Consultation response

FCA mission: Approach to consumers

Response from the Money Advice Service

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1. About us

1.1. The Money Advice Service (MAS) is a UK-wide, independent service set up by government to improve people's ability to manage their financial affairs. Our free and impartial money advice is available online and by phone or webchat.

1.2. As the statutory body for financial capability, MAS has led work with financial services firms, the third sector, government and regulators to develop the Financial Capability Strategy for the UK[1]. This 10-year strategy aims to give people the ability, motivation and opportunity to make the most of their money.

1.3. We are funded by a statutory levy on the financial services industry, raised by the Financial Conduct Authority (FCA).

1.4. The *Financial Guidance and Claims Bill 2017*, which makes provisions establishing a new financial guidance body was introduced in the House of Lords on 22 June 2017.

1.5. We have a statutory function to assist members of the public with the management of debt. Our latest data shows 8.3 million adults in the UK are living with over-indebtedness[2].

2. Executive summary

Financial capability

2.1. Improving financial capability is critical for improving the wellbeing of families across the UK and our Financial Capability Strategy is the vehicle that will drive radical improvement. However, for the Strategy to fully achieve its aims financial services firms must be fully engaged.

2.2. Therefore, as the powerful voice in the sector, it is vital the FCA encourages firms to involve themselves with the Financial Capability Strategy and endorses financial capability through its regulatory pathways. It can do this by continuing to promote the Strategy as the best way to overcome the financial capability challenge and supporting solutions developed by MAS and its partners that will make the greatest positive difference.

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[1] Money Advice Service, *Financial Capability Strategy for the UK*, (October 2015)

[2] Money Advice Service, *Press release: 'One in six people in the UK burdened with financial difficulties'*, (19 September 2017)

Consumers and markets

2.3. There is a complementary relationship between financial capability and regulatory intervention. It is crucial that the FCA supports moves towards improved financial capability across the UK, while ensuring that the environment is suitable for consumers.

2.4. Some features of the financial market mean whether consumers make good choices or not they face bad outcomes. These problems are exacerbated by the limited bandwidth created by financial difficulty. The FCA can help by making sure existing products work fairly and ensuring appropriate access to the advice, guidance and products and services consumers need.

2.5. To adequately monitor detriment the regulator must access a range of intelligence, including social policy data from consumer groups. Where detriment is identified the FCA must use its regulatory powers appropriately.

Vulnerability

2.6. It is vital firms take responsibility for identifying vulnerability because we cannot always assume individuals will recognise their own vulnerability and seek help. For firms to identify vulnerability it is important they have a detailed understanding of their customers.

2.7. Firms should have processes in place to take appropriate action where vulnerability is identified.

FCA remit

2.8. Although there will be issues that are outside of the regulator's remit, there are areas, lead generation, insolvency advice and the use of enforcement agents, where the regulator may wish to consider pushing for additional powers.

2.9. We agree it is important organisations work together in the best interest of consumers and MAS is happy to provide data to the FCA in pursuit of its regulatory objectives.

Vision and outcomes

2.10. We broadly agree with the FCA's proposed Vision in the *Approach* paper. However, the document could be more definite on potential interventions.

2.11. As with the vision, we are broadly supportive of the Outcomes listed in the *Approach* document but we believe the FCA could go further in ensuring access to the right advice at the right time. The FCA could also consider having explicit Financial Capability Outcomes.

Regulatory framework

2.12. There appears to be a lack of emphasis on the need for speed when new problems emerge on the market.

3. Response

Q1. While having regard to the general principle that consumers should take responsibility for their decisions, do you agree that there are circumstances where consumers cannot be expected to take responsibility? What do you think these circumstances are? How could – and should – the FCA intervene in these cases?

Financial capability

3.1. MAS research shows improving financial capability is critical for improving the lives of families across the UK. When we looked at interventions focussing on financial behaviours, we found managing credit use has the greatest impact on current financial wellbeing, followed by active saving[3].

3.2. Our research also shows 'Enablers' and 'Inhibitors' play a significant role in creating low financial capability. These are factors that make financial wellbeing easier or more difficult to achieve, encompassing attitudes and motivations, skills and knowledge. By far the most important dimension is financial confidence (comprising both confidence managing money day to day and the confidence to make financial decisions) [4].

3.3. We believe our Financial Capability Strategy[5] is the vehicle that will drive radical improvements in the UK's financial capability. This 10-year strategy aims to give people the ability, motivation and opportunity to make the most of their money. Over its first two years the Strategy has made ground-breaking progress creating a coalition of actors dedicated to this objective. Nearly 200 events took place across the country in Financial Capability Week 2017; 66 organisations have signed up to our financial capability IMPACT principles; and there are over 190 studies on our financial capability Evidence Hub[6].

3.4. For the Strategy to fully achieve its aims, it is vital financial services firms are as engaged with it as possible. Firms are in position to interact the greatest number of people (using PCAs as an example, 97% of adults in the UK have a PCA[7]), with consumer organisations' support.

3.5. The FCA has a key role to play. As a powerful voice, the most influential in the sector, it is important the FCA encourages firms to engage with the Financial Capability Strategy and promotes financial capability through its regulatory pathways. The regulator can explicitly

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[3] Money Advice Service, *Measuring financial capability – identifying the building blocks*, (November 2016)

[4] Ibid

[5] Money Advice Service, *Financial Capability Strategy for the UK*, (October 2015)

[6] Money Advice Service, *Business Plan 18/19*, (December 2017)

[7] CMA, *Retail banking market investigation – Final report*, August 2016

talk about the challenge of financial capability and the Strategy as the vehicle for overcoming problems. It can lead by example by continuing to be involved in the Strategy and supporting solutions developed by MAS and its partners that will make the greatest positive difference.

3.6. As an example of where MAS, firms and the regulator can work together to improve financial capability, we have been working closely with the FCA on its consumer prompts trial, where customers receive a message from their bank when they access their account. This directs them to consider if they could use the account more effectively, or even switch to a different provider.

3.7. MAS financial capability projects the regulator could direct firms to, which will help them integrate effective financial capability solutions into their approach, include:

3.7a. The MAS What Works Fund research could provide valuable insight and we are happy to provide the FCA with further information[8]. The WWF resources a range of pilot projects designed to increase the financial capability and resilience of consumers at risk of detriment, providing rigorous evidence on which approaches are most effective. Firms seeking to increase their own customers' financial wellbeing will be able to take the lessons from these pilot projects to improve their offer.

3.7b. Similarly, our Financial Capability Lab work could help the FCA and firms provide greater assistance to customers with money management needs. This is a joint programme with the Behavioural Insights Team, which since 2016 has generated over 240 ideas to tackle some of the UK's most common money management challenges. These challenges cover three areas of relevance to the FCA, building savings, getting help and managing credit. We are happy to share details of the Lab work with the FCA.

3.8. To further endorse financial capability, the FCA should invest in improving consumers' capability to access and act on available information to make the choices that are right for them. This could include investment in choice architecture, smarter communications and timely prompts and referrals to guidance, advice and a range of money management tools.

Individual responsibility

3.9. In the long term, improved financial capability will reduce the number of situations in which individuals are unable to engage with financial services fairly. However, some current features of the financial market mean whether consumers make good choices or not they can face bad outcomes, including at non-crisis points. For example, when accessing insurance, or banking as a third-party, or using effective digital comparison tools, or

[8] https://www.fincap.org.uk/what-works-fund (accessed January 25, 2018)

engaging with credit referencing[9]. There is a complementary relationship between financial capability and regulatory intervention. Therefore, it is crucial that the FCA supports moves towards improved financial capability across the UK, while ensuring that the environment is suitable for consumers.

3.10. These problems are exacerbated by the limited bandwidth created by financial difficulty. People in financial difficulty often filter out non-essential communications because of the excessive cognitive load being in debt places on them[10]. This is a common and persistent cognitive bias and the market should be expected to take account of it. We also cannot expect consumers to be responsible for information asymmetry and they are not responsible for gaps in the provision of guidance, financial advice and debt advice. The FCA can help by making sure existing products work fairly and ensuring appropriate access to debt advice.

3.11. It is important the FCA has an appropriate test in place to identify consumer detriment beyond monetary impact. Linked to this, it should extend its thinking, from the credit card market study, on time periods over which detriment becomes apparent, to other products[11].

3.12. To adequately monitor detriment the regulator must access a range of intelligence, including social policy data from consumer groups. This will help the FCA understand more completely how public policy changes that intersect with financial services affect household financial stability. For example, the rollout of Universal Credit, under which claimants must receive payments into a PCA.

3.13. Where detriment is identified the FCA must use its regulatory powers appropriately. The regulator could additionally push for powers in areas where detriment arises but the FCA cannot currently act. For example, lead generation, insolvency advice and the use of enforcement agents[12]. As well as pushing for new powers FCA can work more closely with public bodies, and in the future the SFGB.

Q2. Do you agree that firms have a responsibility to take reasonable steps to identify the signs of vulnerability, and to have processes in place to take appropriate action where they have identified a consumer with a particular need and at a particular risk of harm?

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[9] Money Advice Service response, Treasury Select Committee inquiry,

[10] Money Advice Service, *How to use behavioural science to increase the uptake of debt advice*, (September 2017)

[11] Money Advice Service response, *FCA CP17/10 Credit Card Market Study: consultation on persistent debt and earlier intervention remedies*, (July 2017)

[12] Money Advice Service, *Debt Solutions in the UK: Recommendations for Change*, (January 2018)

3.14. It is vital firms take responsibility for identifying vulnerability. FCA data shows 50% of consumers display one or more characteristics that signal potential vulnerability[13]. Other data shows 75% of those seeking debt advice self-identify as vulnerable[14].

3.15. Unfortunately, we cannot always assume individuals will recognise their own vulnerability and seek help. Our research shows people don't necessarily look for or find the help they need. People sought help and found what they were looking for following just a quarter of all recent life events[15]. For those who sought help, two in five did not find what they were looking for[16].

3.16. Regulatory rules, or at least guidance, can have a powerful effect when working through firms. For example, under the payment account regulations, MAS has a duty to promote features of basic bank accounts for those not able to open or use a standard PCA. Firms can help build awareness and trust in what's available in a way that is focused, timely and relevant, as well as anticipate issues that may result from major public policy changes. This could be interpreted as holding firms more strictly to Principle 6 under PRIN 2.1.1R.

3.17. For firms to identify vulnerability it is important they have a detailed understanding of their customers. New FCA rules on affordability assessments should mean they have systems in place that allow them to identify vulnerability, which means identifying individual characteristics beyond interest, charges and product type[17]. Like the regulator, firms will need to access a full range of data and work with consumer groups. This fits with proposals in the *Approach* document on smart defaults, because these will only be successful when firms know their customers fully.

3.18. However, the FCA cannot just rely on intelligence and firm communications. We therefore agree it is key firms have processes in place to take appropriate action where vulnerability is identified. But firms need to tailor their approaches to the customer by ensuring intervention is based on a full understanding of income and expenditure and the impact of firm action on financial commitments.

Q3. Which consumer issues do you think sit directly within the FCA's remit, and which are more a matter for Government? Are we right to commit our resources to working with other organisations, such as firms, other regulators, Government, courts,

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[13] FCA, *Understanding the financial lives of UK adults*, (January 2018)

[14] StepChange Debt Charity, *Creditor and debt collector conduct*, (July 2016)

[15] Money Advice Service, *Right Place, Right Time*, (November 2017)

[16] Ibid

[17] FCA, *CP17/27: Assessing creditworthiness in consumer credit*, (July 2017)

consumer groups etc., where improved consumer outcomes may require action that is not within the FCA's regulatory toolkit?

3.19. We agree it is important organisations work together in the best interest of consumers and MAS is happy to provide data to the FCA in pursuit of its regulatory objectives. Specifically, the regulator might be interested in analysis of consumer credit users, based on our 2015 Financial Capability survey, which covered 5,603 respondents across all UK nations. This analysis found within the most at-risk segments of the population (what MAS calls the "Squeezed" and "Struggling" segments), there were patterns of credit use that allowed certain 'types' of credit users to be pinpointed. In 2018, we will be running an updated version of our financial capability survey, a UK-wide representative survey of 5,000 individuals, and we are happy to discuss its findings with the FCA.

3.20. Additional pieces of our research will be of interest to the FCA. For example, our reports on numeracy[18], the building blocks of financial capability[19], rules of thumb[20] and repeat clients in the debt advice sector[21] have relevance, particularly in the context of *Financial Lives*. Of course, these are not just relevant to financial regulators and the FCA could take the opportunity of the *Approach* to increase cross-regulatory work.

3.21. We are encouraged by discussion in the *Approach* document on more closely regulating communications, sales and marketing environments. One way it can enhanced the consumer experience in these areas is via the statutory guides provided by MAS. The FCA requires firms to direct their customers to our support to help them make certain financial decisions. This is an opportunity for the FCA to review how it can increase use of these impartial guidance routes. The thematic review of interest only mortgages shows the persistent challenge of engaging customers in guidance and decision-making[22]. This underlines the need for collaboration between the regulator, firms, and guidance providers to develop smart hand-offs that build the confidence of consumers, allowing them to engage and make the financial decisions that are right for them.

Q4. Do you agree with the aspirational vision and outcomes that we explore? Are there any further barriers or risks to us achieving it?

3.22. We broadly agree with the FCA's proposed vision in the *Approach* paper, although we note a potential tension between the document's commentary on access and Occasional

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[18] Money Advice Service, *Adult numeracy and financial capability*, (November 2017)

[19] Money Advice Service, *Measuring financial capability – identifying the building blocks*, (November 2016)

[20] Money Advice Service, *Young Adults and Money Management*, (January 2018)

[21] Money Advice Service, *An Unavoidable Challenge? Repeat Clients in the Debt Advice Sector*, (September 2017)

[22] FCA, *TR18/1: The fair treatment of existing interest-only mortgage customers*, (January 2018)

Paper 17. The former sees access as intrinsic to the FCA's vision but the regulator appears to be relying on communication approaches to solve the problem. OP17 raised interventions such as price controls as tools to promote access.

3.23. As the FCA's *Approach* develops, it will be important to communicate to its stakeholders the range of interventions it will consider for issues it identifies. The document acknowledges the tools the regulator has at its disposal, including its ability to engage, convene and shape approaches through the FCA family, guidance providers and consumer sectors. We are particularly interested in proposals aimed at nudging people to repay faster, including changes to minimum repayments, and prompts that encourage people to repay before incurring any additional charges.

3.24. As with the vision, we are broadly supportive of the outcomes listed in the *Approach* document. However, we believe the FCA could go further in ensuring access to the right advice at the right time, as recommended by our research[23]. This could be an outcome of its own or part of an expanded Outcome 4. The key point is that it should not just be about customers getting the right advice when they receive advice. Firms and other organisations should proactively seek out consumers and make them aware that advice is available and necessary.

3.25. As part of this we recommend that the Outcomes consider further the customer journey with reference to the Financial Capability Strategy. Specifically, how consumers may be better informed to make optimal decisions when accessing short-term credit and in the use of credit. The FCA could consider having explicit Financial Capability Outcomes within its approach, ensuring firms proactively engage with customers' long term financial needs and immediate financial demands. MAS tools, such as our debt advice locator tool[24], creditor toolkit[25] and the Single Financial Statement[26] can help and we urge the regulator to consider how firms can make better use of these.

3.26. Given the start of the managed roll out of Open Banking a future-focused approach should include specific outcomes on data[27]. Many consumers will be slow to realise the value of their data, and treat it accordingly. Education is needed so consumers embrace the need to be data savvy.

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[23] Money Advice Service, *Right Place, Right Time*, (November 2017)

[24] https://www.moneyadviceservice.org.uk/en/tools/debt-advice-locator (accessed January 25, 2018)

[25] Money Advice Service, Press release: Ground-breaking toolkit helps creditors to support people who fall behind on payments, (July 5, 2017)

[26] https://sfs.moneyadviceservice.org.uk/en/what-is-the-standard-financial-statement (accessed January 25, 2018)

[27] https://www.openbanking.org.uk/ (accessed January 25, 2018)

Q5. What further metrics would you use? Are there any specific data sources or tools that may be of benefit?

3.27. Our segmentation model, which groups UK consumers into easily understood, addressable and discrete segments, can complement the FCA's Financial Lives data[28]. The regulator (and firms) can use this segmentation model, alongside internal data, to know which customers may need financial capability support or guidance, including at points of potential financial difficulty or in vulnerable circumstances, and will gain from additional scrutiny.

Q6. Do you agree with this framework? Would you like us to consider any additional or alternative factors in how we regulate: a) for all consumers, b) for the most vulnerable or excluded, and c) to meet the challenges of the future?

3.28. We recommend a clearer emphasis on the need for a quick and timely response to new problems as they emerge. Looking back at the rapid changes in STHCC market[29] the benefits of moving with speed to prevent or limit consumer detriment are clear. We recommend the *Approach* considers how it could facilitate an urgent response. This is particularly pertinent in a changing regulatory landscape and with the overlapping jurisdictions of Open Banking. The regulatory landscape here is shifting, with the introduction of PSD" and the potential barring of screen scraping in 2019. Several different regulatory regimes apply in this area (PSD2, GDPR, rules governing regulated advice). As such, there is value in the *Approach* setting out a plan or commitment to act, at pace, if necessary.

[28] Money Advice Service / CACI, Market Segmentation An overview, (July 2016)

[29] CMA, Payday lending market investigation, (August 2015)