

## **Handy Guide to Challenging Creditors using CONC and The Standards of Lending Practice**

CONC is the *Consumer Credit Sourcebook* and it replaces the Office of Fair Trading Debt Collection Guidance amongst other things. The sourcebook itself can be found here: <http://fshandbook.info/FS/html/handbook/CONC> and this guide should be used in conjunction with it so that you are aware of the wording of any information you use.

The first thing to note is that each section is followed by an 'R' or a 'G'. *R = Rule and G = Guidance*. This is important if you are quoting from CONC, as a Rule is something that creditors **MUST** follow and Guidance is something they **SHOULD** follow so bear this in mind when you are quoting it. If a creditor is not doing something that is an "R" in CONC, then they are acting illegally and breaking the law.

For ease of viewing 'CONC' has not been placed before each reference but when you are quoting a rule or piece of guidance it should be referenced in the following format: CONC 7.1.1 R or CONC 7.6.4 G. Familiarise yourself with the actual sourcebook; this guide will highlight the most useful aspects for us as debt advisers.

The Standards of Lending Practice replaced The Lending Code in July 2016 and is very different in both its content and presentation. It is not as comprehensive in many respects and, as a short document, is worth reading all the way through to ensure familiarity. Its intention is to "provide an overview of the entire lending process". It does cover issues that CONC does not and so has value in both adding weight to an argument founded in CONC as well as being the basis for some arguments. Before using this document please check whether the creditor you are dealing with (mainly banks) is signed up to the British Banking Association as this only applies to those creditors who are.

<b>Creditor Issue</b>	<b>CONC Reference</b>	<b>Lending Standards Reference</b>
Creditor harassing a client	7.9.4R, 7.9.12R, 7.9.14R	Financial Difficulty (2) (8)
Responsibility of creditor for the action of the appointed DCA	7.13.9G, 7.13.10G, 7.13.11G	
Assessing creditworthiness before agreeing credit	5.2.1R, 5.2.4G	Product Sale (5)
Forbearance, deferment and accepting token payments	7.3.4R, 7.3.5G	Financial Difficulty (7) (4)
Mental Capacity issues	2.10.1G – 2.10.20G, 7.10.1R, 7.10.2G	
Vulnerable clients inc those with mental health	7.2.1R, 7.2.2G, 7.2.3G	Vulnerability – whole section especially (7)

issues		Financial Difficulty (12b) (12c)
Not dealing with appointed third party	7.12.2R (7.12.3R – when appropriate for them to refuse)	Financial Difficulty (10)
Misleading or unclear communication with debtor or third party	7.9.2R, 7.11.1R, 7.11.2G, 7.11.3R, 7.11.7G, 7.11.9R	
Failing to provide information	7.4.1R	
Disregarding debtor requests regarding contact	7.9.4R	Financial Difficulty (10)
Premium rate numbers	2.6.3R, 2.6.4G, 7.9.5R	
Creditor falsely implying action can/will/has been taken when legally cannot be	7.11.6R, 7.11.7G, 7.11.8R, 7.11.1R, 7.11.3R	
Information not being passed between parties	7.13.5G	Financial Difficulty (10)
Monitoring repayment record and taking appropriate action	6.7.2R, 6.7.3G	Financial Difficulty (3) (8)
Refusing to negotiate with a client developing a repayment plan	7.3.9R	Financial Difficulty (3) (4)
Creditor pressuring debtor to pay more than can afford or more than the CFS offer or refusing a reasonable offer	7.3.4R, 7.3.8G, 7.3.10R, 7.3.13G, 7.14.8R, 7.14.9R, 7.14.10R, 7.14.12G	Financial Difficulty (3) (4)
Refusing to suspend recovery action including freezing interest and charges	7.3.11R, 7.3.12G	Financial Difficulty (9)
Continuing recovery action on disputed or settled debts or not investigating	7.5.2R, 7.5.3R, 7.14.1R, 7.14.2G, 7.14.4R	
Inappropriate disclosure of debt details	7.9.6R, 7.9.7R, 7.9.8G	
Attempting to enforce a debt subject to a DRO or	7.3.16G	

Bankruptcy Order		
Creditor applying unreasonable costs or costs in absence of contractual provision to do so	7.7.1G, 7.7.2R, 7.7.3R	
Creditors acting in a threatening or unclear manner when visiting. Visiting known/suspected vulnerable debtors. Visiting inappropriate locations	7.9.4R, 7.9.14R, 7.9.15G	
Creditor being willing to consider writing off debt in appropriate situations		Financial Difficult (11)
Creditor seeking to recover statute barred debts	7.15.1G, 7.15.4R, 7.15.6R, 7.15.7, 7.15.8R	
Creditor using a Continuous Payment Authority (CPA) in an unreasonable or disproportionate manner	7.6.3R, 7.6.4G, 7.6.5G	
Creditor using a CPA after being informed that debtor in financial difficulty or suspects that this is the case	7.6.3R, 7.6.5G, 7.6.6G, 7.6.7R, 7.6.8G, 7.6.9G	
Creditor not explaining how a CPA can be cancelled, discouraging cancellation or not cancelling when requested	7.6.16R, 7.6.17R	
Creditor amending a CPA without informed consent of debtor	6.7.24R	
Continuing with CPA when payments not collected	7.6.13R	
Payday lenders “rolling over loans”	6.7.20R, 6.7.21G, 6.7.22G, 6.7.23R	

