

Consumer Credit sourcebook

Chapter 8

Debt advice

8.2 Conduct standards: debt advice

Overarching principles

8.2.1 **G** The Principles for Businesses (*PRIN*) apply as a whole to *firms* with respect to *debt counselling, debt adjusting and providing credit information services*.

8.2.2 **G** (1) One aspect of conducting a *firm's* business with due skill, care and diligence under *Principle 2* is that a *firm* should ensure that it gives appropriate advice to *customers* residing in the different countries of the *UK*. Failure to pay proper regard to the differences in options for *debt solutions* available to those *customers* and to the differences in enforcement actions and procedures is likely to contravene *Principle 2* and may contravene other *Principles*.

[Note: paragraph 3.23d of *DMG*]

(2) Recommending a *debt solution* which a *firm* knows, believes or ought to suspect is unaffordable for the *customer* is likely to contravene *Principle 2, Principle 6 and Principle 9* and may contravene other *Principles*. The *firm* should also take into account the expected term of the proposed *debt solution*, having regard to the *Principles*.

[Note: paragraph 3.26j of *DMG*]

(3) An example of behaviour that is likely to contravene *Principle 6* and may contravene other *Principles* in this field is for a *firm* to actively discourage a *customer* from considering alternative sources of *debt counselling*.

[Note: paragraph 3.23m of *DMG*]

8.2.3 **G** A *firm* covered by **CONC 8** has obligations under the *FCA's* Dispute Resolution: Complaints sourcebook (*DISP*) to treat complainants fairly; these are set out in **DISP 1**.

Signposting to sources of free debt counselling, etc

8.2.4 **R** A *debt management firm* must prominently include:

(1) in its first written or oral communication with the *customer* a statement that free *debt counselling, debt adjusting and providing of credit information services* is available to *customers* and that the *customer* can find out more by contacting *MoneyHelper*; and

(2) on its web-site the following link to the *MoneyHelper* web-site (<https://www.moneyhelper.org.uk/en/money-troubles/dealing-with-debt/use-our-debt-advice-locator>).

[Note: paragraph 1.7 of Debt Management Protocol]

Dealing with lenders of customers

8.2.5 **R** A firm's communications to *lenders* (or to *lenders'* representatives) on behalf of its *customers* must be transparent so as to ensure a *firm's customer's* interests are not adversely affected.

[Note: paragraph 2.5 of DMG]

8.2.6 **R** Where entry into a *debt solution* will lead to a period when payments to *lenders* (in part or in whole) are not made or are retained by the *firm*, the *firm* must, as soon as possible after the *customer* enters into the *debt solution*, notify the *customer's lenders* of the reason payments are not to be made to the *lender* and the period during which that will be the case.

[Note: paragraph 3.18niv of DMG]

Vulnerable customers

8.2.7 **R** A firm must establish and implement clear and effective policies and procedures to identify particularly vulnerable *customers* and to deal with such *customers* appropriately.

[Note: paragraph 2.4 of DMG]

8.2.8 **G** Most *customers* seeking advice on their debts under *credit agreements* or *consumer hire agreements* may be regarded as vulnerable to some degree by virtue of their financial circumstances. Of these *customers* some may be particularly vulnerable because they are less able to deal with *lenders* or *debt collectors* pursuing them for debts owed. *Customers* with mental health and mental capacity issues may fall into this category.

[Note: paragraph 2.4 of DMG]