Money and Mental Health response to the FCA's consultation on Open Finance

Introduction

The Money and Mental Health Policy Institute is a research charity established by Martin Lewis to break the vicious cycle of money and mental health problems. We aim to be a world-class centre of expertise developing practical policy solutions, working in partnership with those providing services, those who shape them, and those using them, to find out what really works. Everything we do is rooted in the lived experience of our Research Community, a group of 5,000 people with personal experience of mental health problems.

We are pleased to see the FCA publishing this call for input on Open Finance, and look forward to working with the FCA over the coming months and years as this important work progresses. In this document we respond to questions 1, 2, 4, 6, 7, 8, 10, 13, 15, 17, 18 and 19.

Background

- In any given year, one in four people will experience a mental health problem,[1] and over a lifetime this rises to nearly half the population.[2] However, we do not always know when we are unwell, or receive treatment. Over a third (36%) of people with a common mental disorder have never received a diagnosis, and 62% are not currently receiving treatment.[3]
- People with mental health problems are more likely to be living on low incomes or in insecure work,[4] and can experience a range of difficulties accessing the benefits system, which can make it harder to claim entitlements.[5]
- Common symptoms of mental health problems, like low motivation, unreliable memory, limited concentration and reduced planning and problem-solving abilities, can make managing money significantly harder.[6] As a result, it is estimated that people with mental health problems pay up to £1,550 more per year for essential services than people without mental health problems.[7]

[1] McManus S et al. Adult psychiatric morbidity in England, 2007. Results of a household survey. NHS Information Centre for Health and Social Care. 2009.
[2] Mental Health Foundation. Fundamental facts about mental health. 2016.
[3] McManus S et al. Mental health and wellbeing in England: Adult Psychiatric Morbidity Survey 2014. NHS Digital. 2016.
[4] The Mental Health Taskforce. The Five Year Forward View for Mental Health. 2016; Braverman R, Bond N and Evans K. The benefits assault course. Money and Mental Health Policy Institute. 2019; Bond N and Braverman R. Too ill to work, too broke not to. Money and Mental Health Policy Institute. 2018.
[5] Bond N, Braverman R and Evans K. The benefits assault course. Money and Mental Health Policy Institute. 2019.
[6] Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.
[7] Rogers C, Poll H and Isaksen M. The mental health premium. Citizens Advice. 2019.

- People with mental health problems are three and a half times more likely to be in problem debt as those without, and half (46%) of adults in problem debt also have a mental health problem.[8]
- Mental health and financial problems can form a devastating, self-reinforcing cycle. Over 420,000 people in problem debt consider taking their own life in England each year, and more than 100,000 people in debt actually attempt suicide.[9]

Key message

Open finance has the potential to transform financial services for the better, to enable innovative solutions to longstanding consumer issues and revolutionise support for the most vulnerable people in society. Equally, it could simply further advantage already well-served and affluent consumers, at the expense of the majority, or provide the infrastructure for a step change in fraud and scams. There is a considerable risk that open financa exposes vulnerable consumers, in particular, to harms such as financial exclusion, discrimindation and data being used without meaningful consent.

Building on lessons learned through the implementation of Open Banking, we recommend that, rather than providing new infrastructure and waiting to see what happens, the FCA first develops a clear purpose for open finance, and then acts strategically to make this vision a reality. The FCA should be clear about why this intervention is being considered, the problems that it hopes to address and the consumer outcomes it wishes to achieve. This will enable the FCA to evaluate progress over time, and to correct the course if barriers to progress emerge or adverse consumer outcomes are apparent.

We encourage the FCA to make improving outcomes for vulnerable consumers a key aim of open finance, and beyond this to set out specific improved outcomes for vulnerable consumers that it would like to see in different sectors. The path of innovation is not straightforward, so the FCA will need to be flexible. Current distinctions between products may become less clear and new models may create different problems for consumers. The FCA should review and adjust the outcomes it is looking for over time, to ensure that they best support the overarching purpose of open finance.

[8] Holkar M. Debt and mental health: a statistical update. Money and Mental Health Policy Institute. 2019.
[9] Bond N and Holkar M. A silent killer: Breaking the link between financial difficulty and suicide. Money and Mental Health Policy Institute. 2018.

Consultation response

Question 1: What action can we take to help ensure the potential of open banking is maximised, for instance to support the development of new open banking services?

The FCA should play a strategic role in supporting open banking enabled innovation, encouraging innovation to address common problems that people currently face in financial services markets. Meaningful use cases that deliver real value for consumers should help to drive engagement and maximise the potential of open banking. To achieve this, the FCA should draw on existing innovation policy tools, such as its FCA Innovate support services, to shine a light on problems and practically support innovators to address them.

We were pleased to see the FCA pilot a challenge on green fintech,[10] challenges could be a powerful innovation tool and we encourage the FCA to use them more widely, to drive innovation to tackle persistent consumer problems. The FCA should draw on the 'Open Banking for Good' model - notable for its precise focus on consumer issues and its collaborative approach to addressing them. Open Banking for Good is a challenge prize, born from the Inclusive Economy Partnership and funded by Nationwide Building Society, that sets innovators clearly defined consumer problems to solve and facilitates access to charity and financial services partners to co-create solutions.[11] This approach could help to ensure that open banking delivers value for consumers most in need of innovative new products and services.

The FCA can also draw wider policy lessons from innovation models like Open Banking for Good. These schemes support innovators to overcome common barriers to market entry that may otherwise have prevented their products and services from becoming a reality. Open Banking for Good supported innovators with detailed insight into consumer problems, and access to funding and expertise. This model demonstrates that, with the right focus, open banking can deliver substantial benefit for consumers who might otherwise be left behind by innovation, such as people with mental health problems. The FCA should analyse the challenges that innovators face and consider measures that could lower barriers across the market, where appropriate. For example, the FCA could use its convening powers to highlight particular consumer problems, offer FCA innovate support to innovators working on these problems, and consider new ways to facilitate wider access to charity expertise or insight into common consumer needs.

Question 2: We are interested in your views on what open banking teaches us about the potential development of open finance.

[10] https://www.fca.org.uk/firms/innovation/green-fintech-challenge
[11] For an evaluation of this Open Banking for Good model see:
Collard S and Evans J. Open banking for good: moving the dial? Personal Finance research Centre. 2019.

In the first few years of open banking we have seen significant growth in both regulated providers and customer usage. Open banking recently reached two million customers for the first time,[12] and some compelling use cases have reached the market.[13] However, open banking is far from mass adoption, and there is a risk that it will continue to add value for technologically savvy consumers, but fall short of its competition aims and realise few benefits for the majority of consumers. This would exacerbate existing inequalities and undermine the FCA's aim of ensuring that outcomes for vulnerable consumers are at least as good as those of other consumers. We encourage the FCA to critically examine the open banking model, and the outcomes it has yielded for consumers and firms, rather than simply adopting it as a blueprint for open finance.

We have identified three key lessons from the experience of open banking:

- Compulsion is necessary
- The design of governance is vital
- Adoption is not guaranteed

Compulsion is necessary

The rollout of open banking has highlighted the difficulties that incumbent firms can face in implementing technical standards. Despite open banking being mandated for the nine largest banks and building societies in the United Kingdom, we have seen delays in implementation, and some firms have cited technical challenges. These challenges have ultimately been overcome, but it seems highly unlikely that this infrastructure would have been developed without firms being mandated to act. Compulsion will be required for firms in other sectors to open up access to their customers' data in a timely and consistent way. A risk of compulsion is that it could encourage firms to see open finance purely as a compliance exercise. To counteract this, the FCA should be clear about the opportunities when communicating to incumbent firms about open finance, to help demonstrate the potential value of this infrastructure.

The design of governance is vital

Current uncertainty over the future of the Open Banking Implementation Entity (OBIE) highlights the need for a permanent governance structure to manage open finance. The OBIE has played a vital

[12] Open banking. Real demand for open banking as user numbers grow to more than two million. 2020.
Available at:
https://www.openbanking.org.uk/about-us/latest-news/real-demand-for-open-banking-as-user-numbers-grow-to-more-than-two-million/

[13] See "availability of open banking-enabled products" on page 7: Reynolds F and Childey M. Consumer priorities for open banking. 2019.

role, developing common standards, processes for disputes and complaints, and maintaining the Open Banking Directory. Open finance will require permanent arrangements to support these functions, and a permanent governance structure will require a fair, long term funding arrangement. A fair approach would be for the FCA to introduce a levy on all firms in participating sectors, with contributions weighted based on firm size, similar to funding arrangements for other cross-sector bodies.

The OBIE was created to implement open banking, in the relatively narrow sense of creating a system of common standards to enable this technology, and it has done so. However, the provision of infrastructure was not the ultimate aim of the Competition and Markets Authority (CMA) intervention, it was intended to stimulate competition for the benefit of consumers. The narrow remit of the OBIE may help to explain why this intervention has so far failed to achieve the CMA's wider ambitions.

The purpose of open finance should be explicit in the governance structure of the body that oversees it, and its governance should be designed to fulfill this broad purpose. Drawing on principles recognised in the FCA's recent consultation on guidance for firms on the fair treatment of vulnerable customers, the needs of vulnerable consumers should be taken into account at every stage of the design of open finance, in order for the system to work well for this group.[14] To achieve this, the governance structure of open finance must ensure meaningful involvement of vulnerable consumers and consumer organisations that work with vulnerable consumers. Failing to do so could exacerbate existing inequalities, resulting in innovation that favours more informed and technologically savvy consumer groups but is not inclusive.

Adoption is not guaranteed

For open finance to make a difference to consumer outcomes, broad consumer uptake is important. Most consumers currently have not heard of open banking nor used it.[15] For open finance to achieve its potential, the FCA must first understand the reasons for current low levels of open banking adoption and develop a plan to reach sufficiently widespread adoption to deliver on the aims of the intervention. For open finance to improve outcomes for vulnerable consumers, the FCA must ensure that this group trusts open finance, that open finance-enabled products and services are accessible for vulnerable consumers and that they add value for them.

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[14] Financial Conduct Authority. GC20/3: Guidance for firms on the fair treatment of vulnerable customers. 2020.

[15] Warwick-Ching L. Open banking: the quiet digital revolution one year on. Financial Times. 2019. Available at:
https://www.ft.com/content/a5f0af78-133e-11e9-a581-4ff78404524e

Trust in the system and compelling use cases are likely to be key requirements for widespread adoption of open banking or open finance. Many consumers are rightly cautious about sharing their data, particularly financial data,[16] and this attitude is likely to persist as we see a growing threat from fraud and scams.[17] Trust in the system may be particularly vulnerable while most people have not heard of open finance, as one high profile case of data being misused could fatally undermine confidence. So, the integrity of the system will be crucially important for trust in open finance. The FCA, or the body tasked with overseeing the governance of open finance, should consider a proactive communications campaign to build trust in open finance and introduce consumers to the system on its own terms.

Compelling use cases that deliver value for consumers are likely key to overcoming caution around data sharing and ensuring widespread adoption of open finance. Currently, there is a limited availability of open banking enabled products to address many common consumer needs, such as current account comparison and unbundled overdrafts,[18] and even less availability of products designed to address challenges faced by vulnerable consumers, such as proactive analysis of financial data to identify problems and offer support.[19] To maximise the potential of open finance, the FCA should act strategically to stimulate innovation to meet common consumer needs, including those of vulnerable consumers.

Question 4: Do you agree with our assessment of the potential benefits of open finance? Are there others?

Open finance could yield huge benefits, in particular for many vulnerable consumers, including people experiencing mental health problems, who currently find everyday financial management challenging and are disadvantaged in financial service markets. Open finance could enable data driven tools that directly address common challenges experienced by vulnerable customers, for instance automating or simplifying aspects of financial management, product comparison and switching. These activities are frustrating and time consuming for many consumers, but can become altogether impossible for consumers experiencing common symptoms of mental health problems such as difficulties concentrating and impaired decision making.[20] Open finance could build on the potential of open banking, enabling consumers to share broader sets of financial data with trusted third parties, yielding more powerful insights. Extending open finance to common financial products like consumer credit, mortgages and savings accounts could be particularly powerful.

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[16] Experiean. Delivering value in the digital age Exploring UK attitudes towards data. 2017.
[17] UK Finance. Fraud - the facts 2020. 2020.
[18] Reynolds F and Childey M. Consumer priorities for open banking. 2019.
[19] Evans K and Acton R. Fintech for good. Money and Mental Health Policy Institute. 2017.
[20] Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.

Open finance could well enable TPPs to develop beneficial services such as those set out in chapter 3 of the consultation document. However, simply providing open finance infrastructure will not guarantee that such services will be developed, or that they will be adopted by those who could benefit most from them. The FCA should be clear about the problems it wants to see addressed by open finance, should act strategically to ensure that these benefits are realised, and evaluate open finance against this ambition.

Money and mental health research has explored the role that new financial technology could play in helping people with mental health problems with financial management, and identified five specific use cases.[21] Open finance infrastructure could enable TPPs to develop services to meet these needs.

- **Money management tools** - to make it easier for people to keep track of spending and financial obligations, give time and space to reconsider decisions
- **High-control products and self-exclusion** - allowing people to protect themselves from problematic behaviours during periods of poor mental health by putting blocks on certain account features
- **Checking understanding online** - using behaviour online to identify people who might need further support, and check understanding through credit applications processes
- **Enabling support from friends and family members** - the ability to share financial transactions data and decision-making with a trusted friend so they can offer support when needed
- **Spotting problems early** - analysing data streams to predict behaviour which might identify a person at risk of financial difficulty, so they can be offered tailored support in a timely way

The use of financial data to identify problems and offer support early could be particularly transformative for many people with mental health problems. Not only is this group more likely to experience financial difficulty, but symptoms of mental health problems can make it harder both to spot issues early and to ask for help. Open finance could enable trusted TPPs to take a holistic view of customers' finances, identify early indicators of financial problems and offer tailored support.[22]

Question 6: Is there a natural sequence by which open finance would or should develop by sector?

[21] Evans K and Acton R. Fintech for good. Money and Mental Health Policy Institute. 2017.
[22] For a detailed exploration of the potential use of financial data to provide proactive support, see: Alpin K and Holkar M. Dats protecting. Money and Mental Health Policy Institute. 2019.

The sequencing of the potential rollout of open finance is important. Given the technical complexity involved it could take years for all areas of financial services to implement this infrastructure, so the sequencing of this rollout will determine which use cases are viable soonest and who benefits in the short term. We encourage the FCA to make decisions about sequencing based on the consumer outcomes it wants from open finance, prioritising according to need.

Question 7: Do you agree with our assessment of the potential risks arising from open finance? Are there others?

As open banking has shown, providing new technological infrastructure can enable innovative new products and services that were not foreseen. This, in turn, may lead to new and unexpected risks to consumers. We share the FCA's concerns and wish to highlight four key risks, and an approach the FCA could take to mitigating them:

- Exclusion
- Reduced friction
- Data misuse
- Difficulties gathering meaningful consent

Exclusion

As recognised in the consultation document, there is a significant risk that consumers who do not feel comfortable sharing financial data could be excluded from essential financial products and services, or charged unfair prices to access them. To address this, the FCA should pay close attention to outcomes for consumers who do not wish to use open finance, and should ensure that they are treated fairly and are able to access essential financial services.

While more accurate credit worthiness assessments are certainly a potential benefit of open finance, there is also a risk that better use of data will result in some consumers being judged a poor credit risk and left unable to find affordable credit. As credit markets make better use of financial data over time, we encourage the FCA to monitor changes in access to affordable credit and proactively intervene if there is evidence that a growing proportion of consumers are likely to be excluded.

Reduced friction

Open finance could enable products and services that significantly reduce friction in many areas of financial services. This could be beneficial for many consumers, for instance by making everyday financial management quicker and easier, but it also presents risks. Low friction journeys can facilitate impulsive decisions that cause harm. This can be a particular problem for people experiencing mental health problems, as increased impulsivity is a common symptom of several mental health conditions.[23]

In a survey of nearly 5,500 people with mental health problems, Money and Mental Health found that 93% of respondents had spent more than usual when unwell and 59% had taken out a loan when unwell that they wouldn't otherwise have taken out.[24]

"Whilst in a manic phase [of bipolar disorder], I have obtained credit cards and bought holidays, cars and general shopping."
Expert by experience

Low friction journeys can enable people with mental health problems to transact even when they are acutely unwell, even unable to understand the terms of the transaction. In the same survey, we asked respondents to consider how their mental health problems had affected their decision-making in applications for credit that they had made during the last 12 months:

- 24% said they were unable to understand the terms and conditions.
- 38% said they were unable to remember what they had been told about the loan
- 48% said they were unable to weigh-up the advantages and disadvantages of the loan
- 34% said they were unable to communicate their decision, ask questions or discuss the loan with the organisation that they applied to.[25]

These examples highlight the harm that can occur in low friction environments in the existing financial service system. There is a clear risk that open finance could reduce friction across financial services, and lead to similar problems as consumers make important decisions about mortgages or pensions, risking even greater detriment.

The FCA should ensure that standards for open finance customer journeys are designed with vulnerable consumers in mind, with careful consideration of the harm that low friction journeys can cause for some consumers. Decisions about the amount of friction in customer journeys should be driven by analysis of the impact on customer outcomes. We encourage the body that develops these standards to design journeys that enable, rather than undermine, informed decision making. Sometimes a small amount of friction can be the difference between a poor financial outcome and a good one, so it may be appropriate to require delays, double confirmation or third party advice for certain transactions.

Data misuse

[23] Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.
[24] Holkar M and Mackenzie P. Money on your mind. Money and Mental Health Policy Institute. 2016.
[25] Ibid.

Open finance would make it significantly easier for consumers to share large amounts of data. This could create a large incentive for data misuse, such as fraud, particularly if high-value products like pensions and investments are part of the open finance ecosystem. Fraud and scams have grown significantly in recent years,[26] and vulnerable consumers, including people with mental health problems, are both more likely to be targeted and less resilient to financial losses.[27] Data misuse causes significant harm to those affected, and a high profile case of data being misused could fatally undermine confidence in open finance and thwart any potential benefits.

To mitigate this risk, the FCA should ensure that all firms accessing the open finance ecosystem are within its regulation and subject to strict supervision. As mentioned above, the FCA can also reduce the risk of data misuse by carefully considering the amount of friction in open finance customer journeys. Small amounts of extra friction could make it easier for consumers to consider their action and spot any warning signs of fraud. Beyond these preventative steps, the FCA must ensure that consumers who fall victim to data misuse through no fault of their own have access to redress. The FCA should explore the potential for collective redress where a class of consumers have been harmed, for instance by a data breach or a particular TPP misusing customer data.

Difficulties gathering meaningful consent

There is a considerable risk of harm if TPPs use customer data without meaningful consent, and the customer is not comfortable with how their data is ultimately used. In practice, many consumers either do not read privacy notices and other terms relating to data sharing, or find them difficult to understand.[28] Long and technical agreements are common, and can be particularly inaccessible for consumers experiencing common symptoms of mental health problems such as difficulties concentrating or low motivation.[29] This challenge is not unique to open finance, but the potential for harm could be greater under open finance, as TPPs propose novel data uses that consumers are even less likely to expect and may find harder to understand.

To address this risk, the FCA must ensure that clear standards are developed for open finance consent journeys, designed to elicit meaningful consent. Whether these standards are developed by the FCA itself, or another body tasked with overseeing the governance of open finance, this process should be informed by the experience of open banking. The body developing standards for open finance should first review the standards and guidance around consent used for open banking, and test the extent to which open banking users have read, understood and are happy

[26] UK Finance. Fraud - the facts 2020. 2020.
[27] Gloag A and Mackenzie P. New fraud protections for people at risk. Demos. 2019.
[28] Whitley A and Pujadas R. Report on a study of how consumers currently consent to share their financial data with a third party. Financial services consumer panel. 2018.
[29] Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.

with the terms they have agreed to. Recognising that current open banking users are not representative of the wider population, testing should be extended to a broader set of consumers, including vulnerable consumers who may find it harder to process complex information. The FCA behavioural economics team should support this testing, and the body developing standards should also draw on guidance on presenting complex information to vulnerable consumers.

Question 8: Do you consider that the current regulatory framework would be adequate to capture these risks?

Open finance would be a significant change in infrastructure and it is likely that it would introduce new risks that are not adequately dealt with by the current regulatory framework, or sit outside the current regulatory perimeter. To address this, the FCA should adopt an anticipatory approach, focusing on the frontier of innovation to assess the adequacy of consumer protection as new models develop. From the outset, the FCA should be clear about the outcomes it wants to see, and should pay particular attention to outcomes for vulnerable consumers.

One way that the FCA can guard against emergent risks is to ensure that all firms accessing the open finance ecosystem are within FCA regulation and are subject to regulatory responsibilities, such as the principles for businesses. In the current Open Banking model TPPs are regulated by the FCA but their agents are not, so responsibility for oversight is effectively delegated to the TPP. Before considering a similar model for open finance, the FCA should assess whether TPPs have the right incentives and capacity to play this crucial oversight role effectively. If a TPP did not act with due care this could create a gap in oversight, and the potential for harm would be significant in a world of mass-market open finance.

The FCA should also be mindful that open finance could enable innovative new products and services that sit outside of the current regulatory remit, such as credit-like products that are designed to evade current FCA definitions. In this case there could be a significant risk to consumers, for instance if a consumer assumed that they were choosing a regulated product and that consumer protections would apply. In such cases the FCA must be quick to act, to ensure that new products and services are regulated appropriately.

Question 10: Do you think the right incentives exist for open finance to develop, or would FCA rules, or any other changes be necessary?

It seems very unlikely that the right incentives exist for open finance to develop without intervention. Considerable coordination is required for common standards to be agreed and adopted, and implementation would likely be costly for incumbent firms and could risk undermining their market position. The FCA will likely need to compel firms to open up to open finance and to implement the technical standards required.

Question 13: Do you have views on how the market may develop if some but not all firms opened up to third party access?

The potential benefits of open finance could be considerably undermined if not all firms in any sector opened up to third party access. Firstly, gaps in financial data could reduce the quality of products and services provided by TPPs, making them less desirable and dampening any benefits to consumers. Secondly, an inconsistent approach across the market could be confusing for consumers, which would likely deter some people from using open finance and lead to others making suboptimal decisions. Financial services markets are already complex and open finance is a new prospect for people to understand, adding a further layer of complexity would be inadvisable. The FCA should ensure that all firms in participating sectors, or at least all firms above a certain size, are compelled to open up to the open finance ecosystem.

Question 15: What role could BEIS' Smart Data Function best play to ensure interoperability and cohesion?

BEIS has proposed a Smart Data Function to oversee the development of smart data initiatives across markets and ensure sufficient coordination and harmonisation, and has proposed a Smart Data working group to explore the extent of coordination that is required.[30]

In areas where greater coordination is required, we envisage that the FCA will work with the Smart Data Function, as well as other sector regulators and bodies managing the governance of smart data initiatives, to agree on common principles and standards. For example, dispute resolution and consumer protection might be areas where consistency across markets would be desirable. Inconsistencies in protection could create a confusing system or leave consumers exposed to harm.

However, we envisage that there will be areas where divergent approaches are appropriate, given differences between the markets being considered as part of the Smart Data Review. In these areas, sector regulators and other bodies managing the governance of smart data initiatives will likely retain an important role.

Question 17: Do you agree that GDPR alone may not provide a sufficient framework for the development of open finance?

[30] Department for Business, Energy and Industrial Strategy. Next steps for Smart Data. 2020.

We agree. GDPR sets out high level rules for processing data and provides rights for individuals, but it allows considerable scope for data processor interpretation. A more precise legal framework will be required to ensure sufficient consumer protection, as under the PSRs. Adequate consumer protection is key to the long term success of open finance. Many consumers are rightly cautious about sharing data, particularly financial data, so safety concerns could fatally undermine confidence in open finance before it ever reaches mass adoption.

As mentioned in response to question seven, The FCA should explore the potential for collective redress where a class of consumers have been harmed, for instance by a data breach or a particular TPP misusing customer data. Relying on individual consumer action to seek redress is likely to disadvantage vulnerable consumers, such as many people with mental health problems, who find it harder to advocate for themselves or to navigate redress processes. Collective redress could be a more efficient way of achieving fair outcomes for all consumers who are harmed.

Question 18: If so, what other rights and protections are needed? Is the open banking framework the right starting point?

The FCA should carefully examine the effectiveness of the open banking framework, specifically looking at the extent to which it achieves the outcomes that it wants from open finance. However, the FCA should be mindful that this framework is still relatively untested, given low levels of adoption, the unrepresentative demographics of consumers who currently use the system and the early stage of product and service innovation.

Question 19: What are the specific ethical issues we need to consider as part of open finance?

By drastically increasing the capacity for data sharing, open finance will add urgency to a number of existing data ethics concerns, and may also pose new problems. More extensive use of financial data may enable sensitive inferences to be drawn about consumers, and there is significant risk of harm if these inferences are not used appropriately. Simple transaction data can already reveal sensitive information, for example that someone is a trade union member or is paying for mental health support. By synthesising several datasets it may be possible for TPPs to infer further characteristics, such as age or gender, to some degree of certainty.

It is illegal to discriminate on the basis of certain protected characteristics, under the Equality Act, and the GDPR has enhanced requirements for processing certain types of sensitive data, but there is considerable uncertainty about how these protections interface with FCA regulation and specifically how they apply to financial service providers.[31] For these protections to be effective, the FCA should work with the ICO and the EHRC to produce guidance and clarify this area for firms.

Open finance is expected to enable a range of products that automate aspects of financial management, which raises ethical questions about fairness in automated decision making. In particular, there is a risk that automated processes may perpetuate biases in data or introduce new types of discrimination. It may be challenging to explain to consumers why certain automated decisions have been made, and explainability per se may not ensure a good consumer outcome. Even if open financa does not proceed, it is essential that the FCA leads research in this area of applied ethics and produces practical guidance for firms.

[31] Alpin K and Holkar M. Data protecting. Money and Mental Health Policy Institute. 2019.