ombudsman news

essential reading for people interested in financial complaints – and how to prevent or settle them

Financial Ombudsman Service

dealing with debt

Caroline Wayman
chief ombudsman

This time of year can be bleak. With turkey and twinkling lights a distant memory, it's back to reality. Many people will also be facing debt, exacerbated by the cost of Christmas, higher heating bills, and other expenses that peak in winter.

In 2018, Citizens Advice said people are struggling more with bills such as council tax and energy than with debt relating to financial services. This household debt sits outside the FCA's remit – and ours as the ombudsman. But the two are linked, because in some cases they're one of the reasons people take out loans, credit cards and other regulated debts. And these are things we can help with.

So what are we seeing, and how can we help? We've highlighted in this *ombudsman news* how businesses' lack of empathy or flexibility can create additional problems for people who are struggling, and potentially in vulnerable circumstances. We'll use our powers to ensure this doesn't continue – and in some cases, tell businesses to pay compensation for the upset they've caused. The case studies we've chosen are aimed at helping businesses do things better.

But we're also reassured by good practice we see. These positive signs are backed up in our own recent research: in complaints we reviewed in-depth, we saw a majority of debt collectors following codes of conduct, limiting the impact of unavoidably stressful situations.

in this issue

The consequences of debt can escalate quickly – and where debt collection's concerned, things may be a long way down the line before we're asked to step in. So we'll need to effectively prioritise cases where people urgently need our help. We'll also need to quickly identify what's beyond our remit, and make sure we're signposting to other organisations who can provide support. This will often be free advice agencies or debt charities, which play a central role in helping people resolve their money worries once and for all.

While the prospect of tackling your debt may be overwhelming, constructive conversations – followed up by effective action – are key to turning things round.

In this issue, we've asked people representing a range of perspectives – Citizens Advice, the Credit Services Association and Monzo Bank – for their thoughts on the challenges ahead. What's clear is that debt is a complex problem, and no one organisation gets the whole picture. It's essential we keep talking about what we're each seeing – to help improve fairness for customers in our own regulated sector, financial services, as well as for those outside it.

debt collection – what people asked us to look into

top three issues in complaints resolved between 1 January and 31 December 2018

21% whether they were being asked for the right amount of money

13% customer service issues, including administration errors, being contacted excessively or about debt they believed they'd repaid

13% that the debt they were being chased for wasn't theirs

Caroline

... constructive conversations – followed up by effective action – are key to turning things round ...

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debt collection: different sides of the story

The availability of credit, together with the costs of utilities, council tax and mobile phone bills, inevitably lead to some people struggling to keep up. For a small but significant number of people, the situation escalates to a point where they're contacted by a debt collector.

So what can be done to ensure better outcomes for the people involved? We asked Citizens Advice, the Credit Services Association and Monzo Bank to share their views.

Debt collection and what we can learn

Adam Burgess
senior creditor liaison policy officer
Citizens Advice

In 2018 there was a renewed focus on the problem of household debt, with reports on the subject being published by Citizens Advice, the Treasury Select Committee and the National Audit Office, and the formation of the Financial Inclusion Policy Forum.

With these debts being looked at in more detail, it is inevitable that the methods used to collect them are also examined. This leads to comparisons between the practices of 'household' debt collectors (such as local or central government) and commercial creditors.

Money advisers are aware that how debts are collected plays a huge part in how people manage to cope with them. The way organisations chase debt can push people further into debt and turn small amounts of arrears into large, unmanageable debts.

Making these comparisons allows us to consider the progress that the commercial credit industry has made. Over the past decade the sector has made significant improvements in assessing affordability, identifying people in vulnerable circumstances, working with the advice sector and communicating with their customers. There is no doubt that improved regulation from the FCA has played an important part in this. Yet, the industry should be given credit where it is due.

In contrast, the debt collection practices of local and central government, and some essential service providers, have fallen behind considerably. Last year, of the problems Citizens Advice helped people with, household debt issues were almost twice as likely to be related to the way debts were collected than consumer credit debt issues.

As an example, the reliance of local government on bailiffs is a common problem which has knock-on effects. Using bailiffs can quickly increase a debt and make agreeing a sustainable payment plan more difficult. Maintaining payments to a bailiff can mean sacrificing other repayment plans, leaving the client in a debt cycle that is difficult to escape. Adopting some of the standard practices of the commercial sector, such as implementing the standard financial statement, would both help people in need and improve long term recoveries for household debt collectors.

There is a great deal that government and essential service providers could learn from the credit industry about debt collection. However, that does not mean that all commercial collection is problem-free. At Citizens Advice we still see a considerable amount of poor practice from commercial creditors. In the past 12 months, we have also seen a 4.4% rise in the number of issues about collection practices by commercial firms.

With the implementation of 'breathing space' and a statutory debt repayment plan (SDRP) on the horizon, both the commercial and household debt industries should collaborate with regulators and the money advice sector. A good first step would be for breathing space and SDRP to include debts to local and central government, particularly those which can be deducted directly from Universal Credit. This would give protection to those who are struggling short term and mean these debts are more likely to be collected in the longer term.

"... both the commercial and household debt industries should collaborate with regulators and the money advice sector"

how Monzo approaches debt collection

Chris MacLean
financial difficulties analyst
Monzo Bank

At Monzo, we're committed to taking a friendly, empathetic and inclusive approach to collecting on money owed. We start with a single principle, which assumes that any customer who misses a payment or enters into arrears is probably experiencing financial difficulties, and is more likely to be vulnerable.

we speak to all our customers with the same friendly tone

As we see it, customers who find themselves struggling to repay us are still valued customers, and the collections process is just another part of the overall customer service experience at Monzo. That's why we opted to keep collections in-house. It gives us full control of the tone, content and structure of any communication with the customer.

We speak to customers in a friendly, conversational, non-judgemental tone across all stages of the collections journey. Which means we give every

Monzo customer the same, high standard of support – whether they're in debt or not.

we do what's best for each customer's needs

Our primary goal is to encourage customers to engage with us, so we can figure out how to help them get back in good financial shape. We can do the usual things like temporarily freezing fees, giving customers a period of breathing space, or signposting them to charities to get expert help. But we've also built many useful features into the app. Like the ability to create a budget, set limits and controls on spending by category, or block all gambling activity on the account. Without ever needing to get in touch with us. We want to help customers learn to manage their money better, and help them avoid getting into debt again down the road.

We offer flexible and pragmatic solutions, and we also build this flexibility into our tech and the tools we use to help customers. Which means we're able to create bespoke solutions on the fly, offering a tailored experience for each customer's specific circumstances. We don't want rigid rules and processes to get in the way of the best outcome for the customer.

we've built the best possible team for the job

We go out of our way to hire empathetic people so our collections experience is as supportive as it can be. We have former regulators (FCA), debt advisers (CAB), addictions counsellors and healthcare workers (NHS) on our team, as well as people who've been in financial difficulties or vulnerable circumstances themselves. We've even got a member of staff who's midway through an Individual Voluntary Arrangement (an alternative to bankruptcy for people unable to meet their financial obligations). His experiences have helped us improve our messaging strategy for customers who can't afford to repay their debts, or are considering a formal debt solution.

we're creating an industry-leading collections experience

We're just getting started, but our goal is to create a collections experience that sets the bar for the industry. We'd love to have an informative, collaborative process, where our customers can weigh up their options and choose the solution that suits them best.

Eventually, we'd like to bring the full collections journey into the Monzo app. This would allow customers to select the best option for them, direct from the app. Of course, we'll still be on hand to help at the click of a button. But by making the Monzo collections experience automated and self-driven, we can help reduce the stress and anxiety people feel when in financial difficulty and in need of assistance. And if we can do that, hopefully we can help even more people to get back on their feet financially.

"Our primary goal is to encourage customers to engage with us, so we can figure out how to help them get back in good financial shape"

raising the standard of debt collection

Peter Wallwork
chief executive
Credit Services Association

Ask a politician, journalist or average person on the street about debt collection and they are bound to have an opinion. Not many, however, would understand the sheer scale and professionalism of the modern-day debt collection agency or debt purchaser, or be able to quote their contribution to the UK economy.

The 300 members of the Credit Services Association (CSA) hold something in the region of 50 million accounts, totalling almost £60 billion of debt. More importantly, perhaps, they return around £4 billion of that debt to the UK economy every year.

All members of the CSA adhere to a strict Code of Practice, recognised by regulators, government, and our members' clients – usually large banks or credit card companies. They want to know that their customers' treatment is the same when in credit, as it is when they fall into debt, especially when that debt is outsourced or acquired by a third party.

Debt collection agencies today have sophisticated customer services teams, and well-established processes for ensuring any complaints are quickly and successfully managed. Involvement from CSA member organisations can be the positive catalyst to resolving complaints where debts have often accrued due to a breakdown in the relationship with the creditor.

For our members, getting people to talk and communicate has always been their core business. They try to find a mutually beneficial resolution for a customer where a creditor has failed to make that contact in the first place. Managing the repayment of an outstanding balance that could affect a credit rating, and putting money back into the economy is to everyone's benefit. And if the customer is unable to pay or it transpires they shouldn't have to pay for another reason, finding a solution is key. We know that when small debts are not resolved, they tend to escalate into bigger financial problems over time.

However, of all the issues around personal finances, anything labelled as 'debt' is still often considered taboo, even when it is easily resolvable. We still see people encouraging customers to ignore debt collection agencies in a bid to make the problem go away. Such guidance usually comes from unsolicited sources on online forums and unfortunately their advice doesn't help and can result in things escalating in a way that is of detriment to the customer.

CSA members are not afraid of complaints; genuine issues will always be heard, disputes will be taken seriously and members will do their best to find a resolution. Our message is a simple one: if you are in debt, and are struggling, then speak to the debt collection agency or debt purchaser concerned and invariably they will find a way forward, or direct you to one of the debt advice bodies that can act on your behalf.

If you have a genuine complaint, then similarly speak directly to the agency and, if that agency is one of our members, then if you need to, you can also raise it with us if you feel you do not receive a fair outcome. We are working hard to educate consumers and stakeholders to explain our role as the trade body for the industry, and why working with our members to address debts is so important and beneficial to financial wellbeing.

"... genuine issues will always be heard, disputes will be taken seriously and members will do their best to find a resolution"

third quarter statistics 2018/2019

a snapshot of complaints in the third quarter of 2018/2019

Each quarter we publish updates about the financial products and services people have contacted us about. We include the number of enquiries and new complaints we've received, the number of complaints referred for an ombudsman's final decision, and the proportion of complaints we've resolved in consumers' favour.

In this issue, we show the new complaints we received during October, November and December 2018 – and for comparison, the complaints we received last quarter, as well as those received during the same period last year, and during the whole of 2017/2018.

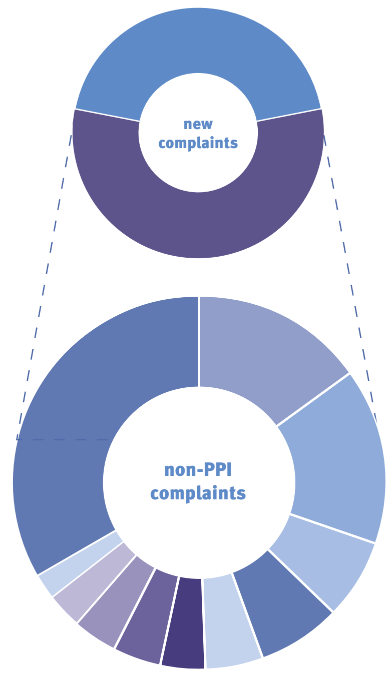
In the third quarter of 2018/2019:

- We received 161,195 enquiries and 92,903 new complaints – with 9,324 complaints passed to an ombudsman for a final decision. On average, we upheld 33% of the complaints we resolved.
- PPI continued to be the most complained-about financial product, with 40,855 new complaints. PPI complaints made up nearly 44% of all complaints we received.
- The number of complaints about payday loans has almost halved since last quarter, dropping from 14,578 to 7,728. But, for the year to date, we have received almost twice as many complaints about payday loans as we did in the whole of 2017/2018.

the financial products that consumers complained about most to the ombudsman in the third quarter of 2018/2019

- payment protection insurance (PPI) 44%
- complaints about other products 53%

- current accounts 15%
- payday loans 15%
- credit card accounts 7%
- car and motorcycle insurance 7%
- house mortgages 5%
- packaged bank accounts 4%
- hire purchase 4%
- buildings insurance 4%
- overdrafts and loans 3%
- instalment loans 2%
- other products 33%



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payment protection insurance	55,760	40,855	2,755	29%	61,636	43,326	3,787	26%	201,737	138,233	11,502	30%	283,623	186,417	13,605	36%
current accounts	10,453	7,728	592	56%	11,569	7,731	604	60%	33,677	22,464	1,814	52%	32,622	20,217	2,731	26%
payday loans	13,287	7,653	486	54%	23,714	14,578	487	49%	53,227	32,774	1,544	53%	25,263	17,256	2,080	61%
credit card accounts	4,972	3,692	400	35%	5,112	3,136	400	37%	14,985	9,856	1,159	35%	16,753	10,563	1,627	28%
car and motorcycle insurance	5,819	3,569	611	30%	6,430	2,982	632	30%	18,643	9,866	1,770	30%	25,411	11,887	1,982	28%
house mortgages	3,389	2,654	467	27%	3,845	2,540	453	24%	11,103	7,673	1,320	26%	13,438	8,888	2,103	23%
packaged bank accounts	3,911	2,337	169	13%	4,428	2,982	264	14%	14,738	8,811	654	12%	22,223	11,674	907	11%
hire purchase	2,981	2,313	253	43%	3,136	2,211	246	44%	9,281	6557	806	43%	8,983	5,805	1,172	35%

third quarter statistics
continued

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buildings insurance	2,314	1,980	309	35%	2,238	1,503	330	32%	7,016	5,148	969	35%	7,503	4,726	1,144	34%
overdrafts and loans	2,368	1,739	256	26%	2,640	1,570	261	24%	7,810	5,065	818	25%	11,020	6,909	1,101	28%
instalment loans	1,392	1,295	83	67%	2643	1878	50	53%	4,762	3,583	201	61%	1,554	1,122	393	58%
"point of sale" loans	1,347	1,087	213	52%	1,292	841	165	52%	4,267	3,039	472	50%	5,383	3,613	352	33%
travel insurance	1,310	1,048	153	34%	1,357	797	135	31%	3,954	2,652	433	34%	5,120	3,165	671	36%
self-invested personal pensions (SIPPs)	1,029	1,047	212	59%	777	826	223	62%	3,186	2,802	573	60%	3,215	2,051	591	52%
home emergency cover	819	646	172	40%	846	568	174	42%	2,910	2,103	485	44%	3,448	1,999	415	46%
hiring / leasing / renting	844	644	70	50%	871	526	52	46%	2,496	1,586	189	45%	2,611	1,587	248	31%
contents insurance	720	529	92	27%	666	376	98	27%	2,049	1,372	316	26%	2,757	1,743	414	27%
catalogue shopping	764	521	51	43%	843	525	78	45%	2,678	1,737	197	45%	3,992	2,191	225	45%
term assurance	462	508	88	17%	593	439	90	11%	1,976	1,593	268	16%	3,015	1,977	344	14%
personal pensions	904	490	98	22%	955	336	100	33%	2,580	1,230	277	28%	3,118	1,468	397	28%
debit and cash cards	635	475	64	34%	781	510	55	33%	2,182	1,438	171	34%	2,979	1,844	332	26%
deposit and savings accounts	607	474	67	34%	605	422	60	32%	1,947	1,357	204	31%	2,713	1,706	310	29%
whole-of-life policies	557	466	57	14%	634	366	90	15%	1,760	1,214	216	16%	2,130	1,304	280	16%
investment ISAs	440	457	64	45%	487	337	81	40%	1,460	1,194	218	44%	1,540	1,059	262	35%
pet and livestock insurance	559	421	56	28%	577	353	69	32%	1,763	1,191	171	30%	2,507	1,544	310	27%
electronic money	1,057	410	38	31%	948	333	40	26%	3,005	1,092	118	28%	3,742	1,155	163	32%
home credit	372	365	20	33%	515	358	28	39%	1,384	1,128	71	38%	1,223	808	102	34%
private medical and dental insurance	357	354	80	22%	388	248	70	18%	1,234	969	220	20%	1,620	1,115	269	24%
inter-bank transfers	572	346	44	31%	566	293	37	32%	1,770	981	114	30%	2,150	1,222	183	27%
mobile phone insurance	474	325	39	37%	488	251	39	26%	1,430	791	116	32%	1829	977	110	39%
debt collecting	854	322	34	32%	828	271	33	32%	2,482	850	97	33%	3,213	998	177	29%
roadside assistance	484	319	29	34%	490	180	33	42%	1,408	712	107	37%	1,220	712	120	36%
mortgage endowments	348	293	57	16%	405	228	53	19%	1,347	818	159	19%	2,213	1,078	218	14%
warranties	461	282	37	39%	408	182	38	59%	1,384	703	121	50%	1,884	919	178	44%
income protection	274	271	57	20%	308	210	55	24%	985	758	164	23%	1,300	865	195	20%
portfolio management	236	269	69	41%	260	203	59	44%	800	659	204	42%	1,112	815	364	37%
share dealings	299	261	52	41%	368	225	51	40%	1,066	745	158	43%	1,449	763	209	32%
critical illness insurance	288	252	51	15%	293	215	55	15%	948	719	174	15%	1,278	861	197	19%
occupational pension transfers and opt outs	190	244	92	44%	194	181	74	50%	677	614	218	43%	817	553	240	30%
specialist insurance	309	229	45	31%	299	196	42	49%	1,011	645	123	44%	1,581	1,076	158	33%
credit reference agency	397	228	40	57%	472	225	44	71%	1,406	757	104	58%	2,242	1,060	96	32%
commercial vehicle insurance	218	205	35	32%	192	151	28	36%	795	569	98	38%	1,002	523	113	32%
legal expenses insurance	225	204	56	29%	191	164	53	25%	714	560	168	27%	952	660	239	30%

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guarantor loans	220	177	20	20%	164	99	8	28%	512	349	40	27%	368	210	48	22%
annuities	147	170	32	15%	166	151	33	16%	537	478	94	16%	940	744	188	16%
cash ISA - Individual Savings Account	167	149	27	33%	212	178	36	31%	644	489	83	30%	718	484	89	29%
direct debits and standing orders	249	143	12	32%	254	105	17	33%	781	386	46	32%	1,079	501	79	31%
cheques and drafts	213	138	14	42%	183	122	19	39%	598	389	50	42%	740	447	85	35%
building warranties	124	129	22	20%	113	87	26	34%	372	306	71	29%	471	290	106	32%
secured loans	164	127	51	20%	186	160	40	17%	648	487	128	21%	1,174	781	187	25%
store cards	170	125	11	35%	247	132	9	45%	636	382	37	38%	889	508	67	37%
merchant acquiring	171	117	24	25%	177	132	20	32%	628	395	57	31%	889	510	67	31%
personal accident insurance	122	117	11	13%	116	77	13	20%	405	293	43	16%	630	410	76	23%
conditional sale	113	116	35	44%	124	110	32	49%	540	494	103	46%	731	533	151	38%
money remittance	118	104	11	44%	101	48	12	37%	374	209	32	38%	610	305	50	29%
unit-linked investment bonds	64	90	29	38%	64	54	29	36%	244	249	93	38%	388	306	117	31%
investment trusts	90	78	11	26%	64	47	8	43%	236	161	26	35%	364	199	48	38%
card protection insurance	97	73	3	22%	110	59	6	21%	372	211	13	21%	751	347	24	26%
income drawdowns	45	67	15	48%	37	37	13	58%	173	173	36	50%	202	169	54	36%
commercial property insurance	72	66	15	49%	66	53	19	42%	261	213	55	43%	422	269	113	30%
endowment savings plans	62	63	22	19%	79	53	10	39%	223	172	51	31%	380	263	80	25%
business protection insurance	73	54	22	26%	-	-	-	-	224	152	41	26%	314	189	53	25%
FSAVC – free standing additional voluntary contributions	47	53	17	19%	40	54	18	22%	166	170	55	19%	170	116	33	27%
unit trusts	49	51	8	23%	-	-	-	-	145	120	34	34%	175	121	38	34%
guaranteed asset protection ("gap" insurance)	75	49	11	44%	107	47	15	36%	297	168	36	34%	421	209	36	24%
spread betting	60	48	16	16%	-	-	-	-	200	130	60	14%	289	179	89	22%
caravan insurance	74	47	12	32%	74	41	8	19%	222	122	24	28%	213	119	32	28%
"with-profits" bonds	48	44	11	10%	53	52	19	29%	163	144	50	19%	266	188	75	23%
derivatives	29	31	14	25%	-	-	-	-	136	134	57	17%	290	183	94	19%
credit broking	-	-	-	-	-	-	-	-	231	127	16	29%	403	202	49	25%
logbook loans	-	-	-	-	-	-	-	-	193	109	32	34%	178	113	32	37%
OEICs (open-ended investment companies)	-	-	-	-	-	-	-	-	95	106	26	47%	153	110	45	18%
foreign currency	-	-	-	-	-	-	-	-	216	98	18	24%	308	132	20	19%
capital protected structured products	-	-	-	-	-	-	-	-	75	95	36	53%	169	137	59	29%
savings certificates/bonds	-	-	-	-	-	-	-	-	124	88	25	26%	180	99	17	23%
debt adjusting	-	-	-	-	-	-	-	-	196	88	12	35%	315	135	26	28%
premium bonds	-	-	-	-	-	-	-	-	138	87	13	22%	206	98	15	21%
state earnings-related pension (SERPs)	-	-	-	-	-	-	-	-	118	85	13	9%	148	92	16	8%

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debt counselling	-	-	-	-	-	-	-	-	123	68	16	19%	205	88	15	21%
banker's reference	-	-	-	-	-	-	-	-	118	68	8	33%	109	47	5	37%
PEP - personal equity plans	-	-	-	-	-	-	-	-	69	63	22	55%	112	92	33	23%
safe custody	-	-	-	-	-	-	-	-	61	52	13	45%	132	98	21	45%
pawnbroking	-	-	-	-	-	-	-	-	97	49	10	39%	93	55	12	49%
executorships/trusteeships	-	-	-	-	-	-	-	-	-	-	-	-	97	56	14	40%
interest rate hedge	-	-	-	-	-	-	-	-	-	-	-	-	53	40	41	21%
children's savings plans	-	-	-	-	-	-	-	-	-	-	-	-	66	33	10	20%
non-structured periodically guaranteed fund	-	-	-	-	-	-	-	-	-	-	-	-	31	30	11	24%
other products and services	33,274	670	135	29%	33,794	675	177	32%	79,589	708	133	32%	72,276	855	173	30%
sub total	**127,921**	**92,233**	**9,189**	**33%**	**149,025**	**97,671**	**10,226**	**31%**	**447,624**	**296,767**	**30,957**	**33%**	**540,591**	**339,112**	**39,847**	**35%**
total	**161,195**	**92,903**	**9,324**	**33%**	**182,819**	**98,346**	**10,403**	**31%**	**527,213**	**297,475**	**31,090**	**33%**	**612,867**	**339,967**	**40,020**	**34%**

case studies:
debt collection

Debt collection is when a creditor engages an external company to recover monies that are past due.

We can look into complaints about collection activity for credit and consumer agreements – such as mortgages, credit cards overdrafts and personal or business loans.

Although debt collectors deal with unregulated debts as well, we can't look at complaints about debts relating to household utilities, council tax, or fines.

Between January and December 2018, we dealt with around 3,300 enquiries about debt collection, and took on over 1,000 new complaints for investigation.

The people involved told us that businesses collecting debt had:

- Made excessive contact with them – whether by phone, letters or both – about a debt;
- Demanded repayment of a debt that didn't belong to them at all;
- Demanded too much money, or tried to collect debt that had already been paid in full or was being managed by a debt management company;
- Added excessive fees to debts; and
- Chased them for unenforceable or statute-barred debts.

Often debt collectors will take on whole books of debt from lenders, rather than individual customers. Large amounts of information transferring between lenders and collectors can lead to administration errors. This may be especially true with older accounts, where lenders haven't kept in touch with customers and information may be out of date.

We generally find that it's fair that the people involved repay what they owe in a manageable way – and expect lenders and collectors to be flexible in helping customers with reasonable and affordable repayments. In some cases, given the particular circumstances of the situation in hand, we might decide it's not fair or reasonable for the debt collector to continue to collect the debt.

Our case studies include examples of complaints about lenders who've taken action to recover debts themselves – where many of the same themes apply.

"... we dealt with around 3,300 enquiries about debt collection, and took on over 1,000 new complaints for investigation"

147/1 "I've kept up my repayments for my loan, but I'm still being told I owe more"

Thea contacted us about her loan repayments, which were being collected through a debt collection agency.

Thea said her debt had transferred from one debt collection agency to another, and after that she'd noticed that the balance was too high. She'd complained to the new agency – but they had disagreed that they were asking for too much, and insisted that she had to pay the increased balance.

Unhappy, Thea asked us to get the balance put right.

putting things right

We looked at all the paperwork Thea sent us about her loan. We saw that, after Thea had had some payment problems with the original loan company, her debt had been passed to a debt collection agency. They had set her up on a monthly repayment plan, which she'd managed to keep up with. Then the debt had been bought by another business, who'd instructed debt collectors. And they'd asked Thea to pay over £1,000 more than she was saying she thought she owed.

We told the new agency to send us details of the loan debt and the repayments Thea had made. We also contacted the original collection agency to get their own transaction records, so we could get a complete picture of what had happened.

Having reviewed all these records carefully, we established that the new debt collector hadn't taken any payments into account relating to the time before the debt had been sold on. Instead, they'd started with the original loan amount. This was why they were now asking Thea to pay over £1,000 more than they should have asked for.

We pointed out the debt collector's mistake, and discussed the impact it had had on Thea. They agreed to clear the overcharge and to bring the balance and repayments down to the correct amount. They also offered Thea £100 compensation for the trouble and upset they'd caused.

147/2 "I've already repaid my loan – why should I have to pay more now?"

Ali complained to us after receiving a letter from a debt collector threatening legal action. She told us she thought she'd cleared her loan with the original lender years ago, so was surprised and concerned to hear things weren't settled.

Ali explained that the original lender had gone into liquidation, and she hadn't been able to contact them. She told us she'd had problems with the lender for a number of years too, and wanted to complain about both companies. She asked for our help to sort things out.

how we helped

We asked Ali what she'd done after receiving the debt collector's letter. She explained she'd contacted the agency to question the balance – and they'd asked her for evidence of the payments she had made. From the records, it seemed Ali had only been able to provide evidence for one of the payments. When the debt collector had checked with the lender's records, they hadn't found records of any payments at all – and they had insisted on full payment.

We explained to Ali that as the lender had gone into liquidation, we couldn't deal with any complaint against them. However, we called the collection agency to discuss the payments.

We pointed out there was clear evidence that Ali had made a payment to the lender using her debit card – but it wasn't clear where this payment had gone. Because Ali didn't appear to have had any other accounts with the lender, we suggested the collection agency should honour this payment.

Ali had told us she had also made further cash payments – but she didn't have any evidence of them. We explained that, because of this, we didn't agree the agency should have to reduce the balance further. However, as an apology to Ali, the agency offered a 20% reduction of the remaining balance, if Ali was happy to pay the account off in full. Ali confirmed she was in a position to do this.

"We pointed out there was clear evidence that Ali had made a payment to the lender using her debit card"

147/3 "Can a bank sell my loan – even after I tell them I can't afford the repayments?"

Jermaine got in touch with us about problems he was having with a loan he'd originally taken out with his bank. He said that, having not heard anything about the loan for several years, he'd received a letter from a debt collection agency asking for more money.

Jermaine told us that after receiving the letter, he'd challenged both the bank and the collection agency, as he'd heard nothing from either company since his last payment.

But neither had agreed to write off the debt. Jermaine said he felt he'd been treated unfairly and asked us to step in.

putting things right

Jermaine told us he'd had to stop work due to an injury shortly after taking out the loan, and had struggled to afford his repayments. He said that the bank had initially put him on a reduced payment plan, but had sold the loan on to a third party, who then appointed a debt collection agency when he hadn't kept up with it.

Jermaine said he'd heard that because his last payment had been made six years previously, his loans should be written off and he shouldn't be pursued for the money any more.

We explained to Jermaine that the enforceability of the debt was something a court would need to decide – rather than our service. However, we spoke to his bank and the collection agency to try to unpick what was happening with his debt.

Both businesses provided records showing the transaction history of Jermaine's loan. The collection agency confirmed they were now solely responsible for the collection of the loan – which was why they had contacted Jermaine. Having reviewed his account as part of our investigation, they confirmed that, due to the age of the debt, they wouldn't be taking any further collection action – and would arrange for the debt to be written off.

We told Jermaine about the debt collection agency's decision. But he was still unhappy with his bank for selling on his debt – and he was concerned that what had happened would have affected his credit rating.

From the evidence we received, we could see that the bank had only sold the debt on after Jermaine had stopped paying what he had owed – and after they'd given him the chance to reduce his payments. It didn't seem Jermaine had communicated with the bank about the fact he was having trouble or why.

We explained to Jermaine that, given the length of time since he'd last made a payment, it was likely that any such information would have been removed from his credit file by now. Having looked into Jermaine's records, both the debt collection agency and the bank confirmed there were now no entries on Jermaine's credit file relating to the loan.

So, while we were sorry about the difficult situation Jermaine had been in since his injury, we decided the bank hadn't done anything wrong in selling on his debt – and that he hadn't been treated unfairly.

147/4 "We asked our bank for help with our debts but they took us to court instead."

Jo and Ethan told us they hadn't been treated fairly by their mortgage provider, a bank, after their son's illness caused them to fall behind with their mortgage payments.

They said that, although they'd told the bank their circumstances had changed, it had taken them to court over their debts. Now the court had said the bank could repossess the house – and Jo and Ethan wanted us to step in.

how we helped

Before we started looking into the detail of the complaint, we spoke to the bank about Jo and Ethan's situation. They agreed to put their legal action on hold while we investigated exactly what had happened.

We explained to Jo and Ethan that we couldn't review – or overturn – the court's decision to let the bank repossess their house. However, the court hadn't looked into their concerns about how they'd been treated by their bank – relating both to the mortgage payment protection insurance (MPPI) claim and also when they'd asked for help with their financial difficulties. So we were able to look into these issues.

We asked Jo and Ethan to talk us through what had happened. They told us their son had fallen ill around five years after they'd bought their house with a mortgage. They explained they'd both taken time off work to care for him – and had asked the bank for help when they'd realised they couldn't afford the repayments.

Ethan told us the bank had advised him to claim on the MPPI policy they'd bought with the mortgage. He'd tried this, but he'd been told he couldn't claim because he was self-employed. Ethan said he'd tried to continue making payments towards the mortgage when he could, but he had quickly fallen into several thousand pounds of arrears.

We asked the bank for their views on what had happened with Jo and Ethan's MPPI policy. They said they'd looked into the circumstances and decided to pay Jo and Ethan several thousand pounds in redress, as they'd concluded the policy was mis-sold.

We were also concerned about the standard of the bank's communication and customer service. We could see that Ethan and Jo had kept the bank informed of their circumstances, asked for help, and tried to make affordable payments where possible. They'd written to the bank, asking to meet them to sort out a new payment plan.

However, despite all this effort, the bank hadn't responded. In fact, the records showed it had taken them three years to refer Jo and Ethan to their specialist vulnerable customer team.

By that point, they had been unable to keep up with their payments and the bank had already started court proceedings.

We told the bank they'd seriously failed Jo and Ethan – overlooking their circumstances and letting the situation escalate, rather than stepping in earlier to provide help at an earlier stage.

In our view, if the bank had stepped in earlier, many of the legal issues might have been avoided. Combined with the mis-sold MPPI, the bank's poor customer service had caused substantial problems, stress and upset for Jo and Ethan, during what was already a distressing time due to their son's illness.

We recognised that financial compensation couldn't make up for everything Jo and Ethan had been through. But to recognise the impact of the bank's poor service, we told them to pay Jo and Ethan compensation from **from our extreme band**.

"if the bank had stepped in earlier, many of the legal issues might have been avoided"

147/5 "My credit card company told me I was in persistent debt – but didn't help me fix it."

Chris asked us for help when his credit card provider wrote to him and told him his account was in persistent debt. He said the provider had given him a choice of how he could clear his debt – but he felt they hadn't explained the options properly, and he'd been pressured into making a decision he wasn't sure was the right one.

Chris wanted our help in making the provider treat him fairly, and to get on top of his debt.

how we helped

Chris told us he'd usually made the minimum monthly payment on his credit card. From his statements, we could see his outstanding balance had been several thousand pounds for a number of years. And for the previous 18 months, he'd been paying more in interest and charges than he had actually paid toward his debt each month.

The card provider defended their position. They said they'd offered Chris a choice – in line with the **FCA's rules for persistent debt customers** – either to increase his monthly repayment, or to suspend
his account and repay his debt at the same rate he was currently paying. And Chris had chosen the second option.

Chris said he'd now read up on the FCA rules, and wasn't happy with what the provider had said. In his view, they should have looked further ahead – and told him what would happen if he continued to be in persistent debt for 36 months or more. He said that if he'd known the longer-term view, he might have made different choices.

We explained to Chris that he was right about the FCA rules referring to different things after 36 months, as opposed to 18. However, looking at his particular circumstances, we thought the card provider had done the right thing by focusing on what was happening currently to try to stop things deteriorating further. At the point the provider contacted him, his debt hadn't been anywhere near the point where the 36-month rules applied. And they might not have ever been relevant if the issues with his debt could be resolved.

While we didn't uphold Chris's complaint, it was clear he was upset about what had happened – and concerned about what would happen next. We talked him through why we'd reached the decision we had about the card provider's actions – including their responsibility to ensure accurate information was recorded on his credit file. And we made sure he had the details of organisations who could give him free help with his debt from then on.

147/6 "I've repaid my debt – so why is my bank still chasing me?"

Lauren came to us about problems she'd been having with her bank. She said she'd contacted a free debt charity for help with her debts, and was relieved to have managed to set up payment plans with her creditors. However, she was having trouble with her bank – who she said were still contacting her about an overdraft debt that she thought she'd paid off.

Lauren said she'd complained to the bank, but they'd just told her they'd followed the normal collections procedure. Unhappy with this response – and upset at the text reminders she believed she was wrongly getting from the bank – Lauren asked us to get involved.

putting things right

Lauren told us she had been struggling with her finances after her dad, who she'd been caring for, had died. When we looked at the bank's records, we saw that she'd contacted them for help shortly after this – and they'd given her the details of the debt charity. The bank had also frozen Lauren's overdraft until she could clear what she owed.

Lauren told us that the debt charity had told her the bank had said she'd paid off her overdraft. However, she was still receiving text messages about it – even after her debt adviser had contacted the bank to confirm that she didn't owe anything more.

The bank said it couldn't find any call records for Lauren's account – so they didn't have any evidence about these conversations.

However, the debt charity sent us their own call recordings, in which we heard the bank saying that Lauren's debts were clear.

When the bank heard these calls, they accepted there had been administration errors on Lauren's account. In actual fact, there was around £100 left to pay back. But in view of their mistakes, they said they would clear the balance.

Lauren had tried to address her financial difficulties honestly and proactively – and of all of her creditors, only her bank had caused difficulties. We told the bank to pay compensation in our **moderate band** for the upset caused by its poor customer service. We also told the bank to confirm in writing that Lauren had nothing left to pay.

147/7 "I don't agree my debt should have been passed to a debt collector – and now they're phoning me when I told them not to"

Denny told us about a dispute over a doorstep loan. He said he'd been making regular payments for several months, when the lender had decided to sell the debt to a third party debt collector – which was now contacting him by phone, when he'd told them to write.

Denny wasn't happy that his debt had been sold, as well as with the fact the debt collector was now contacting him. He thought the lender had acted illegally by giving his details to a new company. Because of all this, he was refusing to speak to the debt collector – and thought he should get compensation for the treatment he'd received.

putting things right

We asked Denny for copies of his loan paperwork. The credit agreement clearly said – in line with what's normal for this type of agreement – that the lender could share Denny's information for debt collecting purposes, and to sell or transfer Denny's account.

So we didn't think they'd acted unfairly in selling his debt.

Denny told us that he'd blocked the debt collector's number from his phone, because he'd told them they should only contact him by letter. He said he'd written to the debt agency to explain his concerns, and had asked them to pass his account back to the doorstep lender.

We asked the debt collection agency for their call records. They provided these, pointing out they'd only contacted Denny once a day, at most. He hadn't answered any of the calls – and they didn't think they'd acted unreasonably in keeping on trying.

We pointed out that Denny had specifically asked to be contacted by letter only – and whether he was answering calls wasn't relevant, as they shouldn't have phoned him at all. As the calls had continued after Denny had made his request, the agency had breached the FCA's debt collection guidelines.

We explained to Denny that the debt would remain with the agency. However, we agreed they'd acted unfairly – and told them to pay compensation in our **moderate band** for the upset they'd caused by the unwanted calls. We encouraged Denny to work constructively with the agency to clear his remaining balance.

"… we didn't think they'd acted unfairly in selling his debt"

147/8 "I was put on a repayment plan, and now it's affecting my chances of getting a mortgage."

Aaron asked us to resolve a dispute he was having with his credit card company.

He said he'd asked the company for help with his debts and they'd put him on a reduced payment plan for 12 months. A couple of years later, he'd been turned down for a mortgage – and he believed this was down to the notes the credit card company had put on his credit file.

Aaron said if he'd known about the impact that the repayment plan would have on his credit history, he wouldn't have agreed to it in the first place. So he wanted us to make the card company amend his credit file.

how we helped

We asked the credit card company for their records about Aaron's account. From these, we could see he'd been in regular contact with the company before his repayment plan had started – to discuss his financial circumstances and how he was struggling to pay what he owed.

The file notes also showed that, on more than one occasion, the card company had explained to Aaron that his agreement to a repayment plan had prevented them from having to issue a default notice against him. The company had also explained they would still be recording any late or reduced payments – and that they had a responsibility to report the status of his account to credit reference agencies.

Aaron said he'd gone back to the card company a few months later when his financial position had improved – to ask if he could now make overpayments on his account. The card company had said he could, but that his repayment plan would end early.

We considered everything that had happened. In our view, if the credit card company hadn't offered to reduce Aaron's repayments, it was likely he'd have incurred a default.

We explained to Aaron that this would have had a more severe impact on his credit file than the recording of his repayment plan.

Based on what we'd seen, we concluded that the credit card company had clearly communicated Aaron's options – and had taken the action they should have as soon as they knew about his circumstances, including freezing interest and charges on his account.

We were sorry about the trouble Aaron was having with his mortgage, but the credit card company wasn't at fault. So we didn't uphold his complaint.

"In our view, if the credit card company hadn't offered to reduce Aaron's repayments, it was likely he'd have incurred a default"

147/9 "We asked for some time to sort out my friend's loan and overdraft debt – but the bank won't stop chasing him for the money"

Saira contacted us on behalf of her friend Toby, who wanted to complain about his bank.

She said Toby had been struggling with his finances for several months, and had ended up in a hospital, receiving treatment for severe depression and anxiety. Saira told us that Toby had phoned his bank about the overdraft and loan he had with them, including asking for some time to sort out his finances.

However, Toby had continued to receive calls, texts and letters threatening him with court action if he didn't pay his debts. In Saira's view, this had made Toby's mental health worse – to the point he'd told her he was having suicidal thoughts. She asked us to step in and make the bank treat him fairly.

how we helped

We contacted the bank's vulnerable customer team to discuss Toby's situation – including the approach to collections that Saira had concerns about.

The bank confirmed they'd put a payment break on Toby's account after he'd called them. But they said they hadn't known the full picture of Toby's situation until we got involved. So they didn't think they'd done anything wrong in continuing to contact him.

Looking at the bank's records, we could see Toby had mentioned the impact that being contacted so frequently about his debt was having on his mental health. He'd specifically asked for a break from the communications to help him recover. And he'd told the bank he was working with a free debt charity, who'd be in touch with them once the payment break was over.

The bank had offered Toby a payment break, as well as telling him they'd frozen the interest and charges on his account. However, there was no evidence they'd done anything to respond to his concerns about their communication with him – or to support him in any other way with the problems he'd shared with them.

We told the bank that, from what we'd seen and heard, it seemed Toby was focused on resolving his debts – and had done the right thing in asking his bank for help. However, the bank had let him down. And their failings had caused significant additional problems for Toby, when he was already having trouble.

We told the bank to pay compensation from our **substantial range**. The bank also apologised to Toby and said they would write off his debt in full.

"... we could see Toby had mentioned the impact that being contacted so frequently about his debt was having ..."

147/10 "I'm receiving debt collection letters – but the debt doesn't belong to me"

Wei complained to us that a debt collection company had been chasing him for money relating to a bank overdraft.

Wei told us he'd previously had an account with the bank in question – but he'd closed it several years ago. He said he was sure the debt wasn't his, and was upset the bank seemed to have shared his personal details with debt collectors without permission.

Wei said he'd asked the bank to remove the debt from his name and stop the debt collectors contacting him. He'd also asked for compensation for the trouble they'd caused.

However, the bank was insisting the debt belonged to Wei – and now he wanted us to step in.

how we helped

We asked the bank for all its records relating to Wei's account. From these, we could see that Wei had complained to the bank about the same debt before. And he'd brought a complaint to the ombudsman at that time.

During Wei's previous complaint, he'd mentioned a different debt collection agency than the one he was saying was involved now. Back then, his bank account had still been open – and Wei hadn't disputed that the debt belonged to him. And to resolve the complaint, the bank had agreed to allow Wei to pay off his overdraft debt in small monthly payments.

We asked the bank what had happened to the debt since then. The bank confirmed that Wei had failed to keep up his reduced payments – and the debt had been passed to one third party debt collector, and then another. The bank showed us copies of the letters they'd sent to Wei's address – and in our view, these clearly explained what was happening, both during the time Wei's bank account was open and during each of his complaints.

Given everything we'd seen, we concluded the debt belonged to Wei. We explained to him that the bank hadn't done anything wrong, and encouraged him to work with the debt collectors to repay what he owed.

"... we could see that Wei had complained to the bank about the same debt before ..."

Q?
&A

complaints about claims management companies

On 1 April 2019, our service will take on responsibility for resolving complaints about claims management companies (CMCs) – as the regulation of these complaints transfers to the Financial Conduct Authority (FCA). In this extended q&a, we answer some questions about what's changing.

why are things changing?

The **independent review of the claims management regulation**, published in 2016, made recommendations about improving the way the sector is regulated. Parliament accepted these recommendations, and made a number of changes to CMC regulation through the Financial Claims and Guidance Act 2018.

As part of these changes, from 1 April 2019, regulation of CMCs and their activities will be carried out by the FCA – transferring from the Claims Management Regulator, which is part of the Ministry of Justice. So we'll take on responsibility for complaints about CMCs. Currently, people who feel they've been treated unfairly by a CMC can take their complaint to the Legal Ombudsman.

so will you just be able to look at complaints involving financial services – like mis-sold payment protection insurance (PPI) claims?

Just like the Legal Ombudsman, we'll be able to look at complaints about CMCs working in a range of sectors. So we'll be able to help with complaints about CMCs dealing in financial services, personal and criminal injury, housing disrepair, specified benefit and employment.

But we're expecting that most of our work will involve CMC activity in financial services – reflecting the Legal Ombudsman's experience. In 2017/2018, financial services made up 86% of the Legal Ombudsman's work, of which the largest proportion involved PPI.

Q? &A

what will happen to complaints that the Legal Ombudsman hasn't resolved by 1 April?

Complaints already with the Legal Ombudsman on 1 April 2019 will transfer to us. We'll also be able to take on complaints about events that happened before 1 April, but weren't raised with the Legal Ombudsman before that date - as long as the person bringing the complaint would have been able to do so under the Legal Ombudsman scheme rules.

For complaints already with the Legal Ombudsman, we'll consider what's happened in line with the Legal Ombudsman scheme rules, which are on its website.

If a complaint is about events that happened on or after 1 April, it can be brought directly to us. We'll handle the complaint in line with our rules, which are published as part of the FCA's Handbook – in the section **Dispute Resolution: complaints**.

We won't be able to deal with complaints that have already been concluded by the Legal Ombudsman.

will your remit be the same as the Legal Ombudsman's?

We'll be able to deal with complaints against CMCs about events that happened on or after 1 April 2019, if the client or the CMC is in England, Scotland or Wales. This widens the current scope of ombudsman schemes in the CMC sector. We might also be able to help with other complaints if the CMC has joined our voluntary jurisdiction.

And where we uphold a complaint, there will be a higher maximum financial limit for our awards than the Legal Ombudsman's.

It's been proposed that from 1 April 2019 our limit will be increasing, with the details to be finalised before the start of the new financial year.

In addition, in some circumstances, it's possible we'd consider a complaint that the Legal Ombudsman might have dismissed. That's because the Legal Ombudsman has broader discretion to dismiss complaints without further investigation.

Q?
&A

what does all this mean for a CMC that's about to give a customer its final response about a complaint?

As for financial businesses, a CMC's final response is its last word on their customer's concerns. Among other things, it tells the customer where they can take their complaint if they're still unhappy.

For both us and the Legal Ombudsman, there's a six-month time limit to make a referral. So depending on when the customer complains, a final response written before 1 April may give details for the Legal Ombudsman or us – or possibly both. From 1 April 2019, a final response will only need to give our details.

From 1 April, final responses will need to follow the FCA's rules – which include sending our leaflet with final response letters. These can be ordered on **our website**.

where can I find out more?

We gave more detail about how we plan to run our CMC operations, as well as how we've been preparing, in our strategic plans and budget consultation in December.

We'll share the feedback we've received and our final plans as part of our wider strategic plans, which we'll publish at the end of March.

In the meantime, the **FCA's website** has all the key information and resources CMCs need to help them get ready for the change in regulation.

CMCs can also contact our technical advice desk on 020 7964 1400 or at **technical.advice@financial-ombudsman.org.uk**. The team will be able to answer any general questions – and will also be able to give informal help with resolving specific complaints that haven't yet been referred to us.

Financial Ombudsman Service

On 11 February, we and the Legal Ombudsman will be talking to CMCs face to face about the transfer of complaints at a joint event in Birmingham. Find out more at **www.legalombudsman.org.uk/raising-standards/#professional-learning-courses**.