A new Consumer Duty

Response to the FCA from Citizens Advice - July 2021

citizens advice

Introduction and summary of response

At Citizens Advice, we offer free, independent, and confidential advice and information to anyone who needs it. In the past year, we have supported people with more than 136,000 financial services and financial capability issues.[1] We have also observed first-hand the unprecedented impact of the coronavirus pandemic on household incomes. Towards the end of 2020, we estimated 6 million people had fallen behind on bills during the pandemic, building up around £1.6 billion in arrears.[2] Regulators acted quickly to support those struggling, but the pandemic still exposed weaknesses in consumer protections, with some businesses taking the opportunity to exploit consumers. We also saw an acceleration in the digitisation of markets, which has developed over recent years, and which regulation has struggled to keep up with.

Against this backdrop, it is welcome that the FCA is considering how to deliver a higher level of protection for consumers in financial services markets. We fully support the aims and ambitions of the new Consumer Duty to deliver a significant shift in the approaches and culture of financial services firms.

It is important to recognise that, in the past, approaches to addressing consumer harm that have focused on principles or 'duties' rather than rules have failed to deliver for consumers. For example, regulatory intervention by the FCA has banned the loyalty penalty in the insurance market, but in other markets where changes have focused on voluntary commitments or demand-side remedies introduced by firms, we continue to see loyal customers paying more.[3] Similarly, changes in high cost credit markets, such as the price cap on payday loans, have only been achieved through strong regulatory action. In contrast, attempts to improve experiences of vulnerable consumers by regulators have focused on introducing guidance for firms, which has not delivered substantive change. For example, our research into the experiences of people with mental health conditions navigating essential service markets found ongoing evidence of difficulties with provider communications, management of

[1] Citizens Advice, Advice Issue Code data (Pension Wise has been excluded from the total count), 1 June 2020 - 31 June 2021
[2] Citizens Advice, Excess debts: who has fallen behind on their household bills due to coronavirus? (2020).
[3] Citizens Advice, Finishing the job on the loyalty penalty, (2021).

bills, and inconsistent support across markets.[4] The FCA has subsequently published updated vulnerability guidance, but this is not backed up by enforceable rules, which means consumers can still be at risk of harm. This is particularly concerning as our latest research into the impact of the coronavirus pandemic, which was conducted in July 2021, found that 59% of people with mental health problems had fallen behind on at least one household bill, compared to 20% of the overall population.[5]

However, we believe that, if implemented and enforced effectively and underpinned by the right rules, the Consumer Duty could be more effective than previous approaches.

Requiring firms to think about consumer outcomes, and to monitor these outcomes throughout the customer journey, encourages a more proactive approach to preventing consumer harm from the inception of a new product or service, rather than relying on consumers and their representative organisations identifying and evidencing harm after it occurs. This approach would reduce the burden on consumers and their representatives, and greatly reduce consumer detriment. It also provides an opportunity for the FCA to move away from the current piecemeal approach to addressing harm, to take a holistic view of how markets are working, and prevent harm before it occurs.

We agree with the FCA's assessment that a new Consumer Duty could help regulation adapt to rapidly changing digital markets. Setting clear rules, principles and expectations for new products will work towards preventing the FCA having to play regulatory 'catch up' to every new product or service that enters the market. Requiring firms to consider consumer outcomes at the outset of product development will encourage firms to compete and innovate to the benefit of consumers. This should also help to build consumer trust and confidence in navigating markets.

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[4] Citizens Advice, Counting on it: cross sector minimum standards of support for people with mental health problems, (2019).
[5] Citizens Advice commissioned ICM Unlimited to survey a nationally representative sample of 5,905 UK adults (18+) about their experiences of the coronavirus pandemic. Fieldwork took place online in July 2021.

It's crucial that the FCA demonstrates to firms how the Consumer Duty differs from existing guidance and principles, such as 'Treating customers fairly'. Many firms may already believe themselves to be considering their customers interests and outcomes under current regulations but, as set out in the consultation paper and our response, consumer harm continues to occur. If firms are not clear on how the Consumer Duty differs from the existing regulatory regime, better outcomes for consumers will not be delivered.

For the Consumer Duty to deliver these significant benefits, effective monitoring and enforcement will be vital. The FCA should set out explicitly the data they expect firms to collect on consumer outcomes, how this will be monitored, and what enforcement action will be taken in response to breaches of the Consumer Duty. This should include detailed case studies outlining practice that is currently occurring in markets which would not be accepted under the new Consumer Duty. It is vital that firms are not just encouraged but incentivised to make decisions and design products that deliver good outcomes for consumers, through effective enforcement, sanctions and redress. We believe that an effectively monitored and enforced Consumer Duty, combined with a Private Right of Action (PROA), should provide the incentives required for firms to fundamentally shift their approach and raise standards.

The remainder of our response sets out our reflections on the consumer harms the Consumer Duty must seek to address, and provides further considerations for the FCA to ensure the intent behind the new Duty is delivered in practice.

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Responses to individual questions

Q1: What are your views on the consumer harms that the Consumer Duty would seek to address, and/or the wider context in which it is proposed?

The examples set out in the consultation paper, and in our response, demonstrate the extent to which firms exploit their understanding of consumer behaviour in the design and delivery of products and services, in ways that result in poor consumer outcomes. We expect the new Consumer Duty to enable the FCA to take a more preventative and proactive approach to identifying and addressing these consumer harms. It should also encourage firms to think twice before acting, rather than waiting for the FCA to take action.

Market failures

The new Consumer Duty should encourage a more consistent approach to tackling and preventing systemic market failures like the loyalty penalty. In our 2018 super-complaint to the Competition and Markets Authority (CMA), we highlighted the structural exploitation of consumer inertia that resulted in loyal customers overpaying by an average of £500 across 3 financial services markets.[6] Our research found that firms competing for new customers were able to offer lower introductory rates, sustained by offering loyal customers unjustifiably high prices. In 2019 we found that home insurance companies made 100% of their over £1bn profits from loyal customers holding policies for 6 or more years.[7]

Under the current regulatory framework, we have seen a piecemeal approach to addressing the loyalty penalty in different markets, with varying degrees of success. One of the benefits of the Consumer Duty should be to prevent this level of systemic unfairness from becoming embedded. Rather than relying on individual market studies and interventions to change rules in specific markets - as the FCA has done in the general insurance market this year - all firms would be required to demonstrate that the products and services they offer will deliver good outcomes, including value for money, for their customers.

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[6] Citizens Advice, Excessive prices for disengaged consumers - a super-complaint to the Competition and Markets Authority, (2018).
[7] Citizens Advice, Press Release: Home insurance companies make 100% of their profits from the loyalty penalty, (2019).

Emerging harms

Increasing digitisation of financial services markets in recent years, along with innovations in technology and the use of consumer data, have generated significant benefits for consumers. But innovation also brings the potential for new risks, which regulation can struggle to keep up with. Firms are consistently developing a more sophisticated understanding of their customers, and their behaviours and biases. This should enable firms to improve their offer to customers through more tailored products and support, but too often we see that firms instead use this insight to exploit behavioural biases in ways that are harmful to consumers.

For example, measures to reduce friction in customer interactions, particularly through online or mobile applications that are designed to be used 'on the go', give consumers smoother, more flexible transactions. But these slick platforms also encourage rapid decision-making, which can have adverse consequences for consumers, such as being locked into a subscription or credit arrangement they didn't realise they had signed up to. Our research into buy now pay later (BNPL) platforms found that 2 in 5 people who had used a BNPL payment method in the last year did so without realising.[8]

The coronavirus pandemic has accelerated the digitisation of financial services, with many customers required to use online platforms for the first time when branches were closed and customer service lines very busy and understaffed. There are specific safeguarding considerations needed for customers who are online by necessity, rather than choice, and may be less comfortable or confident using online platforms.

With innovations entering the market all the time, it's even more important to embed clear principles and rules around consumer protection, care, and outcomes, backed up by rapid identification of, and enforcement against, breaches. If designed, implemented, monitored and enforced effectively, the Consumer Duty could help to future-proof regulation in financial services markets, rather than regulators constantly playing catch up to the latest new approaches, products and services.

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[8] Citizens Advice, 'Buy Now...Pain Later?', 2021.

Vulnerable consumers

In light of the coronavirus pandemic, firms' understanding of and approach to vulnerability is even more important for preventing consumer harm. The pandemic has had an unprecedented impact on household finances; last year we estimated that 6 million people fell behind on at least one household bill as a result of the pandemic. Our latest research found that 20% of people are still behind on at least one bill, and that 8% of those with a mortgage are behind on their payments.[9] Those behind on bills are more likely to fall behind with credit card payments (37% compared to 1% of those who are up to date on their bills), and overdraft payments (35% compared to 1% of those who are up to date).[10]

Our evidence shows that the impact of the pandemic has not been felt equally; those in insecure work, disabled people, carers, people from BAME backgrounds and younger people are all more likely to have fallen behind on their bills during the pandemic. Our latest survey also shows that disabled people are more than twice as likely to still be behind on at least one household bill (59%) than the wider population (20%).[11]

The FCA's most recent Financial Lives survey found that 53% of people display one or more characteristics of vulnerability.[12] This reflects the transient nature of consumer vulnerability; any consumer has the potential to experience increased vulnerability, either for a short or an extended period of time. This could be through a bereavement, illness, or an income shock, such as we have seen during the pandemic. It is important that this understanding is built into the design and delivery of financial products and services that are flexible to people's changing circumstances.

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[9] Citizens Advice commissioned ICM Unlimited to survey a nationally representative sample of 5,905 UK adults (18+) about their experiences of the coronavirus pandemic. Fieldwork took place online in July 2021.
[10] Citizens Advice, Excess debts: who has fallen behind on their household bills due to coronavirus? (2020).
[11] Citizens Advice commissioned ICM Unlimited to survey a nationally representative sample of 5,905 UK adults (18+) about their experiences of the coronavirus pandemic. Fieldwork took place online in July 2021.
[12] Financial Conduct Authority, Financial Lives 2020 survey: the impact of coronavirus, (2021).

This flexible approach should also consider the needs of consumers who have very specific vulnerabilities that will not necessarily change over time, and will require tailored support. These include some groups with characteristics protected under the Equality Act 2010. For example, our research into the experiences of people with mental health problems in consumer markets found that where poor mental health reduces someone's ability to carry out daily activities, they can incur costs of £1,100 - £1,550 each year as a result of inaccessible services, inadequate regulatory protections and lack of tailored support.[13]

Introducing the Consumer Duty to set new standards for firms in their responsibility to deliver good outcomes to all customers presents an opportunity for firms to consider specific disparities between groups with characteristics of vulnerability, both protected and not protected by the Equality Act. The FCA has indicated that firms will be required to investigate any disparity in outcomes experienced by customers with protected characteristics, and demonstrate that these outcomes are 'compatible with meeting the standards of the Consumer Duty'. It is our view that, as part of firms' responsibilities in demonstrating their compliance with the Consumer Duty, the FCA should require firms to regularly conduct and publish analyses comparing outcomes for different demographic and vulnerable groups within their customer base.

Q2: What are your views on the proposed structure of the Consumer Duty, with its high-level Principle, Cross-cutting Rules and the Four Outcomes?

We believe the proposed structure would provide clearer standards for the culture and conduct of firms. Including narrower, principle-based rules that underpin an overarching principle will make the Consumer Duty easier to follow and enforce. Additionally, the Four Outcomes are useful to help firms understand what the consumer impact should be, and will also make it easier to demonstrate instances where these outcomes haven't been achieved. We expect that this will make it easier for the FCA, consumer bodies, and consumers to hold firms to account.

[13] Citizens Advice, Counting on it: cross sector minimum standards of support for people with mental health problems, (2019).

However, to ensure the Consumer Duty is effective, enforceable rules are needed for each of the Four Outcomes - not only principles and guidance. Although the FCA has produced detailed vulnerability guidance, consumers who are more likely to be in vulnerable circumstances are still being failed by their financial service providers.

We supported over 112,000 people with a financial service or capability issue in the past year (June 2020 - June 2021). Common issues include support with debts, dealing with and understanding bills, support to understand contract terms and conditions, and help with complaints and redress. Out of these clients:

- 50% disclosed to us that they had a disability or long-term health condition
- 32% disclosed that they had a mental health condition
- 17% disclosed that they were from a black or minority enthnic group
- 75% earnt less than £1,500 per month
- 22% were unemployed and seeking work[14]

Rules that are directly enforceable would ensure these consumers, who are more likely to be in vulnerable circumstances, are better protected. The FCA should ensure that the development of these rules involves meaningful engagement with those with lived experience. Centering the consumer voice in the determination of what the rules around the outcomes should look like will help ensure that better consumer outcomes are delivered in practice by firms.

Q5: What are your views on the options proposed for the drafting of the Consumer Principle? Do you consider there are alternative formulations that would better reflect the strong proactive focus on consumer interests and consumer outcomes we want to achieve?

We welcome the emphasis on encouraging firms to take action in the interest of retail clients in Option 1 and 2. However, we favour Option 1 as it focuses on delivering a good end result for consumers and therefore links more explicitly to the Four Outcomes, and more directly describes the intent of the Consumer Duty.

[14] Citizens Advice, Advice Issue Code data (Pension Wise has been excluded from the total count), 1 June 2020 - 31 June 2021.

We're concerned that the directive in Option 2 - to act in the 'best interests' of consumers - could lead to harmful outcomes such as firms making decisions or taking actions on behalf of consumers without fully engaging them in the process. For example, consumers who have disclosed health information to their provider could find that their provider uses this information to disqualify them from accessing an overdraft.

Under either proposed formulation, firms must have a good understanding of their customer base and their needs. The language used in Option 2 leaves room for firms to decide what is in the interests of their customers, rather than engaging with them to determine what a good outcome would look like and whether it's been delivered.

Ultimately, whichever formulation is chosen, it's important that the Consumer Principle is specific and doesn't leave too much room for interpretation. This would ensure that it can be easily followed and effectively enforced.

Q7: Do you agree with these early-stage indications of what the Cross-cutting Rules should require?

We believe the Cross-cutting Rules will work towards raising the standard of care that consumers receive, as they require firms to act to prevent harm from occurring, and create an environment that enables consumers to make good decisions.

Avoid causing foreseeable harm

Requiring firms to take steps to avoid causing foreseeable harm to consumers, and specifically requiring firms not to exploit consumers' vulnerabilities, will help to address some of the issues that consumers experience. All too often bad actors take advantage of consumer behaviours and biases, particularly consumers in vulnerable circumstances such as those who are elderly, disabled or experiencing a period of mental ill-health. For example Cian, who came to Citizens Advice for support with his debt.

Cian's story*

Cian is 22 and already in a large amount of debt, which he is struggling to deal with after a mental health crisis. When a Citizens Advice adviser asked if he had declared his mental health problems to his creditors he said yes, he had disclosed his difficulties when he took out his first loan. When Cian contacted his provider about his debt, he became upset and they reassured him that they were there to help. Shortly after, they gave him a large high-interest loan that he is now struggling to repay.

**The client's name has been changed for anonymity*

Cian's story shows why it's vital enforceable rules are in place to prevent harm and the exploitation of consumer vulnerabilities. We welcome the detail included in the Consumer Duty about the need for firms to recognise and respond to the diverse needs of their customers and potential customers.

However, we are concerned that only requiring firms to avoid causing 'foreseeable' harm may not lead to consistently good outcomes. This is because firms might justify causing or not preventing harm by arguing that it wasn't 'foreseeable'. It could also be difficult for the FCA to determine what is 'foreseeable' to enforce the rule.

Furthermore, there are harms that could be deemed unforeseeable, but that firms should still be able to adapt to to prevent or reduce the impact on consumers. Last year, we conducted research with 50 people to understand the barriers to sharing information about health and disability with essential service providers.[15]

- 50% of the research group said they haven't shared their health information with their essential service providers.
- Many reported a fear that sharing health information with financial service providers specifically could lead to fewer services being available to them due to concerns about non-payment.

These findings suggest there may be a high proportion of consumers who haven't disclosed a health condition or disability. This means a firm might not be

[15] Britain Thinks and Citizens Advice, Sharing information about health and disability with essential consumer and public services [unpublished report], (2020).

able to foresee harm if they're not aware the person has a health condition or disability. Nevertheless, the firm must still adapt to prevent harm if an unforeseeable event occurs. An example of this could be a customer who has a period of ill-mental that leads to hospitalisation, which means they are unable to pay their bills and fall into debt.

The impact of the coronavirus pandemic is an important example of 'unforeseeable' harm, yet the financial services sector dealt with the impacts effectively, rapidly enacting new policies to protect consumers. This demonstrates that adaptations can be made quickly when unforeseeable harm occurs. The FCA should expect firms to respond to all customers with the same drive to prevent harm.

We therefore believe the language here should be changed and that the FCA should provide more case study examples to make the rule clearer. In previous consultations, respondents have requested more examples so it's easier to understand what is required of firms.[16]

Enabling customers to pursue their financial objectives

Establishing an environment where consumers can act in their own interests and make good decisions is particularly important to ensure good consumer outcomes. Remedial solutions, such as increased communications and nudges, are not sufficient to influence consumer decisions and ensure consumers will act in their own interests.

For example, in 2018, Ofcom proposed that mobile providers must notify customers when their contract is ending and tell them if there are better deals available, to encourage them to switch and avoid paying the loyalty penalty. However, our research found that around one third of people whose contract had ended since March 2020 said they did not receive a notification.[17] Either

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[16] 'Firms asked for more examples and case studies relevant to their business model as this would provide more certainty of the actions they should take.' FCA, Guidance Consultation and feedback statement Guidance for firms on the fair treatment of vulnerable customers, (2020).
[17] Citizens Advice commissioned ICM Unlimited to survey 4,140 UK adults (18+) about their mobile phone contract and their experience of switching during the Covid-19 pandemic. Fieldwork took place online in February 2021.

customers aren't receiving the notifications, they don't notice them, or the messages are unclear. Further, our analysis of Ofcom data found that the voluntary commitments, including end-of-contract notifications, will only address £69 million of the £182 million overpayment in this market.[18] This demonstrates the inadequacy of communication remedies in ensuring good consumer outcomes. Firms must take this into account and be more proactive to properly support consumers to make good decisions.

Methods that are predicted to be effective can fall far short. The FCA should require firms to monitor and report on the impact of their methods to determine if they're enabling customers to pursue their financial objectives. Firms should also be required to demonstrate actions taken to facilitate better outcomes if their methods aren't effective. If that fails, the FCA should explore implementing supply-side remedies to deliver immediate benefits for consumers.[19]

Q8: To what extent would these proposals, in conjunction with our Vulnerability Guidance, enhance firms' focus on appropriate levels of care for vulnerable consumers?

We welcome the FCA's specification that any improvement in outcomes for consumers delivered by the new Consumer Duty would be expected to also be seen for 'vulnerable' consumers. As above, the Consumer Duty is being introduced following a period of increased financial and personal volatility for many. We are optimistic that this, in conjunction with the vulnerability guidance, has the capability to improve experiences and outcomes for vulnerable consumers.

The FCA's vulnerability guidance recognises that vulnerability can comprise a range of factors, and is more complex and transient than simply labelling a consumer as 'vulnerable' or 'not vulnerable'. The pandemic is a clear example of how consumers who may not have previously been identified as 'vulnerable' can move along the spectrum of risk, or how pre-existing vulnerability can worsen with little-to-no warning.

[18] Citizens Advice, Finishing the job on the loyalty penalty, (2021).
[19] PA Consulting, Review of supply side remedies - the role of supply side remedies in improving consumer outcomes, (2020).

Our latest research into the impact of coronavirus found that 28% of participants report experiencing a loss of income during the pandemic, with 10% losing over 60% of their income.[20] In addition, our research into broadband affordability outlines how essential internet access has become during the pandemic in order to manage bills, further isolating the digitally disenfranchised from their essential services.[21]

The pandemic has also had a significant impact on mental health. In our most recent survey, 34% of people reported experiencing mental health problems in the last year, compared to a previous yearly average of 25%.[22] The mental health charity Mind reported that over half (51%) of people who had not previously experienced mental illness saw their mental health worsen during lockdown.[23] This rose to two thirds (65%) of those who had a history of mental illness, with people with personality, eating disorders and obsessive compulsive disorder (OCD) being most likely to report a decline in mental wellbeing. This is important for financial firms to recognise as our report 'The Mental Health Premium' found that consumers with mental health conditions may struggle to manage or communicate with their financial services providers.[24]

This transient nature of vulnerability and the range of ways it can impact people must be reflected in the ways that firms design service provision, by integrating flexibility into different stages of the customer journey.

Terry's story*

Terry and his wife both have long term health conditions which have caused them to shield from coronavirus for the past year. Terry's current account was

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[20] Citizens Advice commissioned ICM Unlimited to survey a nationally representative sample of 5,905 UK adults (18+) about their experiences of the coronavirus pandemic. Fieldwork took place online in July 2021.

[21] Citizens Advice, Broadband must be made affordable for everyone, (2021).

[22] Citizens Advice commissioned ICM Unlimited to survey a nationally representative sample of 5,905 UK adults (18+) about their experiences of the coronavirus pandemic. Fieldwork took place online in July 2021;Comparing to McManus, S., Meltzer, H., Brugha, T. S., Bebbington, P. E., & Jenkins, R., Adult psychiatric morbidity in England, 2007: results of a household survey, (2009).

[23] Mind, The mental health emergency: how has the coronavirus pandemic impacted our mental health?, (2020).

[24] Citizens Advice, The mental health premium: the extra charges people with mental health problems pay for essential services, (2019).

frozen due to an error, and upon contacting the bank, the customer service agent insisted that Terry must come into a bank branch to resolve the issue. Terry and his wife are both unable to go to the branch due their shielding status, a new barrier put up by the pandemic. He contacted Citizens Advice to request a food bank voucher because Terry and his wife cannot access their money to buy basic essentials.

**All client names in this paper have been changed for anonymity*

Terry's story demonstrates the knock-on impact a lack of flexibility from providers can have on vulnerable consumers. The emphasis in the Consumer Duty on firms shifting to a more proactive approach should help to address some of this harm. However, as above, we are concerned by the focus on 'foreseeable' harm, which places the responsibility on the consumer at risk, rather than the firm to respond to changing circumstances. For example, our research into the experiences of sharing health information with essential services found that Disabled participants often reported not understanding that disclosing health information to financial services was 'relevant'. Proactive contact asking about health information was low, and some of these participants had signed up to their essential services before becoming Disabled and so would require these services to recontact them to disclose this.[25]

We are also concerned that the emphasis in the consultation paper on 'reasonable' actions that can be taken by firms to promote good outcomes may be open to interpretation. Further, what is reasonable or necessary to support a consumer with characteristics of vulnerability may be different to what is reasonable or necessary for another consumer. This could make it more difficult for the FCA to establish whether a firm has complied with the Consumer Duty in their interactions with vulnerable consumers.

To mitigate against these risks, the FCA should require firms to gather and monitor data comparing outcomes for different demographic and vulnerable groups within their customer base. We would also encourage the FCA to work directly with those with lived experiences and third sector organisations in order to determine whether the Consumer Duty is helping to drive appropriate changes in the customer journey and outcomes for vulnerable consumers.

[25] Britain Thinks and Citizens Advice, Sharing information about health and disability with essential consumer and public services [unpublished report], (March 2020).

Q9 & 10: What are your views on whether Principles 6 or 7, and/ or the TCF Outcomes should be disapplied where the Consumer Duty applies? Do you foresee any practical difficulties with either retaining these, or with disapplying them? & Do you have views on how we should treat existing Handbook material that relates to Principles 6 or 7, in the event that we introduce a Consumer Duty?

We support the ambition of the Consumer Duty to reset the regulatory framework and set higher standards for firms in their approach to delivering good consumer outcomes. We believe the Consumer Duty will add new value to the FCA's regulatory guidance and enforcement strategy, alongside the existing principles.

We are aware that the act of introducing new principles and guidance runs the risk of changing the interpretation of existing principles. However, based on our understanding of Principles 6 and 7, we do not see that this addition will cause any contradictions that could create difficulties in enforcement. We agree with the FCA's argument that disapplication of existing principles could complicate the regulatory picture, or give firms a reason to not follow existing guidance.

Further, many of the themes drawn out in the Consumer Duty are already present in the existing principles, and in the FCA's guidance for firms. Given this, the existing guidance should serve to support the implementation of the Consumer Duty and vice versa. The existing guidance by providing additional detail on particular elements, such as the treatment of vulnerable consumers, and the Consumer Duty by providing an additional layer of enforceable regulation.

Q12: Do you agree that what we have proposed amounts to a duty of care? If not, what further measures would be needed? Do you think it should be labelled as a duty of care, and might there be upsides or downsides in doing so?

It is our opinion that the Consumer Duty as outlined in this consultation paper should meet the basic requirements we outlined for a new Duty in the DP18/5 consultation. That is, in order to effectively oblige firms to exercise appropriate care and skills in providing services, they must be properly incentivised to do so. We believe that given the power imbalance in the firm-consumer relationship, for firms to be properly incentivised they must face enforcement, sanctions and possible redress for breach of the new Duty. We believe that in the longer-term, the standards set by the Duty and resulting enforcement should lead to firms taking greater care to provide consumers with services that allow them to pursue their financial goals. This is assuming that the Consumer Principle, Cross-cutting Rules and Four Outcomes all provide detailed enough guidance and examples of appropriate behaviour for firms to comply.

Additionally, we have previously referred to the FCA being made to play 'regulatory catch up' as a result of new products and services not being designed with proper care for consumers' interests in the first instance, before customer journeys begin. The new focus in the Consumer Duty on firms being required to act, and to take a proactive approach at all stages of the customer journey, should help to address this previous gap in the FCA's regulatory strategy.

Combined with a Private Right of Action, which would strengthen the Duty by enabling consumers to enforce their rights through the courts, we believe the Consumer Duty will deliver similar outcomes to a duty of care.

Q13: What are your views on our proposals for the Communications outcome?

Firms' communications are not currently consistently enabling consumers to make informed decisions. The existing handbook rules aren inadequate as they don't provide detail on how firms should communicate with consumers. Although the vulnerability guidance offers greater detail, it is not enforceable. This allows firms to ignore the guidance and continue bad practice. Zeba's story shows how communications that don't clearly convey information, such as total costs and contract terms, cause serious harm for consumers.

Zeba's story*

Zeba purchased a car insurance policy online that she believed would be for 12 months and would cost her £1,200 in monthly direct debits. However, when Zeba checked her bank statements, the insurance company had continued to take money after the 12 months were up. She wanted to phone the insurance company for help but they only had a webchat system. Zeba contacted an adviser at Citizens Advice because she couldn't afford to pay and was falling into serious debt. Zeba has dyslexia and was worried she had misunderstood the policy, however the adviser also struggled to understand what she'd signed up to because the communications were only accessible via an online portal and the information was long and complicated. Eventually, they found that her annual bill was in fact £1,900 and that her policy had auto-renewed.

**All client names in this paper have been changed for anonymity*

Zeba's story shows that without clearer, enforceable rules, consumers will continue to fall into debt and experience other preventable harms as a result of poor communications from firms.

Q14: What impact do you think the proposals would have on consumer outcomes in this area?

We welcome the expectations the Consumer Duty places on firms to ensure the standards of communications are improved. However, we believe some of the proposals could be strengthened to ensure good outcomes for all consumers.

We support the expectation that firms need to ensure their communications are understood. However, we're concerned that only asking firms to tailor their communications 'where it is reasonably foreseeable' that the recipients are vulnerable consumers won't ensure good outcomes for everyone. This is because it's unlikely that firms can guarantee their communications will or will not be read by vulnerable people. For example, consumers may not disclose health information to their financial provider, or due to the transient nature of vulnerability, whereby the consumer may quickly move in and out of vulnerable circumstances, the firm may not be aware of a customer's sudden change in circumstances. Therefore, all communications should be written in the clearest format possible to ensure all recipients can understand them. This principle is the backbone of accessible content design, and the government's own guidelines specify that content designers should write for a 9 year old reading age.[26]

[26] Government Digital Service, Content design: planning, writing and managing content, (2016).

We welcome the Consumer Duty's recognition that communications must be designed to give consumers the understanding they need in terms of *what* information is provided and *how* it is provided. However, there is a significant lack of detail in regards to the 'how' and the platforms firms use to communicate. The digitisation of services has left those who are unable to use or access digital platforms behind. Those who are unable to afford internet access, live in rural areas, or who are digitally illiterate, can be unable to access communications and make informed decisions. For example, if a firm doesn't ask their customers for their communication preferences and sends out a set of revised terms and conditions by email, consumers without internet access won't be aware of the changes to the terms of their contract. To ensure all communications are accessible, firms must be required to ask consumers which communications channels they prefer, and send their communications via the preferred channel.

The digitisation of services may also impact firms' ability to monitor and review their communications. We welcome the test and review aspect of this outcome however, as noted in the paper, testing of understanding is more likely to take place during routine in-person interactions. Given there is an expectation that many services won't return to the pre-pandemic level of face to face communications, the FCA should require firms to also test and review their online communications.

To further strengthen the test and review aspect, the language must also be clearer. We are concerned that the Consumer Duty says firms won't be expected to test their communications 'where there is no meaningful risk of harm to the consumer'. The definition of 'meaningful risk of harm' is left to the firm to decide, which makes it harder for firms to understand and follow the rule, and for the FCA to enforce the communications directive if a firm argues they thought there was no 'meaningful risk of harm'. This expectation must come with further clarification and examples.

Q15: What are your views on our proposals for the Products and Services outcome?

We are pleased to see this outcome in the Consumer Duty as it highlights the increasing asymmetry of knowledge, information and power between the consumer and the firm providing a product or service. The unprecedented amount of consumer data firms hold or have ready access to, alongside increased technological capability and behavioral insights, enables firms to use sophisticated nudge and sludge techniques that make it possible for even the most savvy consumer to be exploited. This fosters an unsafe environment for the consumer to navigate product and service offerings, and can lead to serious consumer harm. It's important that this outcome goes beyond just recommending appropriate products to be sold to appropriate consumers, and that it consists of rules to protect consumers from the harm and imbalances caused by firms' use of consumer data.

We are particularly concerned by online financial products that combine dark nudges at the point of entry with sludge practices at the point of exit. We refer to these products as 'financial quicksand', as their design makes them easy to slip into and difficult to get out of. Examples of financial quicksand can be found in the buy now, pay later market, online gambling and subscription services, amongst others.

These products and services are often offered at the point of purchase where consumers are in more of an 'automatic' mode of thinking, acting quickly and without the time and information to make considered decisions. These behavioural biases are exploited by slippery design and can lead consumers to enter into credit agreements or spending without fully understanding what they're signing up to. Once they are signed up, sludge practices are often deployed to make it difficult to get out of an agreement or contract. We are seeing consumers unwittingly slip into debt as a result of these design practices.

It's important that the Consumer Duty addresses both the slippery and the sludge practices to ensure consumers are able to assess whether the product or service is right for their needs, and can act in their own interests.

Q16: What impact do you think the proposals would have on consumer outcomes in this area?

In order to tackle dark nudges and sludge practices effectively, this outcome must be more specific and require firms to do the following:

- Use their sophisticated understanding of consumer behaviour for good, doing all they can to ensure consumers are using their products consciously and after careful consideration, not as an act of impulsivity or confusion. Firms should not be exploiting cognitive biases to encourage people to spend more on services or to take out credit unwittingly.
- Remove sludge from the process of exiting a contract or subscription, or getting help. Firms should not be deliberately making it more difficult than necessary to exit a contract or close an account.
- Present essential information in a way that is genuinely engaging. Firms should use their understanding of how consumers respond to messaging to ensure important information about financial products is clear and understandable.
- To integrate consumer protection principles with vulnerable consumers in mind from the start, this protection should be the default setting on all products and services.

To ensure this outcome is effective, it's important to recognise that certain groups of consumers are more likely to fall foul of bad practice and experience negative consequences as a result of products and services that are designed without regard for consumer outcomes. For example:

- Financially vulnerable consumers, who may have been inappropriately targeted to sign up for a product or service, may find themselves trapped into unaffordable contracts due to the exit fees, and may fall into debt as a result.
- Elderly consumers, who may be less digitally savvy, are more likely to not spot misleading online information and be mis-sold a product.
- Consumers with a physical disability may face barriers to leave contracts if they're required to go into a branch to do so.
- Consumers with a mental health condition may find it difficult to call their provider to leave a contract, due to long wait times or untrained customer service staff.

These examples highlight 2 key issues:

1. Although the pandemic has led to people spending more time online, it doesn't necessarily mean users are digitally confident or capable. Those that aren't are at greater risk, and firms must be mindful of this when selling products online.
2. To make it as easy to exit a product or service as it is to enter, the Consumer Duty must be more specific about what this would mean in practice, for example, firms offering consumers multiple routes to exit, including the one they used to enter the contract.

It is essential that this outcome requires firms to ensure their products and services don't exploit consumers, especially those with vulnerabilities, and that the potential impact the product or service design could have on all consumers is considered from the start. To ensure this happens, firms must be required to evidence this thinking has happened to allow the FCA to monitor compliance.

Q17: What are your views on our proposals for the Customer Service outcome?

We are pleased to see Customer Service included as one of the Four Outcomes that the Consumer Duty seeks to improve. Customer Service is a key element of all essential services, and an important method for accessing the benefits of a product, for example making an insurance claim, or accessing an overdraft.

Poor customer service can cause harm to the customer both in its own right, and through knock-on effects on other parts of the customer journey. Our 2018 research into improving support with essential services for people with mental health conditions found large inconsistencies in the level and quality of support provided by customer service staff. Many described the process of navigating frontline customer service as a 'lottery', relying more on individual empathy and understanding than formal policies and processes.[27]

[27] Citizens Advice, Beyond good practice guides: Improving support with essential services for people with mental health problems, (2018).

Jin's story*

Jin is 85 years old, has a visual impairment and a long-term health condition. In October, she received a message from her bank telling her she hadn't paid her £140 credit card bill that month. Jin sent her bank proof of the payment she made but received no response. Since then, she has been receiving statements with the £140 showing as due. She called her bank who said she'd have to visit the branch with proof of payment. The following month, Jin received 2 letters - one advising her that everything was resolved, and one with this month's bill saying she owed £140. She phoned her bank again but the customer service agent told her they couldn't help. Almost 6 months later, Jin feels extremely frustrated. She's spent a lot of time trying to resolve the issue over the phone but feels no-one at the bank is giving her support or attention to her problem.

**All client names in this paper have been changed for anonymity*

Poor customer service outcomes can lead to poor outcomes or pain points at other parts of the customer journey – for example, difficulty cancelling a service or contract causing services or subscriptions to renew, or difficulty accessing support with a refund leading to consumers being out of pocket for longer. While these are bad outcomes for all consumers, this harm is more severe for those who are financially vulnerable. Our advice data from March 2020 to June 2021 shows that of our advice clients who came to us with a financial services issue, 39% also had a debt issue.[28]

While poor customer service can incur additional financial costs - such as costs of acquiring evidence for an insurance claim - it can also result in non-monetary costs, such as time and emotional distress. These non-monetary costs can be equally important, particularly for consumers who may be vulnerable due to low non-monetary resources. For example, our research found that twice as many people with mental health problems avoided asking a provider for extra support because of a long wait on a telephone helpline, compared with those with no mental health problems (51% vs. 26%).[29]

[28] Citizens Advice, Advice Issue Code data (Pension Wise has been excluded from the total count), 1 March 2020 - 31 June 2021.

[29] Citizens Advice, Counting on it: cross sector minimum standards of support for people with mental health problems, (2019).

During the pandemic, in particular during the lockdowns, firms saw a move to staff working from home and changes in the size of their workforce. For some firms, this had a negative impact on the ability of customers to access customer service channels.

Q18: What impact do you think the proposals would have on consumer outcomes in this area?

Despite the impact of poor customer service on consumers, we know that improving customer service has long been a challenge for firms and regulators. The FCA Handbook states that firms must 'communicate information in a clear and accurate manner, comprehensible to the customer'. This guidance is too general to be enforced, and is open to significant interpretation, which risks inconsistency of delivery.

Ofcom recently reported that following new 'fairness' commitments made by telecommunications providers, improvements were seen across areas such as value and communications, but further action was needed with regards to customer service.[30] This demonstrates that customer service cannot be improved as a by-product of broader changes made by firms, it is a complex area that requires comprehensive regulation and guidance. We therefore welcome the inclusion of specific proposals within the Consumer Duty.

To ensure these proposals are as effective as possible, the language used to set the standard for firms should be clear and specific. As with concerns raised above about the varying interpretations of 'reasonable' and 'foreseeable harms', we have some concerns about language used in the current draft Customer Service outcome. The draft states that customer service must 'meet the needs of consumers, enabling them to realise the benefits of products and services and act in their best interests without undue hindrance'. Our view is that this language unnecessarily softens the requirements placed on firms, and could allow firms to deny liability for wrongdoing as a result of 'unavoidable' hindrance or friction. We accept that some friction in customer service may be unavoidable, such as difficulties due to software or telecommunication failures. Where such nuance needs to be reflected, we would encourage the FCA to be

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[30] Ofcom, Fairness for customers commitments: progress review, (2021).

clear and specific with the language used to describe this, and to be consistent in their use of language throughout the consultation paper. For example, using 'reasonableness' as a concept to acknowledge possible limitations of firms' actions throughout, and specifically describing how this concept would apply to each outcome, with examples.

'Unforeseeable Changes'

An example is given in the Customer Service section of the consultation paper relating to how services may differ in the event of unforeseeable changes in demand. Once again, we'd like to stress that though some unforeseeable events are inevitable, the new Duty's guidance and rules should clearly specify that a change being unforeseeable does not negate the firm's responsibility to act to reduce potential harm.

While most firms adapted quickly to new challenges during the pandemic and under lockdown, customers have reported increased difficulties with getting through to customer service providers, or with the quality of service as a result of restrictions. In interviews we conducted with customers who had experienced the loyalty penalty in the mortgage market, participants reported finding it more difficult to switch during the pandemic due to having less time and a reduction in advice appointments with firms under restrictions.[31] Some customers are still experiencing these issues, after 3 lockdowns and ample time for firms to address the challenges that these have brought to customer service provision.

Cora's Story*

Cora is an elderly woman who banks with a major high street provider. She has low digital skills meaning she cannot use online banking, and gets 'muddled' when speaking over the phone with customer service independently. During the third lockdown, Cora needed to transfer some money from her savings account to her current account. She would usually do this with assistance in a branch or over the phone with help from Citizens Advice, however she is shielding and temporary branch closures and social distancing measures have made this difficult.

[31] Citizens Advice, Finishing the job on the loyalty penalty, (2021).

Cora and her grandson tried to call the bank's specialist support line to do the transfer over the phone, but Cora got very confused and the transfer couldn't be made. She eventually had to take a 30-minute taxi with her grandson to the nearest open branch in order to show the staff a letter written by the Citizens Advice adviser which detailed what needed to be done. Given Cora is very vulnerable to coronavirus, having to travel so far during a lockdown was a very poor outcome.

**All client names in this paper have been changed for anonymity*

When advising Cora, our adviser noted that this major provider had either not put together any protocol for supporting shielding customers who would usually do all their banking in branch, or that their specialist advisers were not implementing relevant protocols. Cora's issue took place during the third lockdown, which occurred almost 10 months after the first lockdown. At this point in time, while the lockdown event itself may have been unprecedented, it was a scenario that the firm had plenty of experience with from the last year and so they should have been able to adapt quickly to best support customers like Cora. This situation is particularly unacceptable given how the pandemic itself has increased the individual need for financial support.

We believe that the FCA should include examples from the pandemic, or similar 'unprecedented' events, to clearly outline what is expected of firms in unexpected scenarios. The guidance should outline how firms might adapt to such an event to continue enabling customers to meet their financial needs, and use this knowledge to prepare for future occurrences.

Engaging confidently

The current draft outcome states that consumers should be able to engage with their services 'confidently'. We agree that this is an important aspect of enabling positive customer service outcomes. Our previous research on consumers with mental illnesses found that while the majority of participants preferred phone communication over other channels, these participants experienced anxiety over the calls, in part fearing that the customer service staff would not treat them sympathetically and would judge them.[32] This led to avoidance behaviours which have the potential to be seriously damaging to their financial health.

In many cases, the reason a person is engaging with Customer Service to begin with is due to a life event or experience that would identify them as potentially 'vulnerable'. For example, customers that are digitally disenfranchised, or have recently experienced a significant life event such as the death of a partner.

For these reasons, the FCA should require firms to make a handful of changes that would meet the basic customer service needs of different customers.

- Providers should offer at least 2 channels through which all customers can use to communicate with them, one of which should be a freephone telephone line.
- Providers should train all customer service staff so that they are equipped to support those in vulnerable circumstances, e.g. mental ill-health, or domestic violence.
- Providers should offer a telephone service for customers with mental health problems so they don't have to wait in a call queue.
- For customers with reduced cognitive capacity, providers should offer written follow-up when substantive changes are made to the account or contract, or the customer has agreed to take action as a result of the call.

In interviews and the online community used to inform our research report, participants were clear about the value they placed on having different channels of communication available to them to suit their needs at that moment. There was no single communication solution that worked for everyone, and we believe this to be true for the wider consumer population.

Q19: What are your views on our proposals for the Price and Value outcome?

It is welcome that the FCA has recognised price and value as key consumer outcomes, and that market forces alone are failing to deliver this. When markets work well, competition can drive lower-cost, higher-quality products and services. But too often, firms compete to exploit consumer inertia or biases,

[32] Citizens Advice, Counting on it: cross sector minimum standards of support for people with mental health problems, (2019).

rather than to innovate or deliver more affordable or better quality products. Moreover, complex and often opaque product offers and pricing structures, including personalised pricing, make it difficult for consumers to know if they are getting good value for money, and to get the best deal available to them.

Q20: What impact do you think the proposals would have on consumer outcomes in this area?

Emphasising that delivering fair value for money is the responsibility of the firm is an important and welcome step forward in improving how financial service markets work for consumers, particularly those on the lowest incomes. The proposals touch on important issues relating to price, including the services consumers can expect, the value of consumer data to firms, and firms' responsibilities in terms of the Equality Act. However, we feel the proposals should go further, and be more specific, if they are to deliver significant changes in pricing behaviours.

Consumer expectations

The assessment of the price a consumer can reasonably expect to pay for the product or service provided is open to interpretation by firms, and the consultation does not specify how firms should understand and reflect on consumers' expectations when setting prices.

Further, we are concerned by the implication that improvements to customer service could be used by firms to justify higher prices. All consumers should be able to benefit from a high standard of customer service in interactions with firms. There is a significant intersection between those who are likely to need more support through customer service, and those who will be least able to afford additional costs. For example, those we support with financial services issues are more likely to be on low incomes; 75% earnt less than £1,500 per month. This approach runs the risk that those who need additional support may struggle to afford it.

Consumer data

The FCA is right to highlight the increasing value of consumer data to firms, and the role this can play in pricing. There is a significant asymmetry between firms' access to data on their customers, and consumers' understanding of how their data is used to determine the price they are offered. Price personalisation can be based on a customers' 'willingness to pay', but also other factors which can be intrinsic and difficult for customers to understand or change.

For example, in 2018 the FCA wrote a 'Dear CEO' letter to insurance firms, warning that its review of the market had identified pricing practices using rating factors based (directly or indirectly) on data (including third party data) relating to or derived from protected characteristics.[33] While this consultation paper draws out firms' obligations to demonstrate they are complying with the Equality Act, it does not address explicitly how this should be done. Insurance pricing is an example of the complexity and opacity consumers can experience in financial services markets; it can be difficult for consumers, or their representatives, to understand which factors have contributed to the quote offered. The FCA should be more proactive in requiring firms to monitor pricing outcomes for groups with protected characteristics, and take action to ensure that assessments of 'risk' do not indirectly result in firms failing to meet their obligations under the Equality Act.

Ultimately, the price and value proposals do not address some of the biggest challenges facing consumers in terms of price. Some consumers will continue to struggle to afford essential products and services, and some will continue to be disadvantaged as a result of disengagement in markets. This is because the proposals continue to rely on consumers making decisions about which product is the best value. Our loyalty penalty research demonstrated that price is not a good driver of consumer behaviour, as people often don't switch even when their contract ends and the price increases.[34] Remedies to increase information about price changes have also been found to be ineffective. The FCA's study into the cash savings market found that encouragement to consider switching would not lead to any substantial increase in switching.[35]

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[33] FCA, FCA expectations of general insurance firms undertaking pricing activities, 2018.
[34] Citizens Advice, Excessive prices for disengaged consumers - a super-complaint to the Competition and Markets Authority, (2018).
[35] Financial Conduct Authority, Discussion Paper (DP18/6): Price discrimination in the cash savings market, (2018).

To meaningfully create ‘an environment where consumers feel more confident that the products and services offered to them are at a price that represents fair value’, more specific interventions are likely to be needed. The FCA should consider whether more specific pricing proposals, such as the (currently paused) proposal to introduce a Single Easy Access rate in cash savings, could be integrated into or alongside the Consumer Duty.

Q21: Do you have views on the PROA that are specific to the proposals for a Consumer Duty?

Introducing a Private Right of Action (PROA) could help support the objectives of the Consumer Duty. Giving consumers the ability to take court action, particularly through group litigation, would strengthen the Consumer Duty and provide an additional incentive for firms to comply. However, this should be in addition to, not as a substitute for, the FCA taking public enforcement action. In most cases, consumers are likely to be reluctant or unable to enforce their rights in court, particularly against large financial services providers, so the primary tool to ensure compliance should be enforcement action taken by the FCA.

Q25: To what extent would the Consumer Duty bring benefits for consumers, individual firms, markets, or for the retail financial services industry as a whole?

As above, we expect the Consumer Duty to bring significant benefits to consumers in financial services markets. We welcome the FCA’s intention to take a more proactive and preventative approach to consumer protection; too often improvements in consumer outcomes have relied on consumers or representative organisations identifying and evidencing harm, often over an extended period of time, to convince firms and regulators to take action.

We share the FCA’s view that markets and transactions which are increasingly digital and reliant on ever-evolving technologies present both potential benefits and risks to consumers. The Consumer Duty will be most effective if the FCA specifically looks at ways to future-proof the new rules, for example requiring firms to demonstrate expected consumer outcomes when designing new products.

In this way, there is huge potential for the Consumer Duty to encourage firms to innovate to the benefit of consumers. Firms have access to a wide range of data and information on their customers, from their spending habits to how they respond to nudges or notifications. Placing consumer outcomes at the heart of product design could allow for this knowledge to be harnessed to deliver safer, smarter products and services. For example, firms could use their understanding of consumer behaviour and choice architecture to:

- support their customers to make decisions about which product or deal is right for them.
- use transaction patterns to identify customers who are at risk of crisis.
- design products that promote the inclusion of certain groups, such as those with disabilities.

It is also welcome that the FCA has acknowledged that delivering better outcomes for consumers is not incompatible with commercial interests. Requiring firms to prioritise consumer outcomes will be a significant culture shift for many, but if successful should encourage competition that works in the interests of consumers. This will reward firms that are meaningfully committed to delivering good customer outcomes, and prevent them being undercut by unscrupulous firms that are not willing or able to demonstrate compliance with the Consumer Duty.

To deliver these benefits for consumers, firms and markets, the Consumer Duty needs to be underpinned by clear, unambiguous rules, effective monitoring and proactive enforcement. Previous attempts to improve firms' treatment of customers - such as through Principle 6 - have failed to deliver consistently better outcomes for consumers. The FCA needs to set out in clear, detailed terms how it will monitor firms' compliance with each element of the Consumer Duty, and what enforcement action will be taken in cases where firms fail to meet their obligations. The FCA should have a clearly communicated threshold for escalating enforcement action so that consumers and representative organisations such as Citizens Advice can submit evidence.

We also believe this is an opportunity for the FCA to take a more systemic approach to enforcement. This should include tackling market failures by ensuring that the outcomes delivered by mainstream products are consistently measured across the market, rather than in a piecemeal way by identifying bad practice within individual firms. It should also focus on horizon scanning for potential new products that carry enhanced risks for consumers. If a firm is identified as failing to deliver good outcomes through a particular product, all firms offering a similar product should be required to review their consumer outcomes to demonstrate they are meeting the Consumer Duty.

Q26: What unintended consequences might arise from the introduction of a Consumer Duty?

There is a risk that the Consumer Duty is viewed by firms as a continuation of existing guidance on treating customers fairly, and as such does not institute a significant shift in provider behaviour. The focus on 'reasonableness' throughout the consultation paper could contribute to this. Many firms are likely to consider their current approaches to be 'reasonable'. The FCA needs to clearly set out the practical steps that firms will need to take to demonstrate their compliance with the Consumer Duty, so that there is not significant room for interpretation, which could undermine the intent of the new duty.

It is likely that the FCA will need to make substantial changes to its approach to supervision and enforcement, to effectively assess whether firms are complying with the Consumer Duty. When setting out its approach to enforcing the Consumer Duty, the FCA should include details of the data they expect firms to collect and share with them for monitoring. As above, we believe this should include analyses comparing outcomes for different demographic and vulnerable groups. The FCA should also include examples and case studies of current practices they consider would breach the Consumer Duty, and the enforcement action they would expect to take in response to these practices following the implementation of the duty.

Q27: What are your views on the amount of time that would be needed to implement a Consumer Duty following finalisation of the rules? Are there any aspects that would require a longer lead-time?

The new Consumer Duty should be introduced as soon as possible. As set out above, the current approach to financial services regulation has not succeeded in preventing consumer harm. The Consumer Duty is an opportunity to rebalance the incentives of firms towards serving consumers. The FCA should act swiftly, and monitor early implementation to ensure the Consumer Duty delivers its promised outcomes. While potentially hugely valuable, the Consumer Duty will represent a significant shift for firms and the FCA. The FCA should acknowledge that tweaks may be needed to support embedding the new rules, and this should not be seen as a failure of the concept of the Duty.