

# *‘Hopcraft’*, motor finance and redress

*Our services to support you*

**Financial Services Regulatory Team**  
August 2025

Norton Rose Fulbright LLP



## The Big Picture



### Where are we right now?



**UKSC** found an **unfair relationship** between a lender and one customer having regard to size of commission, lack of prominence in disclosure and concealment of the lender/dealer tie



**FCA** has announced a **consultation for a redress scheme** covering DCA arrangements and potentially non-DCA arrangements



### What do you need to do?



Apply the **judgment principles** to your business, in motor finance and wider lending sectors



Within motor finance: plan for the **redress scheme** – consider whether you are likely to be in scope and how you will **resource** this



**Implement** forward-looking enhancements



### How we can help:

#### Firms inside the redress scheme

**Compliance with the redress scheme**  
via:

**Translating** principles of the FCA redress scheme into actionable targets for your business

**Mapping** the redress scheme to your business

#### Firms outside the redress scheme

**Assessing wider implications**  
via:

**Extrapolating** impact on the wider consumer credit sector

**Investigating** historic transactions through an information audit

# Looking ahead

### HoL FSRC letter to FCA

On 8 August 2025, the FSRC published a letter to the FCA raising a number of queries in relation to the proposed redress scheme including in relation to timeframe and costs

### FCA to publish consultation

By early October, the FCA will consult on how firms should assess whether the relationship between the lender and borrower was unfair for the purposes of redress scheme and if so, what compensation should be paid.

### FCA redress consultation to close after 6 weeks

### Expiry of complaints handling pause

On 4 December 2025, the FCA's current complaints handling pause ends. The FCA will consult on extending this deadline to align with the redress scheme timetable.

Aug 2025

### Supreme Court judgement released

On 1 August, the UKSC judgement was released upholding the appeals related to fiduciary duty and bribery and dismissing the appeal as to an unfair relationship.

Sep 2025

### FCA announced redress consultation

On 3 August, the FCA announced its consultation on a motor finance redress scheme outlining the following thoughts:

- **Principles** – getting the balance right
- **Scope** – DCAs and potentially non-DCAs
- **Unfairness** – providing assessment guidance
- **Timeframe** – lookback to 2007
- **Calculation of redress** – commission or something else
- **De minimis** – setting a threshold?
- **Interest** – base +1%
- **Inclusion** – opt-in or opt-out

Oct 2025

Nov 2025

Dec 2025

2026

### Rules in force and payments start

## Key considerations for firms

	Fiduciary relationships	Unfair relationships	FCA Handbook
Historic considerations	Do intermediaries owe any 'fiduciary duties' to end customers by reference to UKSC factors	<p>Are agreements (since 2007) within scope of unfair relationships provision (s.140A CCA)</p> <p>If so, could relationships have been unfair by reference to UKSC factors</p>	<p>Is conduct within scope of CONC and private right of action</p> <p>If so, have disclosures complied with CONC having regard to UKSC findings and nature of customer base</p>
Forward-looking considerations	Are any changes needed to (i) contractual documentation; (ii) policies and procedures; (iii) staff training	<p>How will you respond to FCA Consultation</p> <p>Are any changes needed to (i) disclosures (ii) commission levels (iii) contractual documentation (iv) policies and procedures; (v) staff training</p>	<p>How will you respond to FCA Consultation</p> <p>Are any changes needed to (i) disclosures (ii) commission levels (iii) contractual documentation (iv) policies and procedures; (v) staff training</p>

# Motor Finance Commission Arrangements

## How we can support you

The legal and regulatory landscape for the consumer finance sector continues to develop at a rapid pace, and with a level of uncertainty still to be addressed.

We can assist you at any phase of your motor finance commissions project, from preparatory advice to redress and beyond. For large-scale regulatory change and remediation projects, we can flex our approach to suit your needs across the phases of your project.

1. Legal and regulatory advice in the early stages of your project;
2. Implementation support for your remediation; and
3. Ongoing advice and support beyond remediation to ensure that lessons learned and best practices are embedded into your business.

Depending on how it is structured, our advice may also be legally privileged and protected from disclosure to third parties. We can advise you on this.

### Legal and regulatory advice



#### Early-stage legal advice

We can provide privileged legal advice on a range of UK financial services regulatory and conduct considerations. This can include what the Hopcraft decision means for you with practical read-across to your business model including in terms of fair and appropriate customer outcomes, scheme governance, MI and reporting arrangements.



#### Remediation strategy and design

We can help you set the scope of your remediation project and advise on design matters such as potentially overlapping remediation issues and cohort-specific approaches. We can also assist you with communication planning with all relevant stakeholders – both proactive and responsive.

### Remediation and claims support



#### Remediation delivery

We have significant claims handling experience and can assist you with implementing your remediation strategy including reviewing your methodology and testing your strategy, determining and handling claims or subsets of claims, and communicating with stakeholders such as regulators, insurers and customers.



#### Claims management

We can assist with insurance and other claims in relation to remediation projects, working with you to get the best possible recovery from your insurers and/or third parties. This can include advising in relation to insurance notifications, insurer information requests/updates and claims against third parties such as advisers and service providers.

### Ongoing assurance



#### Governance and oversight

We can assist you with implementing any new requirements into your risk management framework. This can include enhancing internal governance and oversight arrangements, systems and controls as well as more broadly within your distribution chain.

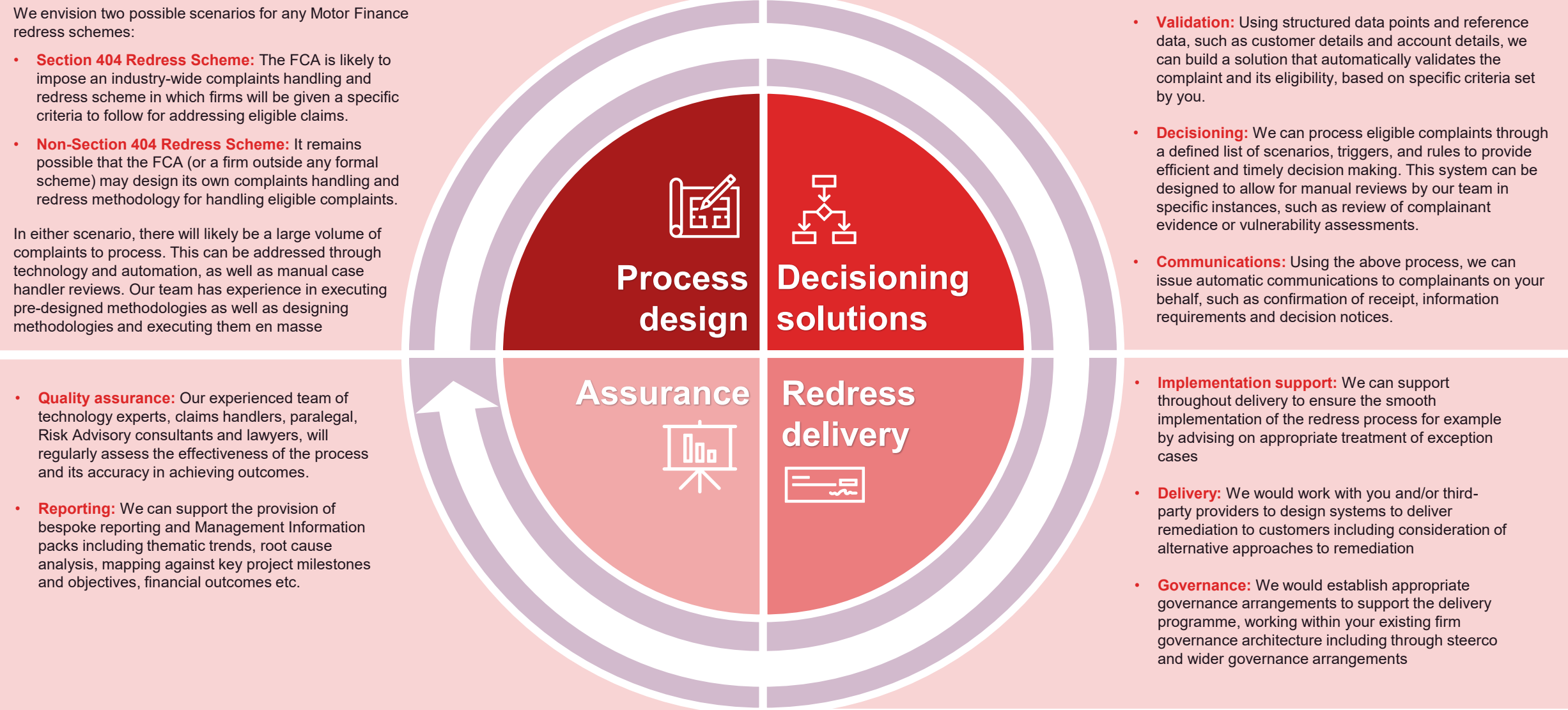


#### Training

We can help you to design and deliver training in relation to any new requirements in the consumer finance sector. Part of this may include designing specific training for groups of staff with different touchpoints.



# Spotlight on redress delivery architecture



# Why partner with Norton Rose Fulbright?

Our multi-disciplinary team is uniquely placed to help you with your motor finance commissions project.



### A global, multi-disciplinary team of experts

An integrated global team that comprises both legal specialists and non-legal advisors with a broad range of expertise, including risk management, regulatory compliance, corporate governance, investigations and disputes. We prioritise acting as a commercial partner to our clients, ensuring that we provide the technical excellence that they expect whilst delivering pragmatic and highly usable legal, regulatory and risk advice to support their business needs.



### A team with deep market experience of advising firms on all issues relating to consumer lending

Our team regularly advises the largest firms on consumer lending issues.

We have deep experience of both compliance program design / implementation and regulatory investigations, remediation and redress exercises and related litigation. We also have significant experience in defending compliance programs to regulators and other authorities.

Our breadth of experience means we can help with benchmarking your approach in relation to your peers.



### Flexible fee arrangements

We can structure advice and implementation projects in a variety of ways and offer a range of fee arrangements including fixed fees and monthly retainers. We will work with you to design a support package that meets your needs and have a number of tools to assist with budgeting for your project.



### Advice that can benefit from legal privilege and protection from disclosure

Depending on how our work is structured and managed, you may be able to assert privilege over communications with us in relation to your project and protect certain materials from disclosure to third parties including prosecutors. We can advise on the best way of achieving this.

“They are engaged with the industry and bring innovative insights on industry trends. The team members are well versed in their subject matters and are excellent communicators.”

| **Chambers, 2025**

“They are reliable, careful and solid in their advice. They have a thoughtful and measured approach and have comprehensive coverage and expertise of regulatory issues.”

| **Chambers, 2025**

“The team take time to understand their clients’ business, culture and appetite for risk. They are practical and focus on the big issues.”

| **Chambers, 2025**

“In-depth knowledge of the sector with lawyers at top of their game. They are pragmatic, commercial and not afraid to suggest innovative solutions.”

| **Legal 500, 2024**

# Motor Finance Commission Arrangements

## Our consumer finance credentials

### Adjudications

We have been appointed by the High Courts to run adjudication services in connection with a number of high-profile schemes of arrangement put in place to deal with customer claims for compensation in respect of historic consumer credit loan arrangements. This has involved detailed consideration of complex issues arising in connection with the methodology for claims handling and implementing a large-scale review process for decision-making in respect of contested claims.

### Remediation: design and delivery

Advising on the design and delivery of a significant customer remediation exercise, following the identification of consumer credit and FCA Handbook breaches, identified through an internal review of a sample of customer files. We also advised on associated issues such as: communications with the regulator; governance and lessons learned; interaction with the FOS; a related insurance claim; potential contractual claims and other routes to recovery; and tax payable in connection with the remediation.

### Early-stage disputes advice

Advising a payment processing company (operating globally) on early-stage disputes with merchants arising out of the client's global merchant services agreements. These disputes spanned multiple jurisdictions including the UK, France, Hong Kong, Japan and Russia.

### FOS complaints strategy and handling

We have worked with a client to respond to complaints relating to actions taken in respect of a market dislocation event in the investment business sector; supporting across numerous aspects including in relation to contractual analysis, regulatory conduct and engagement, client communications and submissions to the Ombudsman.

### 'Present state' assessments

We have supported a client to improve 'present state' governance arrangements surrounding AR oversight, in light of a historic review of arrangements, and to update them in light of present regulatory standards and guidance.

### Whistleblowing: establishing policies and procedures

We have supported clients across regulated sectors, including banking institutions, to develop and implement whistleblowing policies, as well as the procedural frameworks necessary to meet legal and regulatory requirements.

### Whistleblowing: responding to internal whistleblowing

Conducting a quasi-166 governance review for a distributor of insurance products, following a whistleblowing report to the FCA regarding its oversight of an appointed representative and implementation of the Consumer Duty.

### Section 166 skilled person reviews: advising the firm

Advising on a section 166 skilled person review, required by the PRA, into the bank's UK business, focusing on systems and controls, risk management, risk culture, governance, credit risk, and liquidity. In advance of the Skilled Person review commencing, we conducted an expedited in-depth review to ascertain the potential areas of exposure for the bank that might be identified, including those in which the bank could look to make enhancements in the short and longer term.

### Section 166 skilled person reviews: advising the firm

Advising a bank on its successful solvent wind-down, interacting closely throughout with the PRA, the FCA, and the PRA-appointed Skilled Person. This mandate involved advising the bank on transfer instruments for specific banking assets and liabilities, as well as on data protection issues relating to the sharing of personal data of depositors and liaising with the FCA in relation to queries raised in relation to the client's data protection compliance.

### Wind-down planning and execution

We have provided full-service support to a UK bank to wind-down its operations over a period of years, and to eventually achieve the cancellation of its permissions. We have also supported non-bank consumer finance firms to implement arrangements relating to historic liabilities and to work towards wind-down, as well as supporting a range of regulated firms in relation to the wind-down of business units.

### Internal reviews and 'lessons learned' exercises

Advising in connection with a significant regulatory investigation and remediation project, arising from a customer complaint in respect of a mortgage loan. We also conducted a 'lessons learned' review, to identify the root causes of the identified issues, and made detailed recommendations regarding remediation of the relevant findings.

### Internal reviews and 'lessons learned' exercises

Conducting a review for a private bank regarding conduct giving rise to a customer remediation programme, including considering breaches of consumer credit and regulatory requirements and implications in terms of systems and controls, making recommendations to address relevant issues and advising on individual accountability in relation to senior managers.

### Internal reviews and 'lessons learned' exercises

Conducting a 'lessons learned' review for a bank in respect of consumer credit and regulatory issues arising from pricing activity in relation to retail and business customers, including considering the conduct of senior management.



## Key contacts



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