

Chapter 7

Arrears, default and recovery (including repossessions)



7.9 Contact with customers

Contacting customers

- 7.9.1** **R** A *firm* must ensure that a *person* contacting a *customer* on its behalf explains to the *customer* the following matters:
- (1) who the *person* contacting the *customer* works for;
 - (2) the *person's* role in or relationship with the *firm*; and
 - (3) the purpose of the contact.
- [Note: paragraph 3.3c of DCG]
- 7.9.2** **R** A *firm* must not in a communication with the *customer* make a statement which may induce the *customer* to contact the *firm* misunderstanding the reason for making contact.
- [Note: paragraph 3.3d of DCG]
- 7.9.3** **G**
- (1) An example of a misleading communication in **■ CONC 7.9.2 R** is a calling card left at the *customer's* address which states or implies that the *customer* has missed a delivery and encourages the *customer* to make contact.
- [Note: paragraph 3.3d (box) of DCG]
- (2) The clear fair and not misleading *rule* in **■ CONC 3.3.1 R** also applies to a *firm* in relation to a communication with a *customer* in relation to *credit agreement* or a *consumer hire agreement*.
- 7.9.4** **R** A *firm* must not contact *customers* at unreasonable times and must pay due regard to the reasonable requests of *customers* (for example, *customers* who work in a shift pattern) in respect of when, where and how they may be contacted.
- [Note: paragraphs 3.3j and k of DCG]
- 7.9.5** **R** A *firm* must not require a *customer* to make contact on a premium rate or other special rate telephone number the charge for which is higher than to a standard geographic telephone number.
- [Note: paragraph 3.3l of DCG]

7.9.5A **G** Firms should note the effect of the *call charges rule* in ■ GEN 7.

Communication with third parties

7.9.6 **R** A firm must not unfairly disclose or threaten to disclose information relating to the *customer's* debt to a third party.

[Note: paragraph 3.7p of DCG]

7.9.7 **R** When contacting a *customer*:

- (1) a *firm* must ensure that it does not act in a way likely to be publicly embarrassing to the *customer*; and
- (2) a *firm* must take reasonable steps to ensure that third parties do not become aware that the *customer* is being pursued in respect of a debt

[Note: paragraph 3.7q of DCG].

7.9.8 **G** The reasonable steps required by ■ CONC 7.9.7 R may, for example, require a *firm* to ensure that:

- (1) post sent by the *firm* is properly addressed to the *customer* and marked "private and confidential" or an expression to the same effect;
- (2) where the *firm* has a name which indicates its debt collection activities, its name is not shown so that third parties may see the name on the *firm's* communications.

7.9.9 **G** ■ CONC 7.9.7 R would not preclude a *firm* sending a statutory notice to a *customer's* last known address, where it takes reasonable steps including those referred to in ■ CONC 7.9.8 G.

7.9.10 **R** A *firm* must not disclose details of a debt to an *individual* without first establishing, by suitably appropriate means, that the *individual* is (or acts on behalf of) the *borrower* or *hirer* under the relevant agreement).

[Note: paragraph 3.9b of DCG]

7.9.11 **G** A *firm* which:

- (1) threatens debt recovery action against the "occupier" of particular premises; or
- (2) sends a payment demand to all persons sharing the same name and date of birth or address as the *customer*;

is likely to contravene ■ CONC 7.9.10 R.

[Note: paragraphs 3.9a (box) and 3.9b (box) of DCG]

Debt collection visits

7.9.12 **R** Unless it is not practicable to do so, a *firm* must ensure that a *person* visiting a *customer* on its behalf:

- (1) clearly explains to the *customer* the purpose and intended outcome of the proposed visit; and

[Note: paragraph 3.12 of DCG]

- (2) gives the *customer* adequate notice of the date and likely time (at a reasonable time of day) of the visit.

[Note: paragraph 3.13g of DCG]

7.9.13 **G** Failure to explain the purpose and intended outcome of a proposed initial visit to the *customer* or to give adequate notice prior to a proposed initial visit to the *customer* may not contravene **CONC 7.9.12 R**, provided that the *customer* is happy to speak to the *person* pursuing recovery of the debt at that time. However, where, at the initial visit the *customer* indicates a preference to use the first visit to agree a more convenient time for a future visit, the *person* pursuing recovery of the debt should respect the *customer's* wishes. It is important that the *customer* is given reasonable time to prepare for a visit and should not be coerced or pressurised into immediate discussions or decisions.

[Note: paragraph 3.13g (box) of DCG]

7.9.14 **R** A *firm* must ensure that all *persons* visiting a *customer's* property on its behalf act at all times in accordance with the requirements of **CONC 7** and do not:

- (1) act in a threatening manner towards a *customer*;
- (2) visit a *customer* at a time when they know or suspect that the *customer* is, or may be, particularly vulnerable;
- (3) visit at an inappropriate location unless the *customer* has expressly consented to the visit;
- (4) enter a *customer's* property without the *customer's* consent or an appropriate court order;
- (5) refuse to leave a *customer's* property when it becomes apparent that the *customer* is unduly distressed or might not have the mental capacity to make an informed repayment decision or to engage in the debt recovery process;
- (6) refuse to leave a *customer's* property when reasonably asked to do so;
- (7) visit or threaten to visit a *customer* without the *customer's* prior agreement when a debt is deadlocked or reasonably queried or

disputed (see ■ CONC 7.14 (Settlements, disputed and deadlocked debt)).

[**Note:** paragraphs 3.12 and 3.13 of *DCG*]

7.9.15

G

It would normally be inappropriate to visit a *customer* at the *customer* place of work or at a hospital where the *customer* is a patient.