LSB

The LSB's Information for Practitioners

The Standards of Lending Practice for business customers

Treatment of customers in financial difficulty – Business support units

November 2022

This document has been produced by the LSB and provides non-exhaustive examples of the approach Registered Firms (Firms) may wish to take into consideration when seeking to adhere to the Standards of Lending Practice for business customers (the Standards) on financial difficulty.

Registered Firms must be able to demonstrate to the LSB that they are adhering to the Standards of Lending Practice; however the LSB does not monitor compliance with the content of this document and as such, it is not intended to be prescriptive nor binding on Registered Firms. The LSB acknowledges that each Firm will have its own way of demonstrating that it is adhering to the Standards without the need to refer to, or take account of, the content of this document.

Where a reference to made to the Consumer Credit Act 1974, as amended (the CCA), the Consumer Credit Sourcebook (CONC), other Financial Conduct Authority (FCA) requirement or wider legislation, the examples or suggestions which follow represents the LSB's view on how the Standard could be achieved.

This document will be kept under review and updated to reflect examples of good practice being undertaken across the industry in this area.

Customer outcome: business customers transferred to business support units will receive appropriate treatment and support and, where practicable, will be returned to mainstream banking.

Firms will achieve this: with transparent processes and procedures, working openly and constructively with customers with a focus on returning the business to viability in a timely and cost-effective manner.

This section of the Information for Practitioners is for the dedicated section of the Standards on business support units. For the purposes of this document, business support units refer to any specialised unit/team within a firm that has been set up to work with business customers who are experiencing a credit deterioration but are looking to return a business to viability. The LSB recognises that not all firms have business support units in place and where they are, there is not one model which is applied consistently across registered firms.

Customers may move in and out of financial difficulty/business support units during the course of their relationship with their firm. However, firms will apply a consistent approach to the treatment of businesses in financial difficulty, regardless of where responsibility for the relationship with the customer sits within the firm.

1. Firms should ensure that appropriate governance arrangements are in place to safeguard against conflicts of interest in relation to the functions of the business support unit and the mainstream bank

Business customers who are transferred to a business support unit within a firm may not necessarily have previous experience of working with a business support or turnaround unit. Such units are customer focused and are seeking, where possible, to return the customer to the mainstream bank. In many cases, it may also be the case that the individual(s) running the business have closely linked business and personal financial circumstances. This may make customers more vulnerable to harm and makes it vital that governance processes are in place to ensure the customer is safeguarded against potential conflict of interest that could arise between the commercial objectives of the firm and the customer focused objectives of the business support unit.

To that end, business support units should have a clear customer focused objective which recognises that the purpose of the unit is to, where possible, return businesses to viability in a timely and cost-effective manner and to support a business to return to mainstream banking.

Firms should recognise that there is the potential for a conflict of interest between the customer focused object of the unit and the firm's wider commercial objective, with the support units focused on supporting a business back to viability. Firms' business support units should have in place an independent framework of systems and controls that allow firms to identify and manage risks to customers who have, or who may be, transferred to a business support unit. Controls could include:

- A clear structure which sets out frontline oversight of relationship managers
- Reporting structures that are independent of the mainstream bank
- Bespoke training for support unit staff which, among other things, highlights the customer focused objective of the unit and the need for those working in the business support unit to safeguard against potential conflicts of interest

- A risk management framework that is used to enable key risks to be identified, recorded and monitored.
- The collection of appropriate management information (MI) to allow for risks to customers to be monitored and to enable senior management to have clear oversight of such risks
- Second and third line reviews of the work of the unit with a focus on customer outcomes
- Reviews, as appropriate, of the criteria used to assess whether a customer should be referred to a business support unit.

2. Firms should have a criterion in place for the consideration of the referral of a customer to a business support unit and for the subsequent assessment of viability

Firms should have a documented criteria for the referral of a customer to a business support unit and the subsequent assessments of viability of the business. Each firm will have its own criteria and approach to referring customers to turnaround units. The criteria used could be based on what the firm knows about a customer's situation and business, including the levels of financial distress and the assessed likelihood that a customer will require turnaround actions in order to continue making repayments.

When assessing the cause of the businesses decline and its viability, firms may also wish to consider external factors relevant to the firm, this could include:

- Significant regulatory changes
- Macro-economic trends that are resulting in a change in demand for a customer's products or services
- Temporary or longer-term supply chain disruption
- Changes or disruption cause by a customer's competitors.

Firms should have processes in place to ensure that the criteria are clearly understood by relevant customer facing staff and that employees who are responsible for assessing whether to refer a customer to a support unit or assessing a customer's viability are appropriately trained. Staff should be aware of the potential for conflicts of interest between the objectives of the support unit and the firms' wider commercial objectives.

The process and criteria for assessing and referring customers should be periodically reviewed to ensure they are appropriate and are focused on customer outcomes. Firms should consider what MI may be helpful to support such reviews and should consider having in place clear processes to ensure that appropriate and relevant MI is collected. Where there is an element of discretion in the assessment criteria and this is relied on, those assessments should be subject to additional oversight and review.

3. Firms should ensure that appropriate policies and procedures are in place to ensure that staff are trained and supported to deliver good turnaround practice

Not all business customers transferred to a business support unit will be financially sophisticated and, it may also be the case that the individual(s) that firms are dealing with have closely linked business and financial circumstances. This may put customers at a greater risk of experiencing vulnerability.

Support units are likely to be made of up of staff with arrange of experiences, including staff who have worked in business banking for many years. Key person risks can materialise, with knowledge gaps occurring as staff retire, fall ill, or move into other roles, if there is not sufficient training in place to ensure all staff maintain skills and knowledge specific to support units. Firms should try to ensure 'in-house' knowledge is captured and documented or part of a training processes.

It is important that firms are confident that the training packages relating to SME financial difficulties and support unit teams are comprehensive and provide a thorough grounding in the skills needed to complete the role. Staff providing support for customers will likely need to have a strong understanding of a firm's approach to SMEs in financial difficulty and to vulnerable business customers. Firms should also ensure that staff are trained to support customers through a range of possible turnaround journeys, including providing support to customers where a turnaround plan is not successful.

When considering what training is appropriate for staff, firms may wish to consider the range of businesses that may be referred to a support unit and the variety of reasons that customers businesses may need support. Firms may be experiencing financial difficulty for several reasons, these could be external factors, which may have caused temporary or longer-term economic shocks, or factors internal to the business, such a governance failures, poor strategic decisions, or changes in personnel. Staff training, and support for customers, will likely be more valuable if it helps ensure that staff are able to reflect on and offer support in the wide variety of circumstances in which customers may find themselves.

Training on good turnaround practice should also highlight the importance of communication with business customers. Customers, and their businesses, will vary in terms of the level of financial expertise and experience with financial difficulty or turnaround units. Some customers may also be dealing with financial stresses that impact on both their business and personal finances. As such, staff should look to ensure that communications with customers are sensitive to the customer's circumstances. This may mean for instance, that the best outcome for a customers can be achieved by communicating through a mixture of conversations and written communications, as this allows the customer to ask questions where they are not clear on an issue as well as having a permanent record of all key information, terms or agreements.

Alongside training there should be staff support and monitoring in place for new team members. For example, when new staff begin to work in the live environment, there should be additional quality assurance steps in place to check that new agents are working correctly. This additional oversight could be supported by a mentoring or coaching framework to help the new joiner continue to develop outside of the classroom environment.

Any training packages should be regularly reviewed individuals or a team accountable for regularly reviewing and (when needed) refreshing the training can mitigate the risk of training being missed or inaccuracies building up over time.

4. Firms should provide clear communications to customers to enable them to understand why they have been transferred to a business support unit, the firm's concerns and the proposed next steps

Firms should provide the customer with communications that clearly set out the reasons why they have been transferred to the support or turnaround unit. Communications should enable the customer to understand the criteria they have been assessed against and what information about the customer's business has been used to make that assessment. In addition, it should be made clear to the customer that the objective of the unit is to support a business to return to viability where possible.

Customers should also be made aware that, while the purpose of the unit is to support a business to return to viability, the unit can only support the business if it remains the case if the firm/unit is of the view that the business has the potential to return to viability and if the customer is able to agree a turnaround plan that is acceptable for all relevant parties.

Firms should be alert to the fact that customers transferred to a business support unit may be at a heightened risk of vulnerability and are experiencing financial distress, firms should consider the benefits of both providing details in writing and providing the customer the opportunity to speak to an appropriate member of staff. This will ensure that the reasons for referral can be recorded, and that the customer can easily retrieve details about process and any next steps. Speaking to the customer will, in addition, provide those who may not have had prior experience of financial difficulty or support units an opportunity to ask questions or gain clarity on the process. It can also provide firms with an opportunity to understand the customer's views, or to address any concerns they may have about the referral.

When referring a customer to a business support unit, firms should also consider the potential benefit to customers of providing details of how they can access free and impartial advice.

As part of any oversight or review activity, firms should consider whether improvements could be made to communications. This may, for instance, involve taking into account any customer feedback obtained at, for example, the outset of the process or during the course of their time in a turnaround or business support unit.

5. **Firms should keep the need for business support unit involvement under continuous review and customers should be aware of the processes the firm has in place for returning viable businesses to mainstream banking**

A business customer that has been transferred to a business support unit should have their situation reviewed regularly so that, if appropriate, the customer can be returned to mainstream banking in a timely fashion.

Customers should be made aware of the frequency of planned reviews, how firms will review the need for the involvement of a business support unit, and of any information they may need to provide or actions they may be expected take to support review processes.

Customers should also be aware of how to get in touch with the firm should they experience a change in circumstances that they believe should be considered by the firm. Where there is a material change in circumstances, firms should look to review the impact of those changes in a timely manner and, if appropriate, to agree changes or new actions with the customer. If a customer can demonstrate their business is now viable and suitable for a return to mainstream banking, firms should look to return the customer to mainstream banking in a timely manner agreed with the customer.

Customers should also be aware of the processes that will be followed for businesses assessed as being viable and able to return to mainstream banking. This means customers should receive communications regarding the timings for any planned return, steps that the firm or the customer will be expected to take to facilitate that return, and any changes that will come into place – such as changes in relationship management or changes to repayment schedules or arrangements.

6. **Firms should support a customer's turnaround plan where the firm has assessed the business to be viable. Firms should ensure that where a turnaround plan is agreed with the customer, the terms of the support are documented**

Business support units should, in line with the unit's objectives, support the development of a turnaround plan (including where the customer has engaged a third party) if the firm has assessed the customer's plan to be viable and appropriate to support a return to mainstream banking.

For all arrangements agreed between the customer and the firm, including any forbearance, the customer should be able to readily access the details of the agreement. This should include being able to access key information such as the terms of the support, important dates, and details of any actions required by the customer and the firm. Where applicable, firms should also advise the customer of the impact any arrangements or forbearance will have on their credit file.

Firms may wish to consider the complexity of any agreement or support and the financial capability or expertise of the customer when considering how best to discuss or communicate the detail of the support being provided. For some customers, particularly those with less financial expertise or who may be considered vulnerable, firms may wish to consider providing customers with access to additional support, such as additional calls or meetings with staff.

7. If a firm is unable to support a turnaround plan, the customer should be notified of the reasons why and given a reasonable period of time to consider the options open to them

There will be a range of reasons why firms may be unable to support a turnaround plan for a customer which may relate to the either the firm's assessment of the business' viability or a firm's credit and risk policies and criteria. Where a firm is unable to support a turnaround plan, the customer should be clearly notified of the reasons why the firm is not able to support the plan, what this means for the customer, their existing borrowing, and their relationship with firm. Customers should be provided with the opportunity to clarify their understanding, if required.

To ensure customers can consider the options open to them after a being informed that the firm cannot support the proposed turnaround plan, firms should clearly set out and document for the customer the reasons why the plan cannot be supported. Firms should ensure that customers are given time to consider any options that might be open to them, including seeking support from third parties or other providers. Firms should make sure customers are informed that they are being given time to consider the options open to them and provided with a clear timeframe for the next steps.

Firms should consider how best to communicate this to customers. For example, some customers may benefit from a conversation with a member of staff to help them understand the reasons a firm has decided not to support a customer's plan. A conversation may also help to make sure the customer can understand the options that might be open to them and the timings and potential impact of any next steps that the firm may take. Firms should ensure that any reasons are recorded so that they can be referred back to by both the customer and the firm.

8. Firms should ensure that customers are provided with clear information on the range and type of fees and charges which may be applicable, and when these will be applied

Customers may be subject to fees or charges associated with the support they are offered following a referral to a business support unit. They may also see changes to fees and charges associated with their debt and repayment plans if the customer accesses forbearance or agrees to changes to their existing borrowing and debt as part of a turnaround plan.

Firms should ensure that customers are given any information regarding fees, charges or costs that may be applicable and provided with clear information as to where in the process they will be applied. Details of this should be shared with customers in writing and in advance of fees and charges being applied. Firms should consider offering customers the opportunity to speak to a member of staff about any fees or charges to help them understand why they are incurring these costs and the potential impact on the overall financial health of the business.

9. Firms should ensure that fees and margins applied take into account the customer's financial circumstances and their ability to pay. These should be discussed and agreed with the customer

Where firms charge fees, for instance for valuations, or apply any other costs to a customer who has been referred to a business support unit, firms should ensure that that the process by which the fees and costs are set includes consideration of the customer's circumstances and their ability to be able to pay these additional costs.

Fees and additional costs should be set in line with the objective of supporting turnaround plans where they are assessed to be viable and returning customers' businesses to viability and to mainstream banking.

Firms should ensure that fees and additional costs are discussed and agreed with the customer ahead of being applied.

To help in determining fees or costs that will be incurred by the customer, firms should consider having pricing frameworks or policies in place that staff are trained to use. Where discretion can be exercised, firms should ensure that there is sufficient oversight to ensure that discretion is exercised appropriately. Records should be kept of the rationale for pricing decisions, so that they can be subject to review at a later date.

Firm should ensure that the potential value and impact of any costs incurred are communicated clearly with the customer ahead of the customer agreeing to them. Firms should ensure that details of any agreement are recorded and can be referred back to if necessary.

10. Firms should ensure that the rationale for pricing decisions is documented and validated. It should take into account the customer's circumstances and the impact this may have on the scope for successful turnaround

To ensure firms have appropriate oversight of pricing decisions, and that firms are able to effectively review decisions, it is essential that clear governance, policies and processes are in place for the setting, recording and validating pricing decisions made by members of staff within business support units. The term 'pricing' can mean a number of things and it may not always be clear to customers what this means and what is covered. Pricing can include examples such as:

- Increases to the margin paid on the loan
- Management fees
- Arrangement fees
- Exit fees
- Waiver fees
- Unauthorised overdraft

To support customer's understanding, firms should ensure that clear information is provided to customers, at the appropriate time, regarding any additional costs which may apply during their time in the turnaround unit.

Documentation on pricing decisions should include a rationale that demonstrates consideration has been given to the customer's particular circumstances and the impact the decision might have on the customer's ability to return the business to viability and move back into mainstream banking services.

Where firms make pricing decisions based on a framework, firms should indicate the rationale used when determining how to set prices against the framework. Where discretion can be exercised by members of staff, it is particularly important that the rationale for pricing decisions is recorded, and the use of discretion justified with sufficient detail to allow the decision to be effectively reviewed as part of any regular QA activity.

11. Where valuations are required, firms should ensure that the customer is provided with clear information regarding the purpose of the valuation and whether there are any costs associated with it

Firms should have documented processes in relation to valuations which includes evidencing how valuations have been reached. These processes should include providing the customer with an explanation of why a valuation is required, how this will be undertaken and sharing with the customer in advance the details of any charges that may need to be covered by the customer as part of the valuation process.