

## Money and Mental Health response to the Consumer Markets Green Paper

The Money and Mental Health Policy Institute is a research charity, established by Martin Lewis to break the link between financial difficulty and mental health problems. This response to the government's consultation on the Consumer Green Paper sets out evidence from our research and policy work on how the government and regulators can best support the needs of the 11.8 million adults across the UK who will experience a mental health problem each year.<sup>1</sup> Money and Mental Health's research is informed by our Research Community, a group of 5,000 people with lived experience of mental health problems. All quotes are from members of the Community who have participated in our research. In addition to drawing on previously published research, this response presents new findings from a survey of 221 people with lived experience of mental health problems.

In this response we provide answers to questions 1, 2, 4, 5, 10, 11 and 17 of the consultation, as well as providing feedback on areas of the government's proposals. We deal with questions and other issues in the same order in which they appear in the green paper.

### Background

- In any given year, one in four people will experience a mental health problem<sup>2</sup> which can affect their cognitive and psychological functioning, and make it significantly more difficult to navigate markets for essential services – water, energy, financial services and telecoms.
- Common cognitive and psychological symptoms of mental health problems include:
  - a lack of motivation
  - short attention span
  - unreliable memory
  - increased impulsivity
  - reduced planning and problem solving ability.
- As a result, people with mental health problems can experience difficulties when choosing, using and paying for essential services, and are at an increased risk of detriment in these markets.

### Choosing services

- Symptoms of mental health problems can make it harder for people to be engaged consumers, to compare options and to switch between providers.
- Most people with mental health problems understand that they “should” be more engaged consumers: more than two thirds (69%) recognising that switching suppliers is

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<sup>1</sup> Money and Mental Health calculated using Office for National Statistics, Population Estimates for UK, England and Wales, Scotland and Northern Ireland: mid-2016.

<sup>2</sup> McManus S et al. Adult psychiatric morbidity in England, 2007. Results of a household survey. NHS Information Centre for Health and Social Care. 2009.

the key to getting the best deal on essential services.<sup>3</sup> But for many, this is simply too difficult, particularly when they are unwell. When depressed, people often lack the motivation to complete even basic self-care like washing and eating. At these times, engagement in essential service markets can require superhuman levels of effort. Eight in ten (82%) of our survey respondents said they found the thought of switching and shopping around exhausting.<sup>4</sup>

- Nearly three quarters of respondents to our survey (72%) reported that they find it hard to identify the best deal, and eight in ten (80%) said they struggle to compare deals when there are many different options.<sup>5</sup>

### Using services

- People with mental health problems often experience difficulties communicating with essential services providers, managing their accounts and getting support when problems develop.
- Four in ten (37%) of people who have experienced mental health problems exhibit significant levels of anxiety when dealing with essential services providers, indicative of at least a mild phobia of the situation. This is almost three times the rate amongst people who have never experienced mental health problems (13%).<sup>6</sup>
- Three quarters (75%) of people who have experienced mental health problems have serious difficulties engaging with at least one commonly used communication channel. More than half (54%) of people who have experienced mental health problems, and one third (32%) of those who haven't, have serious difficulties using the telephone.<sup>7</sup>
- People with mental health problems often have difficulties navigating providers' websites, call centre menus and other sources of information. These problems can be exacerbated by "information overload", jargon and complex design.
- Many people with mental health problems rely on support from friends or family to manage essential services. Unfortunately, systems to allow carers to safely offer support are underdeveloped. As a result, carers are often denied access even in emergency situations, leaving them reliant upon workarounds, such as sharing PINs and passwords, which put both parties at risk.

### Dealing with problems and complaints

- 38% of people who have experienced mental health problems find it difficult or very difficult to deal with essential service problems, nearly four times the rate amongst those

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<sup>3</sup> Money and Mental Health survey of 434 people with lived experience of mental health problems. Base for this question: 348.

<sup>4</sup> Money and Mental Health survey of 434 people with lived experience of mental health problems. Base for this question: 351.

<sup>5</sup> Money and Mental Health survey of 434 people with lived experience of mental health problems. Base for this question: 349.

<sup>6</sup> Money and Mental Health analysis of online survey of 2,078 people, carried out by Populus 11-13 May 2018. Data is weighted to be nationally representative.

<sup>7</sup> Money and Mental Health analysis of online survey of 2,078 people, carried out by Populus 11-13 May 2018. Data is weighted to be nationally representative.

who haven't (11%).<sup>8</sup> Many people with mental health problems find that complaints processes are inaccessible, for instance, if they are required to use the telephone or if information about how to complain is obscured. Others struggle to lodge complaints because of psychological barriers, such as difficulties with confrontation.

- Few people with mental health problems receive extra support from essential service providers. Information about extra support is not always publicised and people are likely to struggle to ask directly for this support when unwell.
- Many people do not feel comfortable telling providers about their mental health problems. Those that do often complain that disclosures are not handled effectively, and some are treated poorly.

### **Paying for services**

- Mental health problems can make it harder to understand complex bills and to make payments. Almost all (95%) of Money and Mental Health survey respondents report having been surprised by the size of an essential service bill.<sup>9</sup> For people with low incomes and few savings, this can quickly lead to serious financial difficulties.
- Some consumers are choosing more expensive payment options, to retain control over their expenditure. For others, insensitive collections activity can have a negative impact on mental health. People experiencing mental health problems are three times as likely to be in problem debt,<sup>10</sup> and half of people in problem debt are also experiencing a mental health problem.<sup>11</sup>

## **Chapter 2 - Better outcomes in regulated markets**

### **Updating our approach to regulated markets**

We are very pleased to see the government acknowledge that current market mechanisms and regulatory approaches in essential services markets are ineffective for a sizeable number of consumers, and that as a result many consumers, particularly those in vulnerable circumstances, are receiving poor deals. Our research has consistently demonstrated that mental health problems make it significantly more difficult for people to shop around and switch, and that as a result they pay more for essential services. We are glad the government is taking a strong stance, making clear that the market must also offer these consumers reasonable prices, recognising the limitations of behavioral and information remedies in addressing these challenges, and committing to exploring new regulatory tools to solve the problems.

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<sup>8</sup> Online survey of 2,078 people, carried out by Populus 11-13 May 2018. Data is weighted to be nationally representative.

<sup>9</sup> Money and Mental Health survey of 434 people with lived experience of mental health problems. Base for this question: 369.

<sup>10</sup> Jenkins R et al. Debt, income and mental disorder in the general population. *Psychological Medicine* 2008; 38: 1485-1493.

<sup>11</sup> Jenkins R et al. Mental disorder in people with debt in the general population. *Public Health Medicine* 2009; 6, 3: 88-92.

## **1. In which regulated markets does consumer data portability have the most potential to improve consumer outcomes, and for what reasons?**

We expect that Open Banking could bring considerable consumer benefits in the financial services market, although we have concerns about the implementation of authorisation pathways by some of the CMA 9. Open access to financial transactions data should have benefits beyond helping consumers find the best deals on financial services, helping them manage day to day financial wellbeing more effectively, and make dealing with financial difficulty, particularly seeking support with problem debts, more straightforward. These innovations will be particularly valuable for people experiencing mental health problems, who may struggle with financial management as a result of their conditions.

Taking the continued development of Open Banking as given, we believe that people experiencing mental health problems could also derive substantial benefit from data portability in energy and telecoms markets. These are markets where tariffs are often complex and products bundled, creating a particular challenge for people experiencing mental health problems whose ability to process complex information may be impeded.

We agree with the assessment (paragraph 57) that the insurance market could also be ripe for disruption through data portability, particularly helping customers to navigate complex information requirements. However we would urge a note of caution here. While data portability could make the process of searching for insurance easier, it could also lead to greater personalisation of pricing which undermines the pooling of risk. In some markets, particularly those for life, critical illness and travel insurance, this could leave some of the most vulnerable, and specifically those with mental health problems, without access to products at all. While insurance firms are allowed to use data however they wish, with no transparency as to their use of artificial intelligence or algorithms to assess risk, and thus a lack of oversight, we would be concerned that data could undermine access to services.

This case illustrates the absolute necessity of ensuring that any move towards greater data portability within essential services markets is accompanied by careful consideration of new regulations which may be required to ensure that consumers are adequately protected from the worst kinds of discrimination and exclusion which could result from data-driven markets. We hope the new Centre for AI and Data Ethics will consider these challenges and help the government and individual regulators to navigate them.

## **2. How can we ensure that the vulnerable and disengaged benefit from data portability?**

Data portability has significant potential to improve outcomes for consumers who are currently disadvantaged by their limited ability to engage with markets and switch providers. Using customer data, automated switching services can provide tailored recommendations based on a customer's exact, rather than estimated usage, making comparing complex tariffs

significantly easier and strengthening competition. These services will only benefit vulnerable and disengage consumers, however, if they are taken up by a significantly large number of people, and not exclusively by customers who are currently engaged. In a worst case scenario, these types of tools could exacerbate existing inequalities in these markets by making it easier for engaged customers to get an even better deal, while those who struggle to engage are left even

further behind. We would urge the government to consider, potentially as part of its financial inclusion work or through the Personal Budget Support programme around Universal Credit, how it can maximise the reach of these tools to ensure as many people as possible can benefit.

The design of data sharing systems will also be critical. Previous iterations of the 'midata' scheme, which relied on consumers proactively finding and downloading data in a CSV format from their provider's website to upload to a separate site demonstrated that data portability, when not facilitated by secure end-to-end pathways for the sharing of data, provides very few benefits to consumers - requiring too much legwork for any but the most engaged to benefit. API systems, as used by Open Banking, require greater investment in developing infrastructure, but provide much stronger security for consumers - essential if people are to be convinced that sharing data is safe. This is a particular concern for consumers with mental health problems - 73% of survey respondents said that they would be worried about the privacy implications of sharing data about the way they use essential services.<sup>12</sup>

We are also concerned that the ability of new entrants to disrupt essential services markets and develop services which better meet the needs of vulnerable and disengaged customers could be limited by a lack of access to data with which to develop and test products. While building new systems for data portability would reduce the concentration of power around consumer data currently enjoyed by incumbent firms, it takes time and a volume of data for new firms to build novel solutions to take to market. This means, as we have seen with Open Banking, that the initial stages of any data portability solution are likely to be underwhelming. To minimise this risk, and increase the likelihood that data portability rapidly improves the options available to vulnerable and disengaged consumers, the government should consider creating sandboxes of anonymised consumer data where new entrants can develop and test propositions, and running prize competitions to reward those who create innovative services that improve outcomes for disadvantaged consumers.

#### **4. What is the best way to publish performance data so that it incentivises firms to improve and can be used by consumers when taking decisions? Should firms also offer discounts or compensation for poor performance?**

A survey of the Money and Mental Health Research Community suggests that consumers would welcome the publication of data about the service levels provided by essential services providers. 82% of respondents agreed they would like to know more about how well different

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<sup>12</sup> Money and Mental Health survey of 221 people with lived experience of mental health problems. Base for this question 215.



essential services providers serve their customers.<sup>13</sup> Over half of respondents suggested that they would like to see more performance data across a range of industries including energy, broadband and landline, mobile phone, banking and insurance.<sup>14</sup> If more data is to be published, Research Community members said they would particularly like information on whether extra support is available for people experiencing mental health problems, on the frequency of problems, and on how many complaints are received and how quickly they are resolved.

However the initial enthusiasm for publication of more performance data was tempered somewhat by the finding that 43% of respondents agreed that there is already too much information to look at when choosing essential services providers and 79% reporting that their choice of essential services providers is mostly based on price.<sup>15</sup> Additional information can be a useful input for consumers where they are in a position to engage in the market and shop around, however for consumers who are, for whatever reason, less able to be an active market participant, the passive benefits of the publication of more performance data are less obvious.

This leads us to believe, on balance, that the publication of data about service quality could be helpful, but that the mechanism by which this is expected to improve consumer outcomes should be carefully considered. We do not believe that the publication of this data alone is likely to change consumer behaviour. To overcome this, the government should encourage regulators to publish scoreboards and undertake press work publicising their findings, in line with the approach taken by the Civil Aviation Authority towards access to airports for disabled people. The publication of this data generates significant press coverage and the reputational risk appears to be successful in driving airports to try harder.

We are also forewarned by the number of existing exercises around quality of service in the financial services market, including the industry's own initiative under the Banking Standards Board, the Fairer Finance scheme and the Fairbanking Mark. While these standards undoubtedly help to drive up quality in some parts of the market, they have not yet had a transformative effect on the nature of competition in these markets, which remains focused on price.

It is for this reason that we believe that best practice initiatives must be accompanied by minimum standards that provide a basic level of protection from exploitation and detriment to the most vulnerable. We are delighted to see the government commit to exploring how minimum standards across essential services could help improve service quality for people experiencing mental health problems, cognitive impairments and dementia, and stand ready to assist this work however we can.

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<sup>13</sup> Money and Mental Health survey of 221 people with lived experience of mental health problems. Base for this question 216.

<sup>14</sup> Money and Mental Health survey of 221 people with lived experience of mental health problems. Base for this question 221.

<sup>15</sup> Money and Mental Health survey of 221 people with lived experience of mental health problems. Base for this question 216.



Unsurprisingly, our Research Community members were very keen that firms should offer discounts or compensation when they fail customers - 99% of respondents thought this was a good idea.<sup>16</sup> We would argue that this compensation or discount should be applied automatically whenever possible to ensure that those who are less able to engage with suppliers do not miss out. Four in ten people with mental health problems (38%) find dealing with problems with essential services difficult, compared to one in ten people (11%) without mental health problems.<sup>17</sup> Where people need to contact an essential services provider to secure a discount or compensation for a problem or failure of service, we would expect that this would significantly disadvantage people experiencing mental health problems and other potentially vulnerable groups, and believe automatic compensation, as already used in the energy, water and telecoms industries, is fairer.

### **5. Is there a need to change the current consumer advocacy arrangements in the telecommunications sector? If so, what arrangements would be most effective in delivering consumer benefits, including for those who are most vulnerable?**

We believe that the lack of a statutory consumer advocate in the telecoms sector is a problem. In other sectors, particularly financial services and energy, statutory advocates have played an important role in challenging firms and ensuring consumers' problems are addressed. The growing technicality of the telecoms market, the prevalence of bundling of services and common complaints among consumers about misleading broadband speed advertisement, problems with mobile phone contracts and in-contract price increases lead us to believe that a stronger consumer voice is needed in this sector, and that the Consumer Communications Panel alone is not sufficient.

#### **Ensuring vulnerable customers are treated fairly**

We are very glad to see the government committing to exploring the potential benefit of minimum standards that people experiencing mental health problems, cognitive impairments or dementia should expect to receive across sectors. Mental health problems affect people's consumer behaviour and the way that they interact with all sorts of essential service providers, regardless of the particular provider, or the regulator sitting above it. Inconsistent approaches to these problems confuse people with mental health problems and make it harder for them to engage with support. As essential services are increasingly bundled, or accessed through intermediaries across market boundaries, consistency will become all the more important.

These standards should be designed to safeguard customers with mental health problems against the most significant accessibility barriers, or practices that would otherwise cause significant harm to this consumer group.

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<sup>16</sup> Money and Mental Health survey of 221 people with lived experience of mental health problems. Base for this question 204.

<sup>17</sup> Online survey of 2,078 people, carried out by Populus 11-13 May 2018. Data is weighted to be nationally representative.

Money and Mental Health is working on a complementary set of best practice accessibility standards for mental health to sit across essential services markets at firm level.<sup>18</sup> These have been made possible by funding from DCMS and the Cabinet Office, and support from Nesta. We hope these firm-level standards will help providers to demonstrate compliance with any new regulatory standards, and offer firms an opportunity to reach beyond any minimum standards to provide the best possible service to customer experiencing mental health problems. We would be delighted to work with the government and the UK Regulators Network in the coming months to maximise synergies between these firm-level standards and the regulatory minimum standards.

### **Power of attorney**

We are pleased to see that the Office of the Public Guardian will be working with members of the UK Regulators Network to produce new guidance on the recognition of power of attorney in regulated markets. Power of Attorney is a vital tool for people with severe and enduring mental health problems, and we regularly hear from people who have experienced serious problems either implementing or using a Power of Attorney, at enormous cost to individual and attorney alike.

“Dealing with large firms and power of attorney forms is a minefield. A national policy should be brought in, so the large firms all handle them the same.”

However, for many people with mental health problems, Power of Attorney is inappropriate. Many mental health problems fluctuate significantly: people can be able to manage their affairs independently for years at a time, before becoming acutely unwell very suddenly. Many companies also require proof that a person has lost capacity before allowing the Attorney to make decisions on the person’s behalf; proof which can be very difficult to obtain in a psychiatric emergency, when medical staff are overstretched, and when a person may be behaving in such a way as a result of their condition that they are at immediate risk of financial detriment.

“Many organisations, even with an Lasting Power of Attorney won’t do a thing until they have a consultant’s letter [declaring lack of capacity]- this always takes time - by then, the damage is done!”

“In the past I had a friend attempt to help me, when I was in one of my very-unwell periods and absolutely could not leave the house, speak to strangers, or use the phone. Even though I had written to them giving my permission and giving them her name, birth date etc, and she was speaking to them from my home landline they stonewalled her and refused to give her any information or allow her to speak on my behalf. They insisted I speak to them... it was not helpful and made me worse.”

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<sup>18</sup> Holkar M, Evans K and Langston K. Access essentials: Giving people with mental health problems equal access to vital services. Money and Mental Policy Institute. 2018.



The average age of someone donating Power of Attorney is 75,<sup>19</sup> suggesting that use of the tool is biased towards older people despite the fact that many people with ongoing mental health problems rely on support from family and friends to manage essential services. Money and Mental Health research suggests that, in the absence of a suitably flexible tool to allow people experiencing mental health problems to delegate decision making authority to a carer, they instead rely on workarounds which are risky for all involved.<sup>20</sup> While systems to delegate authority must prioritise preventing financial abuse and fraud, the current lack of systems does exactly the opposite, instead pushing people to share PINs and passwords in a way which makes it very difficult to prove that fraud or abuse has occurred if there are problems.

We recommend that the government extends the proposed review around Power of Attorney to consider the broader challenges around third party access in essential services markets, particularly as these pertain to people with temporary cognitive impairments or mental health problems. We also suggest that, as part of this review, the Office of the Public Guardian should consider how Power of Attorney could be reformed to work better for people with fluctuating conditions.

### Chapter 3 - Digital Markets that work for consumers

#### **11. Should terms and conditions in some sectors be required to reach a given level of comprehension, such as measured by online testing?**

Money and Mental Health have particular concerns about consumer understanding of the terms and conditions of credit agreements taken out online.

In a survey of 5,500 people with experience of mental health problems, we found that 59% had taken out credit when unwell where they would not otherwise have done so. The FCA's guidance on mental capacity determines that a customer should be able to understand, remember, and weigh up relevant information and communicate their decision when taking out a new credit product or extending an existing line of credit.<sup>21</sup> However a quarter (24%) of people told us that when taking out credit during a period of poor mental health they were unable to understand the terms and conditions.<sup>22</sup>

Concern about these credit applications is retrospective, and does not necessarily indicate that these people lacked capacity at the time. Lenders are expected to presume that customers have capacity to make decisions, unless they observe factors which lead them to suspect that the individual may lack capacity. When credit is taken out in person or over the phone, staff may spot signs that a customer does not fully understand their decision through the course of a conversation, and at this point should offer additional assistance. At present, online equivalents

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<sup>19</sup> Freedom of Information request by Old Mutual Wealth, October 2016.  
<https://www.oldmutualwealth.co.uk/Media-Centre/2016-press-releases/november-2016/numbers-registering-power-of-attorney-more-than-treble-in-five-years-and-now-set-to-surpass-2-million/>

<sup>20</sup> Murray N. Strength in numbers. Money and Mental Health Policy Institute. 2016.

<sup>21</sup> Financial Conduct Authority, CONC 2.10 Mental capacity guidance 2014.

<sup>22</sup> Holkar M and Mackenzie P. Money on Your Mind. Money and Mental Health Policy Institute. 2016.

of these softchecks are under-developed. With increasing numbers of credit applications made online, these findings demonstrate a need for firms to develop better ways to check consumer understanding online and to offer greater support when it is needed.

Requiring a given level of comprehension in order to pass through an online lending process without further support could help protect consumers from unsuitable or unaffordable credit arrangements which later cause distress and financial difficulties. Simple recall questions could easily be built into online application processes to ensure that the FCA's criteria are being applied consistently across channels. In-depth consumer testing will be essential to ensure that developments in this area are a positive innovation for consumers, and provide better outcomes, rather than being used to exclude people unnecessarily.

## Subscriptions

Money and Mental Health research suggests that subscriptions can cause particular problems for people experiencing mental health problems. Consumers with mental health problems are substantially more likely to buy products and services by subscription. Seven in ten consumers with a mental health problem (71%) have bought something by subscription, compared to 58% without.<sup>23</sup> Common problems include difficulties cancelling subscriptions, often due to telephone anxiety and fears of confrontation, and memory problems meaning people lose track of subscriptions.<sup>24</sup>

"I took out a [subscription service]. They refused to cancel it over email - said I had to call in. I couldn't call due to phone anxiety. I paid for another 12 months."

We urge the government to ensure that the needs of this group are considered in the work of the Consumer Protection Partnership. In particular, people experiencing mental health problems would benefit from:

- An end to automatic subscription at the end of trial periods: consumers should have to choose to continue
- Credit accrued with retailers being fully refundable at any time
- All customers being able to cancel online or by email.

## Chapter 5 - A regulatory and competition framework for the future

### 17. Do you agree with the initial areas of focus for the Consumer Forum?

We agree that in the initial areas of focus for the consumer forum the government has correctly identified the two most important questions facing regulators at present. Cross-regulator cooperation is particularly important to improve standards across the board for vulnerable

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<sup>23</sup> Money and Mental Health analysis of online survey of 2,051 people, carried out by Populus 9-11 December 2016. Data is weighted to be nationally representative.

<sup>24</sup> Mackenzie P and Evans K. Subscription retail: an expensive trap. Money and Mental Health Policy Institute. 2017.

consumers, and we hope the proposed minimum standards for people experiencing mental health problems, cognitive impairments or dementia will appear on the agenda at an early stage in proceedings. Maximising the benefits of data portability across markets also brings larger questions about the distribution of powers and responsibilities between government and regulators, and a joint forum creating the space to discuss should be helpful.

While understanding the value of a private discussion space for the various regulators and government, we are concerned at the lack of discussion in the green paper of how the voice of consumers will be represented to this group. Government should be mindful that the most effective solutions are those grounded in the lived experience of consumers, and we would encourage them to consider how organisations representing consumers could feed into this body, even if they are not to be included in meetings. When dealing with issues around open, portable data, we would also hope that experts in AI and data security would be consulted - avoiding duplicative work across different markets and allowing us to work towards a single set of principles for the use of data across regulated markets, providing reassurance and clarity for consumers and regulators alike.