscribers should allow customers to bring their professional advisers with them to support them in the discussions and should co-operate with the customer's advisers to explain the facility and to clarify anything during the relationship. Subscribers may need to ask for the customer's explicit consent to engage with the adviser, if the customer will not be present.
62. Before the customer accepts the facility, the subscriber should agree with the customer what sort of monitoring information they need about the firm's performance and how often they need it. Subscribers should write to customers setting out what information is required from them and by when. Examples of what might be included are:
- a comparison of the forecasts in the business plan, with actual results;
  - progress on important aspects of the business plan, such as contract renewals;
  - revised cash-flow forecasts;
  - major capital spending proposals;
  - annual accounts and regular management accounts;
  - details of how much the customer owes creditors, and are owed by debtors, and for how long these have been due; and
  - proof that the customer is meeting any special conditions agreed.
63. Subscribers should provide either in-house guides or industry-standard literature to provide guidance on the factors that determine pricing.
64. Subscribers should inform the customer of the time it will take for a lending decision to be made, starting from the point when a full suite of information is provided to complete an application.

65. Subscribers should ensure they have fair and effective processes in place to review decisions to decline a lending application.
66. If a lending application is declined, wherever practical the subscriber should provide proactive and clear feedback to the customer on the main reason why the application was declined and have fair and effective processes in place to review decisions to decline a lending application. Each bank should have their individual solution to handle a request to review an application that was turned down. Examples for this include: a second bank manager reviewing the decision on request or a central telephone hotline to make the application again.

## Guarantees for personal and micro-enterprise lending

67. Regular financial information about the person on whose behalf a guarantee/indemnity or other security is given should always be made available to the guarantor or granters of third party security ('granters'), so that they can assess the likelihood of being called upon to pay, as long as permission is given and confidentiality is not breached.
68. If the guarantor or granter requests confidential financial information (with the exception of the current level of liability), such as details of balances, copy statements, etc, the customer's consent should first be obtained.
69. It is important that guarantors or granters receive independent legal advice to help them understand the full nature of their commitment and the potential implications of their decision. Case law on this issue is well developed and subscribers should encourage, as far as possible, potential guarantors or granters to take independent advice. Subscribers may wish to go further than what is covered in this section and require a potential guarantor or granter who refuses to take legal advice to sign a declaration to that effect. In any case, the recommendation to take independent legal advice, and the potential consequences of their decision, should be stated clearly on all appropriate documents that the guarantor or granter is asked to sign.
70. In relation to guarantees/indemnities, subscribers must also inform guarantors or granters that, by giving the guarantee/indemnity or other third party security, they may have to pay instead of or as well as the customer. Subscribers must also tell the guarantor the extent of their liability, including the addition of interest and charges after demand has been made. When independent legal advice has been given, it may be assumed that the solicitor will have explained the nature of all monies and continuing security, if appropriate. Depending on the nature and structure of facilities, subscribers may choose to explain these features to those customers who have declined independent legal advice (and should always do so when requested by any guarantor).
71. Subscribers should not take an unlimited guarantee from an individual other than to support a customer's liabilities under a merchant agreement. However, other forms of unlimited third party security may be taken from an individual, provided that the limit of the granter's liability is explained in a side letter. This is to avoid the need to take fresh security, with the associated expense and inconvenience to customers, each time a facility changes.
72. 'Unlimited' applies to the capital amount of the loan and excludes interest, charges and arrears etc. An explanation of this should be covered in the guarantee/indemnity or other security documents that the guarantor is asked to sign.
73. In the case of limited companies, which are part of the same group structure, subscribers may continue to take unlimited guarantees from the constituent companies in support of borrowing by other companies in the group.

## Security for micro-enterprise lending

74. If a subscriber asks for security to support a business's borrowing or other liabilities it should tell the business why it needs the security and confirm what is needed in writing. Documents should be easy to understand and avoid technical language whenever possible. Customers should have the opportunity to discuss with the subscriber anything about which they are unsure.
75. If asked by the customer, the subscriber should tell the customer under what circumstances they will agree to release the security. It should be made clear that the security will be released once the facility is repaid – unless contrary instructions are received from the customer (i.e. security should not be retained beyond the life of the borrowing without the customer's express agreement).

# Section 5: Current account overdrafts

The following provisions relate to arranged and unarranged overdrafts unless otherwise indicated. Provisions relating to the promotion and operation of current accounts with an opt out facility will be effective from 1 July 2011 and do not apply to private banking customers, who would typically have a designated relationship manager, or micro-enterprise customers.

## Pre-sale information

76. When providing customers with information, before a contract is entered into, about a current account offering an arranged overdraft facility, subscribers should include clear, fair and not misleading information outlining the availability of the overdraft, including whether there are qualifying criteria for accessing the overdraft.
77. The customer must be provided, where relevant, with details of any charges payable, the interest rate to be applied or, if reference interest rates are to be used, the method for calculating the actual interest and the relevant date and index or base for determining such reference interest rates.
78. Where a subscriber provides within its current account range one or more accounts that provide customers with the ability to opt out from unarranged overdrafts:
  - Details of such accounts must be provided to customers applying for a new current account, together with a comparison of this type of account against other current accounts offered by the subscriber without such facility, in order that the customer may make an informed choice. However, such information need not be provided where the subscriber reasonably believes or is advised that the customer has already decided on another current account product in the subscriber's range of current accounts (e.g. a Basic Bank Account). The comparison only needs to include comparable current account products on which overdrafts are permitted.
  - If a customer requests a current account which includes an opt out from unarranged overdrafts, the subscriber shall not offer a Basic Bank Account as an appropriate account to meet this requirement unless the limited functionality of such an account is suitable for the customer's circumstances.
  - The information to be provided by the subscriber should be in plain and simple language and have sufficient detail to enable the customer to understand how the product works. As a minimum, the information to be provided should include an explanation of:
    - ❖ what an unarranged overdraft is and how it operates;
    - ❖ how the opt out will work and the benefits to the customer in terms of allowing greater control and certainty;
    - ❖ the potential detrimental impact of opting out e.g. return of items or authorisation refusal even if only a very small overdraft would result if the item had been paid;
    - ❖ why some items (such as point of sale transactions that were not subject to on-line authorisation, charges, payments against uncleared cheques which are subsequently returned unpaid) are excluded from the opt out and the consequences of this;
    - ❖ costs and charges including any account fees and unpaid item charges;
    - ❖ how the customer can select the option and whether a switch of account is required. The ability to reverse the decision subsequently and any restrictions on this;
    - ❖ how any items in transit will be treated when the facility becomes live;
    - ❖ the availability of a buffer zone, if applicable, including the amount of the buffer zone and any costs incurred if utilised; and
    - ❖ general information on how customers can avoid overdrafts e.g. through account monitoring, changing dates of direct debits, if not provided via other communications.

- The information to be provided to customers as outlined above should be provided in a leaflet or key features document or some other durable medium and should include a glossary or explanation of terms to aid customer understanding.

79. This information must be provided either in good time, before the customer is bound by the contract, or where the contract concludes at the payment service user's request, using a means of distance communication, immediately after the conclusion of the contract.

## Point of sale and post-sale information

80. If a customer is offered an arranged overdraft, or an increase in their existing arranged overdraft limit, subscribers should tell the customer if the overdraft is repayable on demand. The explanation could be contained in a facility letter or the terms and conditions.

81. Where a subscriber introduces the facility for current account customers to opt out of unarranged overdrafts or launches a new product with this facility, the subscriber must provide the information set out in paragraph 78 (bullet 3) to:

- all those customers with an account of the type to which the facility is to be added, in the case of a new enhancement to the existing range of current accounts. The required changes to terms and conditions must be advised to customers within 30 days in accordance with paragraph 176; and
- within three months of the introduction of the new product, to all current account customers who have incurred unarranged overdraft charges in the previous 12 months.

82. Where a subscriber offers current accounts that enable customers to opt out of unarranged overdrafts, information about the opt out facility must be provided to:

- all customers who incur an unarranged overdraft charge, on the first occasion that such a charge is incurred, either as part of the communication regarding the charge/usage of the unarranged overdraft or by separate communication; and
- all current account customers who have incurred unarranged overdraft charges in the previous 12 months, unless a reminder of the availability of an opt out was sent when the charge was incurred.

83. If an existing current account customer wishes to opt out of unarranged overdrafts on their account, the subscriber should enable the customer to exercise this option and remind them what the effect will be on the operation of their account. Such information may be provided in a leaflet or letter or electronically, according to the normal channel of communication with the customer.

84. The information to be provided under paragraphs 81 and 82 may include a summary of the information outlined in paragraph 78 (bullet 3) and/or signposting to a leaflet or web page for detailed information.

85. If a customer requests to opt out of unarranged overdrafts, a subscriber should not, in response offer the customer a Basic Bank Account unless the limited functionality of a Basic Bank Account is appropriate for the customer's circumstances.

86. Although a customer's decision to opt out of unarranged overdrafts is capable of being revoked by the customer, a subscriber may place restrictions on the number and frequency of permitted switches that a customer may make in respect of unarranged overdrafts.

87. The decision by a current account customer to opt out of unarranged overdrafts will not of itself have any negative impact on the customer's credit record. However, whether or not a customer chooses to opt out, their credit record may be damaged as a result of returned items.

88. If a customer's overdraft application is declined, the subscriber should explain the main reason why if asked by the customer. This could be provided in writing or electronically, if requested.

89. The written explanation could be given in the form of a leaflet if this is sufficiently focused. With regard to refusals based on credit scoring, the Code Sponsors' Guide to Credit Scoring refers and can be found at:

<https://www.bba.org.uk/policy/retail/credit-and-debt/debt-and-financial-difficulties>. Subscribers should have regard to the potential for financial crime in the information they provide and will want to avoid compromising their security procedures.

## Interest rates and charges

90. Subscribers should make information about overdraft interest rates available to customers via:
  - a telephone helpline;
  - a website;
  - notices in branches; or
  - information from staff.
91. If an overdraft is provided subscribers should give customers information on the interest rates which apply and when interest will be collected. If a customer asks, subscribers should also give a full explanation of how interest is worked out.
  - 91.1 In relation to personal customers, before taking interest and overdraft charges, subscribers should give at least 14 days notice of how much will be taken.
  - 91.2 In relation to micro-enterprise customers, before taking interest and arranged overdraft charges, subscriber should give at least 14 days notice of how much will be taken.
92. In sub-paragraphs 91.1 and 91.2 'charges' do not include up-front arrangement fees which are subject to prior agreement with the customer.
93. Subscribers should inform customers about changes to the interest rates on their overdraft in compliance with the relevant regulatory requirement applying to the subscriber's overdraft terms. To help compare rates, the old rate should also be included.
94. Within three working days of a rate change, notices should be put in branches and newspapers, unless all customers affected by the rate change have already been personally notified. To help compare rates, the old rate should also be included.
95. Where an overdraft interest rate tracks changes to an index rate, the requirement to inform customers of changes does not apply.
96. Subscribers should make available to customers information about any charges for overdrafts via:
  - a telephone helpline;
  - a website; or
  - by asking staff.
97. Subscribers should tell customers personally at least 30 days before increasing an overdraft charge or introducing a new overdraft charge.
98. Further guidance on charges information for current accounts, which are regulated under the Payment Services Regulations (PSRs), can be found at: <http://www.fca.org.uk/static/fca/documents/fsa-psd-approach-latest.pdf>



# Section 6: Credit cards

## ALL CUSTOMERS

### Pre-sale information

99. Information provided to customers should be clear, fair and not misleading. Subscribers should present information about the main features of a credit card in a summary box, as set out in The UK Cards Association Best Practice Guidelines [http://www.theukcardsassociation.org.uk/best\\_practices/](http://www.theukcardsassociation.org.uk/best_practices/)
100. The summary box should be provided to the customer prior to their acceptance of the credit agreement.
101. All integral features of the product, such as introductory rates, should be included in the summary box. Information on free-standing or optional product features, such as Payment Protection Insurance (PPI), credit card cheques or other free-standing product features should not be shown in the summary box. Information on such free-standing features should be provided separately and should comply with any relevant best practice guidelines.
102. Pre-contract, the summary box should appear prominently on, or within, any application form/pack, acting as a final reminder for the consumer. This will typically cover direct mail pieces, free-standing leaflets, inserts etc. but not media such as television, radio, cinema or outdoor advertising.
103. For internet applications, a click-through to a page containing the summary box should be available.
104. Credit card issuers are not precluded from using the summary box in any advertising media they choose or at any point post-contract.
105. Subscribers should only send a credit card to a customer if they request one or to replace a credit card the customer already has.
106. If an application for a credit card made by a personal customer is declined following credit assessment, the subscriber should explain the main reason why if asked by the customer. If the decline is as a result of information obtained from a CRA search, the customer should be given contact details for the CRA.
107. If a credit card application by a micro-enterprise customer is declined, wherever practical the subscriber should provide proactive and clear feedback to the customer on the main reason why the application was declined and inform the customer of their right to appeal that decision.

### Point of contract information

108. Before a customer enters into the contract for a credit card (and when they accept the product for the first time) they should be given information relating to the following:
  - An explanation of how interest is calculated and charged; for example, whether it is charged on the full statement balance or only on any balance remaining after the customer has made the monthly payment;
  - The PSRs require that the customer must be provided, where relevant, with details of the interest and exchange rates to be applied or, if reference interest and exchange rates are to be used, the method for calculating the actual interest and the relevant date and index or base for determining such reference interest or exchange rates;
  - This information must be provided either in good time before the customer is bound by the contract, or where the contract is concluded at the payment service user's request, using a means of distance communication, immediately after the conclusion of the contract;
  - Details of how monthly payments are applied to any outstanding balance across transaction types including promotional offers;
  - An explanation of recurring transactions;

- Details of charges for the day-to-day running of the account, including any annual fee, dormancy fee, charge for exceeding credit limit, charge for delayed monthly payment, charges for overseas transactions, cash withdrawal fees for card usage at an ATM or over the counter, fees for any cash equivalent transactions, balance transfer fees, returned payment fees due to insufficient funds, and any other applicable fees;
- The distinction between being the principal cardholder and an additional cardholder should be explained i.e., that the principal cardholder is responsible for all spending, including that by additional cardholders, and is responsible for repayments on the credit card;
- The interest rates applicable to different types of transactions (e.g., purchases, balance transfers, credit card cheque transactions and cash transactions) and the ways in which customers will be told about changes in interest rates; and
- Sufficient details to enable customers to pay on time, including via automated payments. Subscribers should also ensure that, where customers are offered the facility to pay by cheque by post, sufficient time is given to allow payments to be made in time, taking account of the postal delivery system and the length of the clearing cycle.

## Chip and PIN

109. Subscribers should issue the customer's PIN separately from their card.
110. Subscribers should have systems in place to allow customers to change their PIN and should tell customers how to do so, for example in credit card welcome packs or on PIN notifications.
111. Subscribers will ensure that guidance is provided to customers on the need to protect their card and PIN.
112. Subscribers should make reference to the availability of alternatives to chip and PIN in materials accompanying card issuance and in any discussion with the customer where they express difficulty with using a PIN.

## Interest rates

113. Subscribers should make current credit card interest rates available to customers via one or more of the following:
  - A telephone helpline;
  - A website;
  - Notices in branches; or
  - By asking staff.

## Communication of interest rate changes

114. Subscribers should inform customers about changes to the interest rates on their credit card in compliance with the relevant regulatory requirement applying to the subscriber's credit card terms.

## Credit card limits

115. Before giving a customer a credit limit, or increasing an existing limit, subscribers should assess whether they feel the customer will be able to repay it. Subscribers should follow The UK Cards Association Best Practice Guidelines for credit card limit increases [http://www.theukcardsassociation.org.uk/best\\_practices/](http://www.theukcardsassociation.org.uk/best_practices/)
116. Customers may at any time request an increase in their existing credit limit.
117. Where an emergency increase to a credit card limit is granted (i.e. when a transaction goes for authorisation and will take the customer over their pre-agreed limit) the subscriber should always assess the customer's ability to repay.
118. Subscribers should advise customers that checks are made before a limit is increased (the method and timing of advice will be at the subscriber's discretion).

119. Credit card limit increases should not be offered on accounts that are in arrears and should not be granted for accounts that fall below credit scoring thresholds.
120. Subscribers should periodically review customers' credit card limits using credit reference agency and internal data. The requirement to use CRA data does not apply in specialist customer segments, such as private banking, where use of CRA data is not always appropriate.
121. Where the subscriber feels it is appropriate, the credit card limit should be reduced and notification given to the customer. The subscriber should ensure that the notification includes, or signposts to, relevant contact details so that the customer can discuss with the lender any concerns they have about their card or their financial position<sup>4</sup>.

## Credit card promotional period

122. If a credit card has an introductory promotional rate the expiry date of the introductory promotional offer should be shown on the front of the statement or in a separate, prominent personal notification to the customer. This should be given between four and eight weeks before the offer expires.
123. It is acceptable to exceed the four or eight week period if the best way to provide information about the expiry of an introductory promotional rate is by a message in, or with, a monthly statement.
124. This requirement does not apply where the customer is in breach of the terms and conditions of the account and the subscriber is concerned that giving the customer warning that the promotional period is about to end may result in abuse of the card, or where the account is not being used and the customer is not receiving a monthly statement.

## Credit card statements

125. Subscribers should provide customers with a monthly statement for their credit card unless the account has a zero balance and has not been used. The monthly statement will include information about transactions since the last statement date, any interest which applies, the minimum repayment and other useful information compliant with the Consumer Credit Sourcebook and Consumer Credit Act 1974, such as the allocation of payments.
126. Subscribers should follow The UK Cards Association Best Practice Guidelines for the Cardholder Statement Summary Box [http://www.theukcardsassociation.org.uk/best\\_practices/](http://www.theukcardsassociation.org.uk/best_practices/)
127. There are a number of specific pieces of information which should be included on every credit card statement (and where appropriate on a link from an electronic statement):
  - Sufficient details to enable customers to pay on time, including via automated payments;
  - The current interest rate should be printed on each statement. Also, if more than one interest rate applies to an outstanding balance (for example, where one rate applies to a transferred balance and different rates to new borrowing and cash transactions) this should be made clear;
  - A clear statement that if the account is not fully cleared, interest will be charged on the total value of the statement, and not just on the outstanding balance;
  - A clear statement that interest will be charged on a daily basis and that interest payments therefore increase the longer payment is delayed (even before the monthly payment date);
  - A brief summary on the allocation of monthly payments on the front or back of the statement (or a link from an online statement);
  - The front of each credit card statement should show a cash figure indicative of the amount of interest which would be payable by the customer if they paid the minimum amount and it reached the subscriber on the last day for payment; and
  - A warning about the risk of only making minimum payments – this should be worded as follows, 'If you make only the minimum payment each month, it will take you longer and cost you more to clear your balance.'

---

<sup>4</sup> This paragraph is effective from 1 July 2011.

128. In the event that a customer has missed a payment, subscribers should also include in any notification sent to a customer in respect of the first missed payment, reference to the option of paying by automated payment to avoid missing future payments.

## Credit card repayments

129. Subscribers should ensure that the minimum monthly repayment covers more than that month's interest. This means that the minimum repayment will cover that month's interest and a proportion of the balance outstanding from the previous month.
130. The principle should be that the minimum repayment on a credit card should reduce month by month if there have been no further transactions on the card and the lower minimum payment threshold of the card has not been reached, assuming all other conditions of the product remain unchanged. The term 'transactions' includes any fees, charges or PPI premiums incurred on the card.
131. The minimum payment amount on the account should be clearly shown. This amount should normally be sufficient to avoid negative amortisation over a period of 12 months (i.e. the sum of 12 minimum payments would exceed the sum of additional interest added to the account over the same 12 month period).
132. It is acceptable for the minimum payment amount to be calculated as a percentage of the balance carried forward, so long as the percentage would normally prevent negative amortisation. Other methods for calculating the minimum payment are also acceptable, provided this principle can be demonstrated.
133. Subscribers may offer payment holidays and should clearly explain the terms and that customers can reject the holiday by continuing payment. Where a payment holiday is provided the minimum repayment afterwards should be sufficient to avoid negative amortisation over a period of 12 months from the start of the holiday.

## Credit card cheques

134. Subscribers should follow The UK Cards Association Best Practice Guidelines for credit card cheques including the provision of clear information through a summary box provided with all credit card cheques:  
[http://www.theukcardsassociation.org.uk/best\\_practices/](http://www.theukcardsassociation.org.uk/best_practices/)
135. The following customers should not be issued credit card cheques:
- Customers who are in arrears or over-limit<sup>5</sup>;
  - Customers with limited scope to borrow more or who are at their limit;
  - Customers who have opted out of receiving cheques; and
  - Accounts where there are fraudulent activities or lost/stolen procedures pending.
136. Subscribers should not send out unsolicited credit card cheques with a pre-completed amount.
137. In addition to the summary box, subscribers should clearly and transparently highlight in the main body of any communication accompanying the provision of credit card cheques the following (where applicable):
- Credit card cheques do not provide the same level of consumer protection as a normal credit card purchase;
  - The transaction fee per cheque;
  - Whether there is an interest free period; and
  - An alert to the Summary Box (e.g. "see important information overleaf").

---

<sup>5</sup> This means customers who are in arrears with their payments or over-limit at the time of selection for receipt of credit card cheques.

## Unauthorised transactions

138. Unless the subscriber can show that the customer acted fraudulently, their liability for their credit card being misused will be limited as follows:
- If someone else uses the card, before the customer informs the subscriber that it has been lost or stolen or that someone else knows the PIN, the most the customer will have to pay is £50.
  - If someone else uses the card details without the customer's permission, and the card has not been lost or stolen, the customer will not have to pay anything; this would include where a customer's card has been cloned.
139. If the card is used before the customer has received it, the customer will not have to pay anything, unless the subscriber can show that the customer acted fraudulently.
140. In the event that the card details are used by someone else, without the customer's permission, for a transaction where the cardholder does not need to be present, the customer will not have to pay anything.
141. Unless the subscriber can show that the customer acted fraudulently, where a credit card transaction has not been authorised by the customer then any interest or other charges that may have been applied as a result of the transaction will be refunded.
142. In relation to unauthorised transactions, the burden of proof lies with the subscriber and not with the customer, so the subscriber will have to provide proof if necessary.

## Unsatisfied transactions

143. Subscribers will ensure that customers are made aware of the protections available to them in the event of an unsatisfied transaction<sup>6</sup>.

## ADDITIONAL PROVISIONS FOR PERSONAL CUSTOMERS

### Credit card re-pricing

144. Except where the exemptions set out below apply, subscribers should follow the Statement of Principles relating to Credit Card Re-pricing issued by The UK Cards Association that can be found at:  
[http://www.theukcardsassociation.org.uk/best\\_practices/](http://www.theukcardsassociation.org.uk/best_practices/)

The following definitions apply:

- Risk-based re-pricing: this affects individual customers or specific groups of customers with similar risk profiles
- General re-pricing: subject to the exemptions set out below, any type of re-pricing, other than that which is risk-based.

The exemptions, which apply to paragraphs 145-154:

- An interest rate set to directly track the movement in an external index (such as a base rate), which has been clearly stated in the product's terms and conditions
- A promotional interest rate that has come to the scheduled end of its duration, or has been revoked early by the subscriber (for example where a payment is missed)
- An interest rate decrease.

<sup>6</sup> This paragraph is effective from 1 July 2011

## Pre-notification of interest rate increases

145. Subscribers will provide written notice (which may include individual electronic communication where the customer has indicated his willingness to receive communications in this form) to customers of any interest rate increase.
146. Such notice must be given at least 30 days before the interest rate increase takes effect. The notice will explain in clear language how the rate is changing, what it will cost and the options available to them and will include the following information:
  - Current interest rate;
  - The new increased interest rate;
  - An indicative cost impact of the increase (by either a generic or personalised example); and
  - Notification of the customer's ability to reject the increase during the period of 60 days specified in the notice and pay the outstanding balance in full at the current rate.

If the subscriber offers alternative lending products, it may also provide the customer with the option to transfer the balance to such a product at the existing (or lower) rate of interest.

147. For a risk-based rate increase, the notice of interest rate increase will be a communication sent separately from any account statement.
148. For a general interest rate increase, the notice may be sent with the customer's statement, via a separate piece of paper.

## Rejection of interest rate increases

149. The 60 day rejection period (referred to in paragraph 146) may run concurrently with the 30 day notice period and if this is the case, the written notice will make this clear to the customer.
150. During the 60 day rejection period, the subscriber will remind the customer of their right to reject the interest rate increase, which will require the subscriber to close the account and the customer to repay the outstanding balance. This reminder may be included on or with the customer's account statement and does not need to repeat the detail included in the original notification.
151. The customer may tell the subscriber, at any time during the 60 day rejection period specified in the notice of increase that they wish to reject the interest rate increase. Where the customer rejects the rate increase:
  - the customer's credit card account will be closed by the subscriber; and
  - the customer will be permitted to pay their outstanding credit card balance at their pre-notification interest rate within a reasonable period<sup>7</sup>.
152. Subscribers will, if asked by the customer, explain why the interest rate is being increased and make available an industry standard explanation of how credit card re-pricing works.

## Selection of accounts for re-pricing

153. Where a customer manages their account within the subscriber's terms and conditions, the subscriber will not increase interest rates:
  - for risk-based re-pricing – within the first 12 months of a customer having the credit card; or
  - for risk-based re-pricing and general re-pricing – more often than 6 monthly, other than in exceptional circumstances.<sup>8</sup>

<sup>7</sup> Having due regard to the level of minimum payments and the customer's financial situation.

154. Subscribers will not increase the interest rate when they are aware that:

- the customer is currently two or more payments in arrears;
- an agreed repayment plan is in place in respect of the account; or
- the customer is in serious discussion with a debt advice agency (and the subscriber has been formally notified of this by the agency).

155. Further guidance on dealing with cases of financial difficulty is included in Section 9.

## Credit card limits

156. Customers may at any time:

- request a reduction in their existing credit limit;
- reject an unsolicited credit limit increase;
- inform the subscriber that they do not want to be given a credit limit increase at all in the future; and
- request an increase in their credit limit.

If a customer exercises any of these rights it does not prevent them from asking for a credit limit increase at a later date.

In the case of the first two bullets above, subscribers will make it as easy as possible for customers to exercise these options by offering them automated methods of communication, such as online (for example, using a specified proforma) or through an automated telephone system (or another automated communication method) notwithstanding the customer's right to speak to a human operator.

## Communication of unsolicited credit limit increases

157. A subscriber will provide written notice to a customer (which may include individual electronic communication where the customer has indicated his willingness to receive communications in this form) of its intention to increase the customer's credit limit and such notice will be given at least 30 days before the limit increase is due to take effect. This communication will be separate from any account statement and will include the following information:

- Current credit limit;
- The new increased credit limit;
- The customer's right to reject the credit limit increase; and
- How the customer can reject the proposed credit limit increase and reassurance that the subscriber will not treat them any differently simply because they exercise their right to reject a credit limit increase.

Such notice need not be given where a subscriber gives a customer a temporary or an emergency credit limit increase.

## Allocation of payments

158. Subscribers will apply customers' repayments to the most expensive parts of the credit card balance first. This means that repayments will be applied to the various elements within the balance ranked by order of their annual interest rate (not APR) on a pure high to low basis. In allocating customer repayments, subscribers will apply them to, at least, stated transactions.

159. In the case of hybrid credit products, where the total credit provided and accordingly the balance may be made up of both fixed and revolving credit elements, the requirement to allocate payments to the most expensive part of the

---

<sup>8</sup> The exception applies to general re-pricing only and, for example may be a rapid escalation in underlying interest rates, or a change to legislation/regulation, that significantly increases costs, or decreases income.

balance first applies only in respect of any payment made in excess of that required to satisfy the fixed instalment(s) as specified in the agreement.

## Minimum payments

160. Subscribers should ensure that for customers entering a new credit agreement on or after 31 March 2011 that the calculated minimum payment will always cover at least:

- 1% of the principal owing;
- the amount of interest that appears on the statement;
- default fees/charges; and
- annual fees that may be levied (whether as a single sum, twelve equal instalments or other method).

The 'principal owing' means the outstanding balance shown on the statement less the current month's interest and fees. 'Fees' do not include fees for services such as balance transfers or cash advances.

161. Subscribers must follow the industry agreement developed by The UK Cards Association on the sending of a separate advice communication where a customer, without good reason, has made frequent minimum repayments or low repayments.

## Automated payments

162. Subscribers will provide customers with online capability to set up an automated payment, for any amount they choose between the minimum payment and full payment, which will be used to reduce their balance. 'Online' could include a customer sending an instruction to the subscriber via email if the subscriber has agreed to receive instructions using this method.

## Credit card cheques

163. In the case of personal customers, subscribers may only provide credit card cheques:

- to a customer who has asked for them;
- on a single occasion in respect of each request that is made; and
- the number of cheques provided must not exceed three, or, if less, the number requested



## ADDITIONAL PROVISIONS FOR MICRO-ENTERPRISE CUSTOMERS

### Credit card cheques

164. New customers should be given a first time opt out from receiving credit card cheque mailings.
165. When unsolicited credit card cheques are provided to a micro-enterprise customer, the customer should be given prominent information about how to opt out of receiving cheques and how to destroy unwanted credit card cheques and supporting material.

# Section 7: Loans

## Declining an application

166. If a personal customer's loan application is declined following credit assessment, the subscriber should explain the main reason why if asked by the customer. This could be provided in writing or electronically, if requested. If the decline is as a result of information obtained from a CRA search, the customer should be given contact details for the CRA.
167. If a micro-enterprise customer's loan application is declined, wherever practical the subscriber should provide proactive and clear feedback to the customer on the main reason why the application was declined and inform the customer of their right to appeal that decision
168. The written explanation for both personal and micro-enterprise customers could be given in the form of a leaflet if it is sufficiently focused. In regard to refusals based on credit scoring, the Code Sponsors' Guide to Credit Scoring (in particular, section 6 of the Guide) refers. Subscribers should have regard to the potential for financial crime in the information they provide and will want to avoid compromising their security procedures.
169. If, after declining an application for credit, subscribers wish to refer a customer to another lender, they should seek the customer's consent and make the customer aware that a referral is not an indication that a subsequent application for credit will be successful.

# Section 8: Terms and conditions

## Introduction

170. Unless it is impracticable to do so, as in the case of products purchased by telephone, customers should be provided with relevant product terms and conditions – and be encouraged to read them – before they commit to purchasing the product.
171. All terms and conditions should be written in clear and intelligible language. They should be fair in substance and, when relating to personal lending, should reflect the requirements of the Unfair Terms in Consumer Contracts Regulations.
172. Terms and conditions supplied to customers in paper format should be easy to read by someone with normal or corrected eyesight.
173. Customers should be told how they will be notified of changes to terms and conditions when they become a customer.
174. Subscribers must not insist that a customer buys an insurance product from them as a condition of providing the customer with a lending product.

## Changes to terms and conditions

175. If terms and conditions are changed to the customer's detriment customers should be given at least 30 days personal notice (for example, by letter, e-mail, etc) before the change takes effect. At any time during the 60 days from the date of the notification, the customer must be free to close or switch their account without having to give notice. Customers should also be free to close or switch accounts without any financial penalty.
176. Where a change to terms and conditions is not to the customer's disadvantage it can be made immediately. However, the customer should be notified of the change within 30 days. Notification can be made in a number of ways, for example: by press advertisements; branch notices; information on the website; etc. The method chosen should be appropriate for the distribution channel. So, for example, a branch notice would not be appropriate to advertise changes in the terms of an internet-only account.
177. If a firm makes a major change or a lot of minor changes to terms and conditions in any one year it should provide the customer with a summary of the changes and make available a full copy of the terms and conditions.

# Section 9: Financial difficulties

## Introduction

178. Subscribers should be sympathetic and positive when considering a customer's financial difficulties. Although there is an onus on customers to try to help themselves, the first step, when a subscriber becomes aware of a customer's financial difficulties, should be to try to contact the customer to discuss the matter. This applies to both personal and micro-enterprise customers.
179. Personal customers should be considered to be in financial difficulty when income is insufficient to cover reasonable living expenses and meet financial commitments as they become due. This may result from a change in lifestyle, often accompanied by a fall in disposable income and/or increased expenditure, such as:
- loss of employment;
  - disability;
  - serious illness;
  - relationship breakdown;
  - death of a partner;
  - starting a lower paid job;
  - parental/carer leave;
  - starting full-time education; and
  - imprisonment.
180. Financial difficulties may become evident to a subscriber from one or more of the following events:
- Items repeatedly being returned unpaid due to lack of available funds;
  - Failing to meet loan repayments or other commitments;
  - Discontinuation of regular credits;
  - Notification of some form of insolvency or court proceedings;
  - Regular requests for increased borrowing or repeated rescheduling of debts;
  - Making frequent cash withdrawals on a credit card at a non-promotional rate of interest;
  - Repeatedly exceeding a credit card or overdraft limit without agreement; and
  - The customer informing the subscriber that they are, or at risk of being in financial difficulties.

This list is illustrative and non-exhaustive.

181. Additionally, for micro-enterprise customers, financial difficulties may also become evident to subscribers because:
- the customer goes overdrawn without agreement;
  - the customer goes over their agreed overdraft limit, especially more than once;
  - there are large increases or decreases in the business's turnover;
  - the business is trading at a loss;

- the business suddenly loses a key customer or employee;
- a large part of the business is sold;
- a facility is used for purposes other than those agreed with the subscriber;
- the customer does not keep to conditions set out in the loan agreement;
- the customer does not supply agreed monitoring information on time; and
- another creditor brings a winding-up petition or other legal action against the business.

## Proactive contact

182. If a subscriber becomes aware via their existing systems or from external data feeds (e.g. CRAs) or from information provided by the customer that the customer may be at risk of being in financial difficulties, the subscriber should contact the customer in order to:

- outline their approach to financial difficulties;
- encourage the customer to contact the subscriber if the customer is worried about their position;
- offer the customer appropriate and timely options where possible to help reduce the risk of deterioration in the customer's financial well-being; and
- provide signposts to sources of free, independent money advice.

The subscriber's contact with a customer identified as being at risk of being in financial difficulties should be through the normal channel of communication with the customer concerned, such as letter, telephone, email or text.

183. Signs or indicators that a personal customer may be at risk of being in financial difficulties may include:

- regular unarranged overdrafts or excesses on agreed overdraft facilities;
- high or increasing numbers of unarranged overdraft charges being incurred by the customer, particularly where the total charges are high compared to the customer's monthly income (where known);
- regular returned items or refused authorisations in respect of Point of Sale or ATM transactions;
- frequent requests for increased overdraft limits;
- hardcore borrowing or increasing dependence on unauthorised overdrafts developing;
- change in account behaviour such as significantly reduced credit turnover;
- missed or overdue payments in respect of products held by the customer; and
- deteriorating trend in third party data e.g. CRA data.

This list is not intended to be exhaustive, nor are the above necessarily indicators that a customer may be at risk of being in financial difficulties. Subscribers should consider what other information they have available that might indicate that a customer is or is not at risk of experiencing financial difficulties.

184. Once a personal customer has been identified as being in or at risk of being in financial difficulties, the subscriber should determine the appropriate level of intervention required dependent on the individual customer's position.

185. Subscribers should consider a range of solutions to assist personal customers who are identified as being at risk of being in financial difficulties, which may include:
- Account management guidance:
    - ❖ Changing the date of regular payments so that for instance a mortgage or rent payment is made immediately after receipt of a salary;
    - ❖ Set up text/email alerts (if available).
  - Changes to account functionality:
    - ❖ Promotion of availability of opt out from unarranged overdrafts (where offered – see Section 5)
    - ❖ Downgrade account and facilities, e.g. to a Basic Bank Account, if the reduced functionality of such an account is appropriate for the customer's needs.
  - Intervention:
    - ❖ Cancellation of regular payments, with customer making alternative arrangements to meet essential bills;
  - Restructuring:
    - ❖ Re-schedule borrowing, possibly moving hardcore borrowing to a loan account with regular payments, subject to affordability assessment;
    - ❖ Agreement to a formal arranged overdraft, subject to affordability assessment.
  - Concessions/forbearance
    - ❖ Charges and interest concessions (see paragraphs 224-227).
  - Referral to third party debt adviser
    - ❖ Breathing space (see paragraphs 201-203).

Any arrangements agreed and made between the subscriber and a customer or their adviser must be confirmed in writing.

186. In cases where the subscriber's internal review and/or discussions with a personal customer establish that the customer is not at risk of being in financial difficulties, the subscriber need take no further action, subject always to paragraph 182 (pro-active contact) above.

## PROVISIONS FOR PERSONAL CUSTOMERS

### Communicating with personal customers and their advisers

187. Subscribers should make available to customers straightforward information in plain English on their procedures and systems for dealing with customers in financial difficulty. This might explain, for example, the main rights and responsibilities of customers and subscribers, and what is involved in legal demands or a referral to a debt recovery unit. The BBA publishes a leaflet, *Dealing with Debt*, which is available on the BBA and The UK Cards Association websites.
188. Where a customer requests that the subscriber deals with them in writing or email (providing that facility is available) rather than by telephone, they should do so as long as the customer remains co-operative and in regular dialogue.
189. Communications with customers and/or their advisers should, wherever possible, acknowledge and reflect any previous discussions that have taken place. Subscribers should be willing to communicate with customers and/or their advisers by phone, post, secure email or fax. Normally, the subscriber will communicate through the adviser, if an

authority has been received. This does not preclude subscribers from copying correspondence to customers if they choose. In certain circumstances it may be beneficial for discussions (either face-to-face or over the telephone) between the adviser and subscriber to take place with the customer present.

190. On occasions the subscriber may need to contact the customer directly, even when an authority is in place. These occasions may be the result of the adviser not being available, failing to provide requested information within a reasonable period of time, or other similar circumstances. If a subscriber does contact a customer directly when an authority is in place, it will explain to the customer why it is doing so.
191. Subscribers should give a phone number on all communications that will put the customer in contact with a named person or a team dedicated to dealing with cases of financial difficulty.

## Consolidation loans

192. Where a consolidation loan is being provided to a personal customer and the subscriber considers the customer to be in financial difficulties, the subscriber should reduce or pay off the existing in-house borrowing that it is aware is being consolidated. This applies only where the existence of such in-house borrowing is apparent to subscribers via their existing in-house systems.
193. Exceptionally there may be circumstances in which it is appropriate not to reduce or pay off existing borrowing.
194. Other than in exceptional circumstances, where a consolidation loan is being provided to a personal customer and the subscriber considers the customer to be in financial difficulties, the monthly repayments on the consolidation loan should not exceed the total monthly repayments of the debts being consolidated. Exceptional circumstances may for example include where the customer has a repayment holiday or an interest-free period under their existing arrangement, which is shortly to end.<sup>9</sup>

## Use of the right of set-off

195. Before set-off is used, a subscriber should contact the customer to inform them in clear and simple language the generic circumstances in which set-off would be used and when e.g. if the customer does not contact the subscriber and/or address the missed payment. This contact should be made at a time when the lender is actively considering or is likely to exercise set-off and not so far in advance of the event that the customer may no longer be aware that it may be undertaken. This information should be as prominent in written communications and telephone scripts as other information.
196. Before applying set-off a subscriber should take account of information that they have available to them to identify whether the customer may be or may be heading towards financial difficulties. In all cases where set-off is to be applied and the subscriber has established that the customer is in financial difficulties, the customer must be left with sufficient money to meet their reasonable day-to-day living expenses and priority debts, where these have been identified. There are a number of ways that subscribers can make this assessment. Where more than one payment has been missed, the assessment could include reviewing income and expenditure statements (if the subscriber has these), and/or account turnover and behaviour, and/or analysis of the type and frequency of credits to the account. Particular care is required where it can be identified that a customer's balance is made up wholly or in part of state benefits.
197. If the customer does not respond to contact or is not co-operative and there is no evidence available to the subscriber that using set-off will cause or exacerbate the customer's financial difficulties, then set-off may be exercised.
198. Set-off should normally only be used to make up the most recent missed payment. However if the subscriber has contacted the customer about missed payments, told the customer that set-off is an option, and used the information available to them to assess whether the customer will be able to meet reasonable living expenses and pay priority debts, it may be used to make up earlier missed payments. A subscriber may also take more than one missed payment where the customer is not cooperating with the subscriber, for example by not responding to repeated attempts to make contact.

<sup>9</sup> This paragraph is effective from 1 July 2011.

199. At least on the first occasion after set-off has been used, a subscriber should contact the customer to advise them and the customer should be encouraged to take appropriate action in the future to avoid missed payments.
200. If it is evident from subsequent contact with the customer that they are in financial difficulty either as a result of the use of set-off or otherwise, appropriate action should be taken promptly to ensure that they are treated fairly, sympathetically and positively as required by the Code.

## Breathing space for personal customers

201. Where a customer can demonstrate to a subscriber that they are making a genuine effort to develop a repayment plan, using either a debt advice agency or a self-help tool<sup>10</sup>, the subscriber should suspend collections activity related to the customer's current account, credit card and/or unsecured personal loan while discussions continue, for a period of 30 days.
202. The subscriber should confirm with the customer and/or their adviser that collections calls and letters will be suspended during the 'breathing space' period (except where required under Consumer Credit legislation/the Consumer Credit Sourcebook) and should discuss with the customer and/or their adviser how the account will continue to operate during the 30 day period.
203. Where the customer and/or their adviser provides clear evidence of demonstrable progress being made in developing a genuine repayment plan, but work has not yet concluded, subscribers should extend the breathing space for up to an additional 30 days.

## Common Financial Statement

204. Money advisers may use the BBA/MAT/FLA Common Financial Statement format and principles when submitting information to subscribers<sup>11</sup>.
205. Subscribers should accept the CFS (and other similar statements such as that used by StepChange Debt Charity). The CFS - or equivalent details of the customer's income, expenditure and assets - is necessary to enable the subscriber to gather information to assess if an 'offer to pay' will enable the customer to be accepted onto a formal debt management plan (DMP), or enable the subscriber to reduce or suppress interest and fees.
206. If a customer works with a debt-counselling organisation to complete a CFS, in support of a debt management plan, the subscriber should accept the CFS as the basis for pro-rata distribution amongst creditors covered by the plan. Repayment offers based upon expenditure falling within the trigger figures of the CFS should only be challenged by the subscriber if it has reasonable cause to believe that the customer's income and expenditure figures may be incomplete or inaccurate. This provision is designed to help people in or at risk of being in financial difficulties, and subscribers should use the provision when accounts have gone into default or at an earlier stage if it benefits both them and the customer.
207. The third party money adviser should ensure that their authority to act on behalf of the customer is promptly sent to all creditors identified by the customer. It is also the responsibility of the adviser to ensure that a CFS or equivalent is sent to the creditors shortly after the authority. In these circumstances, where a money adviser has been appointed and there are debts with many creditors subscribers will not normally be able to work with the customer until a CFS or equivalent has been received.
208. In general, subscribers should then be prepared to accept an offer of repayment which is based on the principle of equitable distribution of available income (after priority payments), in line with the amount outstanding to each creditor. Alternative means of calculating the distribution of available income by the customer or their adviser may be agreed on a case-by-case basis. A subscriber may accept an offer of payment, even though the offer is not sufficient to enable the customer to be accepted onto a formal DMP.

<sup>10</sup> The extension of paragraph 201 to self-help customers is effective from 1 July 2011.

<sup>11</sup> More information on the BBA/MAT/FLA statement is available from the British Bankers' Association or Money Advice Trust as well as the agencies supported by MAT, e.g. the National Associations of Citizens Advice Bureau Service, Advice UK, Money Advice Association, Money Advice Scotland and National Debtline.



209. There is no reason why the content of the income and expenditure statement should not be challenged but if the figures appear to be reasonable and in line with trigger figures where a CFS is used, then these principles should apply.
210. Subscribers should follow the CFS Creditor Good Practice checklist which promotes clear communications between creditors and customers<sup>12</sup>. The CFS checklist is available at [http://www.cfs.moneyadvicetrust.org/editorial.asp?page\\_id=42](http://www.cfs.moneyadvicetrust.org/editorial.asp?page_id=42)
211. Subscribers should also comply with the Code's standards for CFS-based negotiations when considering debt repayment proposals made using other repayment models that are endorsed by the Lending Code sponsors. Currently, the StepChange Debt Remedy service and self-help tool CASHflow developed by the MAT are recognised and others will be reviewed from time to time.<sup>13</sup>
212. Personal customers may choose a self-help approach to negotiating debt repayment. Subscribers should ensure that such proposals are given equal consideration as those presented through a debt adviser.

## Token offers and write-offs

213. Token offers should be accepted where the customer has demonstrated they have no surplus income available for their 'non-priority' creditors and there is a realistic prospect of the customer's circumstances improving<sup>14</sup>. A token offer will not necessarily be regarded as an agreed repayment plan and will not prevent the debt from being registered as in default with a CRA, or sold to a third party debt recovery agent.
214. Where the subscriber considers the customer's personal and financial circumstances to be exceptional and unlikely to improve, the subscriber may, among other options, consider writing off or not pursuing part or all of the customer's debt(s). Where write-off is requested by a customer or adviser but is not considered appropriate by the subscriber, the subscriber must give their reasons in writing. If the subscriber agrees to a write-off, then the debt may be registered as a default with the credit reference agencies.

## Debt recovery procedures

215. If the customer does not co-operate with the subscriber, a plan cannot be developed and the subscriber may proceed with normal debt recovery procedures. Lack of co-operation would include not responding to the subscriber's attempts at contact and unreasonable demands by the customer (for example, a request that the debt be written off or repaid over a very long period, even though the customer could afford to make reasonable repayments).
216. A subscriber should ensure that any enforcement action initiated by them or on their behalf by another party to recover debt is carried out within the appropriate legal jurisdiction.
217. If a customer has assets which could reasonably be expected to be sold to reduce outstanding debts, the subscriber may request that the customer, and if appropriate, their adviser, considers this option. Thereafter, the subscriber should acknowledge that income should only be used to repay 'non-priority' debts once provision has been made for any 'priority' debts. The subscriber should leave the customer with sufficient money for reasonable day-to-day expenses, taking into account individual circumstances. A debt is considered 'priority' where the customer's failure to pay could lead directly to the loss of one or more of the following:
- The customer's home (e.g., rent, mortgage, secured loans);
  - The customer's liberty (e.g., council tax, child support maintenance, income tax, court fines);
  - The customer's utility supplies (e.g. water, gas, electricity); or
  - The customer's essential goods or services (e.g., a cooker, a fridge, or the means to travel to work).

<sup>12</sup> This paragraph is effective from 1 July 2011.

<sup>13</sup> This paragraph is effective from 1 July 2011.

<sup>14</sup> This paragraph is effective from 1 July 2011.

218. For personal customers, subscribers should follow the creditor standards of the 'Debt Management Plan Protocol' (the Protocol)<sup>15</sup> when dealing with protocol-compliant DMP proposals and plans from accredited providers. Compliance with these standards will be monitored and enforced by the Lending Standards Board in the course of its normal monitoring and enforcement of the Code's requirements on financial difficulties.

For the avoidance of doubt, subscribers may not refuse to accept a repayment proposal purely on the basis that it is from a provider which is not signed up to the Protocol.

219. Subscribers will not subject customers to harassment or undue pressure when discussing their problems.

## PROVISIONS APPLICABLE TO BOTH PERSONAL AND MICRO-ENTERPRISE CUSTOMERS

### Repayment plans

220. The subscriber should explore a range of options with the customer. Usually this will require the customer to disclose to the subscriber details of their income, expenditure, assets and liabilities, including amounts (if any) owed to other creditors. This information will be used to develop a plan for dealing with the liabilities. In cases where there are liabilities to multiple creditors, subscribers should recommend a free money advice service.
221. The initial arrangements for repaying the debt should be in writing or other durable medium. This will not always be treated as a formal debt management plan, and there may be departures from this plan, if it is in the interests of subscribers and customers. There is no need for every small departure from the basic plan to be in writing (for example an agreement to accept a lower repayment for one week), but any amendments that change the fundamental nature of the plan should be in writing. If, at the subscriber's discretion, the plan includes an agreement to accept smaller repayments, the subscriber should tell the customer whether this is regarded as 'falling behind with repayments' and whether information will be passed to Credit Reference Agencies.
222. Repayment plans between subscribers and customers may be subject to regular review but a subscriber should not expect a customer to increase their repayment at the review stage unless the customer's financial position has improved. Any review period will be agreed with the customer or their adviser, and subscribers should seek to revise contributions only at the end of the review period or if a customer's personal circumstances change. (Customers and/or their advisers should inform the subscriber if the customer's personal situation changes.)
223. Where a customer is unable to make repayments that are sufficient to meet a lender's minimum requirements for a repayment plan, the customer must be given clear information on the effect this will have on his position and the options open to him. However this should never be in a way that is designed to encourage a customer to pay more than they can afford as demonstrated by an income and expenditure statement.

### Interest and charges concessions

224. Subscribers should consider reducing or stopping interest and charges when a customer evidences that they are in financial difficulties. Such reduction/suspension decision should be based upon an income and expenditure statement indicating that they are unable to make repayments sufficient to meet contractual terms. Where a customer is able to make only token payments, their debt should not increase as a result of interest and charges levied. The assessment should reflect the customer's lack of ability to pay rather than the stage an account has reached in the arrears cycle or whether they are using free sources of debt advice. Where a firm declines to allow concessions, they should be prepared to explain why to the customer or their adviser if requested to do so.
225. It is inappropriate for interest and charges to continue to be taken where the result would be that the repayment period for the customer becomes excessive. In forming a judgement on what might be excessive, a subscriber should take into account the type of product and the individual circumstances of the borrower.

<sup>15</sup> The Protocol can be found at: <http://www.insolvencydirect.bis.gov.uk/insolvencyprofessionandlegislation/policychange/policychange.htm>

- 226. Concessions should not be arbitrarily withdrawn irrespective of a customer's ability to pay or without any evidence of a change in the customer's circumstances. Expiry of a repayment arrangement should not automatically lead to the withdrawal of concessions. This does not rule out regular reviews and if a customer's position has improved then interest and charges can be reintroduced.
- 227. Where possible, subscribers should have consistent policies for customers holding more than one product type in terms of charges and interest concessions.

## Debt collection agencies and debt sales

- 228. Subscribers should follow a due diligence process when selecting third parties for debt collection, which should include third party compliance with data protection legislation, consumer credit legislation, the Consumer Credit Sourcebook, and the code of the Credit Services Association.
- 229. Subscribers should ensure that the Code standards for handling financial difficulties are applied by such agents, through due diligence and periodic audit and review. Code compliance standards should form part of all third party contracts.
- 230. Subscribers should ensure that all relevant available information held by the subscriber relating to the debt is passed to any DCA or any debt purchaser.
- 231. Subscribers should inform the third party of any relevant arrangements currently being complied with by the customer. The provisions in paragraph 222 relating to repayment plans continue to apply where a debt has been passed to a DCA or sold. Existing repayment plans which have been agreed with the customer and which are being met must be respected until the scheduled review date.
- 232. Subscribers should follow a due diligence process when selecting any third party for debt sale. Any new contract should ensure that the third party will comply with data protection legislation, consumer credit legislation, the Consumer Credit Sourcebook, the code of the Credit Services Association and the Lending Code's standards for handling financial difficulties even if the debt purchaser is not a subscriber.
- 233. Additional care needs to be taken when dealing with certain types of debt. Where a customer or his agent has provided appropriate and relevant evidence of an ongoing mental health problem that affects the customer's ability to repay their debts, the debt should not be sold.
- 234. Subscribers should undertake appropriate monitoring in order to satisfy themselves that debt purchasers to whom they have sold customers' debts continue to deal with such customers in a manner that is consistent with the relevant requirements of the Code and the relevant contractual terms. Such monitoring should be conducted at least annually where subscribers continue to sell debt to a purchaser, and for a further two years after they have stopped selling debt to that purchaser.
- 235. The results of the monitoring referred to above should be used to satisfy the subscriber and the LSB that all of the relevant Lending Code requirements in respect of the debts sold are being adhered to. Where instances of non-compliance are identified through monitoring, subscribers must be able to evidence that appropriate action has been taken to remedy any breakdown of control or customer detriment
- 236. Where a subscriber agrees to a subsequent sale of the debt, they must satisfy themselves that appropriate arrangements are in place to ensure that following the sale of the debt, the subsequent debt purchaser will continue to deal with customers in a manner that is consistent with the requirements set out in the Code for the treatment of customers in financial difficulties.
- 237. Customers should be advised before or at the time their debt is passed or sold to a third party by a subscriber. The intended outcome of this provision is that a customer should not experience collections activity from the party to whom the debt has been passed or sold without having received prior notification from the subscriber of the transfer<sup>16</sup>.
- 238. It is common practice for third parties taking on a debt to request a new statement of income, expenditure and assets to understand the customer's most up-to-date position. However, if a statement has only recently been completed or a

---

<sup>16</sup> This paragraph is effective from 1 July 2011

repayment plan is being maintained and the review date has not yet been reached, it would be inappropriate to request an updated statement.

## Specialist assistance

239. Subscribers are encouraged to have a specialist team or staff trained to provide specialist advice, to deal with customers in financial difficulty who have specialist needs. These may for example include customers with a mental health condition.
240. If it becomes clear to the subscriber that the customer needs specialist assistance, the customer should be referred promptly to a specialist team that deals with customers in financial difficulties, if one exists. In some cases, referral to a debt recovery unit may also be necessary.

## Debt and mental health

241. The impacts of financial difficulty can be especially acute for customers with mental health problems. Subscribers should ensure that their processes and systems are responsive to a customer in financial difficulties, from the point at which they are made aware of a mental health problem.
242. The appropriate response will differ in each case and could involve a range of approaches, including:
  - working positively with an advice agency;
  - promptly carrying out agreed actions;
  - being flexible in responding to offers or schedules of repayment;
  - sensitively managing communications with the customer (for example preventing unnecessary and unwelcome mailings);
  - asking customers how their mental health problem impacts on their ability to repay their debt;
  - suggesting the customer obtain support from a family member or carer; and
  - signposting to a free, independent money advice agency.
243. Where it is appropriate and with a customer's consent, subscribers should work with advice agencies and health and social care professionals in a joined-up way to exchange information and ensure an effective dialogue.
244. With a customer's explicit consent and in line with requirements of the Data Protection Act, where it is possible and appropriate subscribers should record relevant information about the customer on their account so that staff can deal appropriately with the customer. Subscribers should inform customers how their information will be used and for what purposes.<sup>17</sup>
245. If a subscriber has specialist staff to deal with cases of debt and mental health problems, they should ensure that appropriate mechanisms exist to refer the customer to the appropriate support.
246. If a customer informs a subscriber that they have a mental health problem that is impacting on their ability to manage their financial difficulties, the subscriber should allow the customer a reasonable period (e.g. 28 days) of time to collect and submit relevant evidence to the subscriber. This evidence will help the subscriber to work with the customer, advice agencies and health/social professionals where appropriate to determine the most appropriate action to deal with the customer's financial difficulties.

---

<sup>17</sup> The obligation to provide information to customers is effective from 1 July 2011.

247. The Money Advice Liaison Group (MALG) has produced a Debt and Mental Health Evidence Form (DMHEF) which provides a standardised methodology for advisors and creditors to share relevant information about the customer's condition from health and social care professionals.
248. Subscribers should consider the DMHEF if it is presented by the customer or (with the customer's consent) their adviser or medical practitioner.
249. If a subscriber has received appropriate and relevant evidence of a customer's mental health problems that affect the customer's ability to repay their debts, the debt should not be sold. In these circumstances subscribers should also consider whether it is appropriate to pass the customer's debt to a DCA.
250. Where subscribers pass a debt to a DCA, the DCA should (subject to compliance with paragraph 244) be provided with relevant and appropriate information about the customer's condition to enable them to deal sympathetically and positively with a customer with ongoing mental health problems.
251. The subscriber should also only initiate court action to pursue the debt as a last resort and when it is appropriate and fair to do so.
252. Further and more detailed good practice guidelines have been produced by MALG and are available at: <http://www.moneyadvicetrust.org/advice/supportingadvisers/Pages/Debt-and-Mental-Health.aspx>. The MALG guidelines will not be monitored and enforced by the Lending Standards Board.

## ADDITIONAL PROVISIONS FOR MICRO-ENTERPRISE CUSTOMERS

253. Subscribers may ask a micro-enterprise customer for more financial information to help it to work with the customer to understand any problems.
254. Subscribers may suggest that an independent review of the customer's business is undertaken in order to provide an independent view of the future prospects of the business. In these circumstances, the subscriber should explain the reasons for the review, what they think should be done and how the review will take place, including who should carry out the review and the costs the customer will have to pay.

A review will usually cover all the options, including assessing:

- opportunities for improving cash flow and profitability;
  - the main business activities or new markets;
  - investment needs and refinancing options; and
  - recommendations for the future.
255. If a customer's business is reviewed, the subscriber should discuss with the customer (and their advisers) the information provided before reaching any conclusions or taking any action.
  256. If an agreement to continue to support the business cannot be reached the subscriber should make it clear why. Subscribers should advise the customer when they will withdraw their support and will communicate these changes personally.
  257. A subscriber will support a rescue plan if it believes it will succeed. If the subscriber does not believe that the rescue plan will succeed, they should explain the reasons why and help the customer and their advisers to consider other options.
  258. If the customer makes the agreed changes early enough to save the main business, the subscriber will not, other than in exceptional circumstances, start action to recover the amount borrowed.
  259. A subscriber will work positively with a customer to support a lasting solution for a successful running of the customer's business, provided the customer:
    - acts in good faith;

- keeps the subscriber informed about developments;
- keeps to its agreement with the subscriber;
- carefully considers what their own and any independent advisers say; and
- is prepared to make the necessary changes early enough.

260. If, after reviewing all the options with the customer, appointing an administrator or an administrative receiver (receiver, in Scotland) is considered to be the most appropriate action to take, the decision to appoint the receiver will be confirmed within the subscriber at a senior level.

In most cases, the customer invites the lender to appoint an administrator or administrative receiver after accepting that it is the most appropriate insolvency process based on very careful consideration of all the options available to protect the interests of the business, including the employees and creditors.

Insolvency practitioners will decide whether to accept a formal appointment after considering guidance on ethical standards. As a result of the Enterprise Act, an administrative receiver can only be appointed under security taken before 15 September 2003.

If the customer gives good reasons why a member of the firm that has carried out an independent review should not be appointed as administrator, the subscriber should appoint a different administrator (unless there are exceptional circumstances). The same principle applies for administrative receivers and receivers in Scotland.

## Section 10: Complaints

261. In line with the FCA DISP Rules, all subscribers should have a set of internal procedures for handling complaints, and staff dealing with customers should know what these are so that customers can be informed if the need arises. Procedures should be clear and well defined.
- Internal procedures used to review complaints should enable subscribers to identify potential systemic problems. Where such problems are identified these should be reviewed against the Code and any material Code breaches reported to the LSB as required under Rule 2.1.
262. On entering a contract, customers should be informed about where they can find details of the subscriber's complaints handling procedures.
263. Details of the internal complaints procedures should be given to customers who wish to make a complaint.
264. If a subscriber is unable to resolve a complaint to the customer's satisfaction by the close of business on the day following receipt of the complaint, the subscriber should provide a prompt written acknowledgement that the complaint is being considered.
265. Customers should be kept informed about the subscriber's progress in dealing with the complaint and within eight weeks should receive a final response or an explanation as to why a final response has not yet been reached. The Customer should also be informed that they can refer their complaint to the Financial Ombudsman Service (where applicable) and how to do so.
266. With the exception of the requirement under paragraph 261, enforcement of compliance with these requirements is the FCA's responsibility.

## Section 11: Monitoring

267. Subscribers should appoint a Code Compliance Officer who is likely to be the contact person for co-ordinating the annual statement of compliance, compliance visits and other contact with the Lending Standards Board.
268. Further details about the Lending Standards Board can be found at [www.lendingstandardsboard.org.uk](http://www.lendingstandardsboard.org.uk).

# Annex A: Unsecured personal loan(s) – summary box

The Summary Box is a voluntary initiative that subscribers can choose to use in any advertising media or pre-contract information provided that it is used in compliance with relevant regulations.

The content and order of the summary box is outlined below and should be relevant to the features of the financial promotion to which it relates.

<b>SUMMARY BOX</b>				
<b>Key Information for our xxx personal loan(s) from £x to £xx</b>				
<b>Representative APR</b>	<p><i>If priced by risk:-</i></p> <p><b>Representative x.x % APR</b></p> <p>If successful, the interest rate you will pay is based on your personal circumstances, [the time period over which the loan is repaid] and [the amount you choose to borrow].</p> <p><i>Or, if not priced by risk:-</i></p> <p><b>Representative x.x % APR</b></p> <p>If successful, the interest rate you will pay is based on the amount you choose to borrow, [and the time period over which the loan is repaid].</p>			
<b>APR ranges</b>	<b>Loan size range</b>	<b>From %</b>	<b>To %</b>	<b>Indicative APR</b>
	£5,000 – 7,500	17.3	19.9	18.0
	£7,501 – 10,000	14.9	18.9	16.0
	<p><i>(To include sufficient information for the consumer to see the interest rates / ranges for all the loan size bands /tiers used in the financial promotion. If price is affected by the repayment period the From % and To % should fully reflect this.)</i></p>			



<b>Interest charging information</b>	To include :-  Is rate fixed for life of loan?  Basis of interest calculation: (daily/monthly/annual balance; in arrears/advance)
<b>Repayment information</b>	To include :-  Method and frequency of repayment  Date when first repayment is due  Are payment holidays permitted?  Is deferral of payments permitted at start of loan?
<b>Repayment period</b>	To include the range of time periods over which a loan can be repaid
<b>Amount of loan available</b>	To include the range of £ amounts for which loans are available and applicable increments
<b>Application/Arrangement fee</b>	To include the £ amount of any set up fees, whatever they may be called
<b>Other fees</b>	To include any optional fees, such as “fast delivery” costs, “payment date change fees” & “fees for paying by credit card”
<b>Default fees</b>	To include a list of all default charges applied by the loan provider, their £ costs, and any rules about when charged. “Default” to be defined so customer knows when applicable.  If none are charged then show: “none”.  (Examples might include: returned item charges for unpaid standing orders / direct debits.)
<b>Early settlement</b>	To include details of any early settlement fees
<b>* Optional example</b>	<i>Subscribers can provide one or more illustrative examples in addition to the prescribed Representative Example, if they choose, but must ensure that any example given complies with the Consumer Credit (Advertisements) Regulations 2010.</i>

## Layout

Presentation should be clear and legible and in compliance with the Consumer Credit Advertising Regulations. The summary box can include key product information for more than one of the subscriber’s unsecured loan products, but information for each product should be presented in an individual column.

Subscribers are encouraged to use the standardised wording shown above, where applicable.

### Left hand column

The sequence of information presented in the left hand column should be the same for each product and in the order outlined above.

### Right hand column

This text provides examples of the types of information that should be presented for each key product feature, but these examples are not prescriptive or exhaustive. Subscribers should ensure that information relevant to the key product feature (left hand column) is included in the right hand column. Subscribers are not required to include information in the right hand column on features that the product does not include e.g. 'Not applicable' can be inserted. Subscribers should ensure that they are compliant with customer information requirements under relevant consumer credit legislation.

## Representative APR

Subscribers need only show whichever of the two suggested examples is relevant to the way the product is priced.

Subscribers are encouraged to include whichever of the variables included in the example summary box above is relevant to the way the product is priced i.e. personal circumstances; time period over which the loan is repaid; the amount you choose to borrow.

## APR ranges

The ranges should be based on the price bands used in the financial promotion. In the example above, the financial promotion is for loans of £5000 to £10,000.

If the APR will be affected by the repayment period this should be articulated.

## Interest charging information

An example of the way in which this information could be presented is:

Once agreed, the APR is fixed and guaranteed for the life of your loan. The interest, at the agreed rate, will be calculated on the amount of loan outstanding each day and debited from your account monthly in arrears.

## Other fees

This should include any fees that can be incurred by the customer which are not outlined in other sections of the summary box. Information should include whether fees are added to the loan; paid monthly; paid in advance/arrears; interest bearing etc.

# Glossary

These definitions explain the meaning of words and terms used in the Lending Code. They are not precise legal or technical definitions.

**Annual Percentage Rate (APR):** APR is a way of representing the total cost of credit on a loan, or credit card on an annual basis to allow consumers to be able to compare the costs associated with borrowing across from a range of products and/or from a range of lenders.

**ATM (automated teller machine):** Also known as a 'cash machine', a free-standing machine in which a customer can use their card to obtain cash, information or other services

**Basic bank account:** A basic bank account will normally have the following features:

- Employers can pay income directly into the account;
- The Government can pay pensions, tax credits and benefits directly into the account;
- Cheques and cash can be paid into the account;
- Bills can be paid by direct debit, by transferring money to another account or by a payment to a linked account;
- Cash can be withdrawn at ATMs;
- There is no overdraft facility;

**Buffer zone:** A small overdraft facility that a current account provider will allow a customer to use, either on an account with no formal borrowing arrangement or beyond a formal agreed limit. The customer will be informed if a buffer zone is available (except in respect of basic bank accounts).

**Charge card:** A card which allows a customer to make purchases and to draw cash, up to an arranged credit limit. The terms include paying the balance in full at the end of a set period. The customer will normally be charged a fee each year.

**Common Financial Statement (CFS):** A review of the financial position of a customer in financial difficulties that is completed with the help of a money adviser. It allows the customer to offer repayments from their available income to a group of creditors.

**Consolidation loan:** A loan that is used to pay off existing borrowings from one or more providers. Typically consolidation loans are used to help a customer who is seeking to repay their debts over a longer period and/or at reduced monthly payments.

**Consumer:** Any individual who is acting for purposes which are not linked to their trade, business or profession. (This definition is based on the one used in European legislation and by the Financial Conduct Authority with the title of either 'consumer' or 'retail customer'.)

In practice, consumers may act in a number of capacities. Examples of consumers acting in capacities that are included in the above definition are:

- personal representatives, including executors, unless they are acting in a professional capacity, for example, a solicitor acting as executor; and
- private individuals acting in personal or other family circumstances, for example, as trustee of a family trust.

The term 'consumer' does not include an individual acting, for example:

- as trustee of a trust such as a housing or NHS trust; or
- as a member of the governing body of a club or other unincorporated association such as a trade body or a student union; or
- as a pension trustee.

**Credit card:** A card that allows a customer to make purchases and to draw cash up to an arranged credit limit. The customer can pay off the credit granted in full or in part by a set date. Interest is usually charged when the balance is not paid in full. In the case of cash withdrawals, interest is normally charged from the transaction date. The customer may also have to pay an annual fee.

**Credit card cheque:** A cheque drawn against a credit card account that gives the cardholder another way of accessing funds up to their credit limit. Credit card cheques are often used to make transactions where credit cards are not accepted. Interest is normally charged from the transaction date.

**Credit reference agencies (CRAs):** Organisations, authorised and regulated by the Financial Conduct Authority, which hold information about people that is useful to lenders. Financial institutions may contact these agencies for information to help them make various decisions, for example, whether or not to open an account or provide loans or grant credit. Financial institutions may also give the agencies information.

**Credit scoring:** A system that lenders use to help them make decisions about whether to open an account or lend money. Credit scoring measures the likelihood that a customer will run an account in an acceptable way or repay a loan or other borrowing on time.

**Debt collection agency (DCA):** A third party (authorised and regulated by the Financial Conduct Authority) appointed by a lender to seek repayment of a debt from a customer. The DCA can be an agent of the lender or a subscriber to the Lending Code in its own right, when acting as an agent a DCA must comply with all of the requirements of the Lending Code, as if it were the lender.

**Debt management plan (DMP):** An agreement made between a customer and their lenders, arranged and operated by a third party, facilitating payments to the customer's creditors when the customer is unable to maintain their contractual payments due to financial difficulties. (See also **Repayment plan**)

**Durable medium:** Any means by which a customer is able to store information addressed personally to them in such a way that it is accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information. Such means may include letters, paper bank statements, emails and other communications that can be saved and reproduced/printed at a future time.

**Guarantee:** A promise given by a person called 'the guarantor' to pay another person's debts if that person does not pay them.

**Hardcore borrowing:** Hardcore borrowing refers to the position where a customer's current account overdraft remains persistently overdrawn for more than a month without returning to credit during that period.

**Indicative quotation:** An indicative quotation is information provided by a lender in response to a customer who wishes to know the likely cost of borrowing a specific amount on one or more risk-priced products. An indicative quotation does not bind the customer to borrow or the lender to provide credit but it can be used to enable a customer to compare different products and costs. Any credit search undertaken to provide the indicative quotation is not registered as a full application search at CRAs.

**Interest:** A charge for borrowing money which is usually shown as a percentage of the amount borrowed.

**Joint and several liability:** When two or more people have a loan, credit card or account or guarantee, they have 'joint and several liability' which means that each is individually responsible for the full amount of any borrowing.

**Micro-enterprise:** A business that employs fewer than 10 persons and has a turnover, or annual balance sheet, that does not exceed €2million.

**Overdraft:** A facility provided as a current account service that allows the customer to spend more money from their account than they have in it. An overdraft can be either:

- arranged, where a formal facility is agreed by the lender with the customer
- unarranged, where borrowing is undertaken without the prior agreement of the lender

**Payment service user:** A person making use of a payment service in the capacity of either payer or payee, or both.

**PIN (personal identification number):** A confidential number which enables a customer to authorise a transaction on a bank account or credit or charge card at a point of sale terminal.

**Private banking:** Accounts and services made available to customers that provide them with access to relationship-based banking services and bespoke borrowing arrangements.

**Recurring transaction:** A regular payment (other than a direct debit or standing order) collected from a customer's card account, in line with the customer's instruction. Recurring transactions are not covered by the Direct Debit Guarantee.

**Repayment plan:** An agreement made between a customer and one or more of their creditors when the customer is unable to meet their full contractual payment terms. (See also **Debt management plan**)

**Right of set-off (ROSO):** The right of a bank or building society to recover moneys due to it by using a credit balance on a customer's account to make up all or part of a debt due to the bank or building society on another account such as a loan or a credit card, for example because of a missed payment.

**Security:** A word used to describe valuable items such as title deeds to houses, share certificates, life policies and so on, which represent assets used as support for a loan or other liability. Under a secured loan, the lender has the right to sell the security if the loan is not repaid.

In the case of limited companies, security may include guarantees from other group companies or from company directors or a mortgage debenture, which is a form of security that includes a charge on all the assets of the company.

**Standard account services:** Opening, maintaining and running accounts for transmitting money (for example, by cheque or debit card).

**Summary Box:** This provides the customer with a brief summary in a standard format of the key features of the credit card or loan they are considering so that they can understand and compare different products more easily.

**Token offer (or payment):** An offer of payment of a small amount, e.g. £1, made by a customer who has no surplus income available for their 'non-priority' creditors and whose circumstances have a realistic prospect of improving so that they will be able to resume full or increased payments

**Unsatisfied transaction:** A credit card transaction in which the seller fails to provide the goods or services as described, e.g. the goods are damaged or are not received by the customer, or the service is not, or not adequately, provided.

**Working day:** Monday to Friday, not including bank holidays.