Money and Mental Health response to the FCA's call for input on the review into change and innovation in the unsecured credit market (The Woolard Review)

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.

In this document, we respond to Questions 1, 4, 5, 7, 8, 9, 10, 14, 15, 16 and 17. In discussing unregulated products, we focus on 'buy now, pay later' options within retail due to its wide use and the potential for harm. While our response does not specifically explore lending through payroll, the FCA may wish to review our report *Overstretched, overdrawn, underserved: financial difficulty and mental health at work*[1], which outlines its benefits and risks.

Key points

- Many people with mental health problems value having access to unsecured credit and some rely on it to pay for essentials like bills and food
- Common symptoms of mental health problems mean that people with mental health problems are more likely to experience problems using unsecured credit products, and are 3.5 times more likely to be in problem debt than the rest of the population
- Creditors have an incentive to design quick customer journeys to optimise sales, which can contradict the FCA's desire for customers to be appropriately informed about products and to understand key terms before agreeing. The FCA should explore how design can facilitate informed decision-making and correct this tension
- Some 'buy now, pay later' products currently fall outside of the regulatory perimeter, which creates a gap in consumer protection that exposes people to harm and undermines the FCA's aim of similar outcomes
- Many people with mental health problems struggle to access affordable credit and the coronavirus pandemic may exacerbate this situation. The FCA should work with the government to ensure that gaps in supply and access are recognised and measures are developed to support affected consumers
- The FCA acted quickly and implemented prescriptive measures to protect consumers during the pandemic - it should look closely at the impact of these measures, particularly on consumer and firm behaviour, and should learn from this experiment.

[1] Evans K, Holkar M and Murray N. Overstretched, overdrawn, underserved: financial difficulty and mental health at work. Money and Mental Health Policy Institute. 2017.

Background

- In any given year, one in four people will experience a mental health problem,[2] and over a lifetime this rises to nearly half the population[3]. 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.[4]
- People with mental health problems are more likely to be living on low incomes or in insecure work,[5] and can experience a range of difficulties accessing the benefits system, which can make it harder to claim entitlements.[6]
- 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.[7]
- People with mental health problems are three and a half times more likely to be in problem debt than 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]

Question 1: Please provide evidence and/or views on the current state of the market, as well as key changes and trends, around:

a. Who is using unsecured credit, and for what purposes

Unsecured credit and people experiencing mental health problems

Substantial numbers of people experiencing mental health problems use unsecured credit products. In a 2016 survey of nearly 5,500 people with mental health problems, we explored this usage across a variety of credit products, as Table 1 illustrates. As well as being commonly used, our research has found that people with mental health problems are more likely to take out certain types of product - such as point of sale credit - than people who have not experienced a mental health problem.[10] More recently, polling for our report on online retail

[2] McManus S et al. Adult psychiatric morbidity in England, 2007. Results of a household survey. NHS Information Centre for Health and Social Care. 2009.
[3] Mental Health Foundation. Fundamental facts about mental health. 2016.
[4] McManus S et al. Mental health and wellbeing in England: Adult Psychiatric Morbidity Survey 2014. NHS Digital. 2016.
[5] 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.
[6] Bond N, Braverman R and Evans K. The benefits assault course. Money and Mental Health Policy Institute. 2019.
[7] Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.
[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.
[10] Evans K. Buy now, pay later: Problems in the point sale credit market. Money and Mental Health Policy Institute. 2017.

found that one in four adults (25%) have used a 'buy now, pay later' product, rising to three in ten (31%) among people who have experienced a mental health problem.[11]

Table 1: Proportion of respondents who had taken out various types of credit in the preceding 12 months

Product	Proportion of respondents
Credit card	57%
Overdraft	33%
Mail order catalogue credit	21%
Store card	13%
Loan from bank or building society	12%
Payday loan	6%
Home credit	4%

Source: Money and Mental Health online survey of 5,413 people with mental health problems, March-April 2016.

Use of credit for essentials

Credit can be a useful way to smooth costs or manage fluctuations in income. However, for many of us, credit is used for essential spending. The Money and Pensions Service found that one in six (17%) of adults often borrow to buy food or pay bills because money has run out.[12] Our research suggests that relying on credit for essential spending is even more common among people with mental health problems. A recent survey of Money and Mental Health Research Community members found that one in three (37%) respondents often needed to borrow money or use credit for everyday outgoings.[13] This aligns with Citizens Advice research on negative budgets, with four in ten of those who have no money or a deficit left after meeting their living costs also having a mental health problem.[14] The use of 'buy now, pay later' products is often associated with clothing or other lifestyle products but also extends to essential products.

Use of credit for non-essential spending

Unsecured credit is used by people with mental health problems for a variety of purposes beyond essential spending. Two uses raised by our Research Community are online retail and gambling. Our responses to part b of this Question and Question 4 discuss how symptoms of mental health problems can drive demand for these types of credit in more depth.

[11] Holkar M and Lees C. Convenience at a cost: online shopping and mental health. Money and Mental Health Policy Institute. 2020.
[12] Money and Pensions Service. UK Strategy for financial wellbeing. 2020.
[13] Ibid.
[14] Martin J and Lane J. Negative Budgets. Citizens Advice. 2020.

b. How unsecured credit is marketed by firms, and how it is viewed by consumers

Marketing of credit products that may be deemed reasonable for the majority of consumers can have a more significant, and ultimately harmful, effect on someone in a vulnerable mental state. Many people with mental health problems have described to us how the retail environment - in particular online - in combination with advertising can make it harder to control their spending or credit use during periods of poor mental health. Design and marketing decisions made by online firms in particular, for instance setting 'buy now, pay later' (BNPL) products as the default payment option, can therefore distort how people experiencing a mental health problem perceive the product and its consequences.

"[BNPL] is such an easy option and feels like the purchase doesn't cost anything but when the payments are due later it's unaffordable."
Expert by experience

Our previous research has highlighted how the presentation of the cost of unsecured credit products can be confusing.[15] This risk can be heightened for people with mental health problems, with challenges processing complex information a common symptom of many conditions. This means some people experiencing mental health problems might find it more difficult to understand the total price of credit provided at the point of sale. Sales models which bundle the cost of credit with the cost of the item along with insurance can make understanding the price competitiveness of each component very difficult, and make it more likely that consumers pay over the odds. In other cases, credit which is initially marketed as 'free' becomes very expensive if a customer misses a payment,[16] and products paid for in interest-free installments can become very difficult to keep track of when multiple purchases are made with no simple way to see how much is owed.

c. The impact of big data and digital technology in this market

The growth of unsecured credit online along with both big data and technology presents both opportunities and problems for people with mental health problems. We identify three main opportunities. Firstly, being able to take out an unsecured credit product online has allowed those who find it difficult to leave the house because of their mental health, such as those experiencing social anxiety, to access these products. Secondly, the use of big data could help customers with mental health problems who struggle to find the right product because of symptoms of their condition, such as challenges processing complex information. Initiatives such as Open Finance could give these customers a much clearer picture of what they could afford without having to look at their finances and explore options on their own. Thirdly, big data could give firms a better indication of affordability, with access to more up-to-date information enabling more informed decisions on whether to offer a product.

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[15] Evans K. Buy now, pay later: Problems in the point of sale credit market.Money and Mental Health Policy Institute. 2017.
[16] Ibid.

Technology and big data can also lead to challenges for people with mental health problems. Online journeys often have less friction than their offline equivalents, which can facilitate impulsive decisions that cause harm. This can be a particular issue for people experiencing mental health problems, as increased impulsivity is a common symptom of several mental health conditions.[17]

Low-friction journeys can enable people with mental health problems to transact even when they are acutely unwell, and potentially unable to understand the terms of the transaction. In our 2016 survey of people with a mental health problem, 59% of respondents had taken out a loan when unwell that they wouldn't otherwise have taken out. We asked respondents to consider how their mental health problems had affected their decision-making in applications for credit in the past year:

- 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.[18]

FCA guidance for consumer credit rightly reminds firms to assume that a customer has mental capacity to make decisions about credit. It sets out a range of indicators that could give firms reasonable grounds to suspect that a customer may have some sort of mental capacity limitation and may need support with decision-making.[19] While this guidance does apply to online lending, and there are considerable opportunities for firms to spot signs of decision-making limitations and support customers through online credit applications,[20] our evidence suggests that online lenders may not be doing enough to support customers with mental capacity limitations. People with mental health problems may also struggle to understand privacy notices and other terms relating to data sharing,[21] so it is important that data sharing agreements are as clear and accessible as possible.

Another challenge facing people with mental health problems is exclusion and the misuse of data. While more accurate credit worthiness assessments are certainly a potential benefit, there is a risk that increased use of data will result in some consumers being judged a poor credit risk and left unable to find affordable credit. For consumers who do not feel comfortable sharing financial data, the possibility of being excluded from essential financial products and services, or being charged unfair prices to access them, is a cause for concern as such requests become more commonplace.

[17] Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.
[18] Holkar M. Money on your mind. Money and Mental Health Policy Institute. 2016.
[19] CONC 2.10
[20] For a detailed exploration of this see chapter four in: Fitch C, Evans J, Trend C and Farmer T. Lending and vulnerability: an introductory guide to mental capacity. Money Advice Trust. 2018.
[21] Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017; 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.

Question 4: What do you see as the main drivers of demand for credit? How do they affect consumer demand for credit, now and in the future?

Credit can be a useful way to smooth costs or manage fluctuations in income. However, in many cases, people with mental health problems turn to credit for other, more concerning reasons. Some of the main drivers of demand for credit that we identify in our research are:

- Spending on essentials led by low incomes, poor financial resilience and difficulties with financial management
- Spending on non-essentials due to the interaction between symptoms of mental health conditions and the availability and marketing of products and credit.

Drivers of demand for credit to pay for essentials

- **Lower incomes**: our analysis of the mental health income gap finds that the median annual income of people with common mental disorders like anxiety and depression is £8,400 less than people without those conditions.[22] This makes it harder to meet regular living costs without turning to credit.
- **Less savings:** the mental health income gap is a major contributor to the lower financial resilience observed among people with mental health problems. In recent polling, three in ten (29%) people with mental health problems said that if they lost their main income source, they could only keep up with bills and essential outgoings for less than a month, double the proportion among those with no experience of a mental health problem.[23] For those in this fragile position, unsecured credit can become the only option available when faced with a disruption to their income or an unexpected and unavoidable expense.
- **Difficulties managing money:** Common symptoms of mental health problems, like low motivation and limited concentration, can make it harder to get a good deal in complex consumer markets, including utilities. This can lead to people paying more than those without mental health problems for essential services, with the difference estimated to be £1,550 annually.[24] For some, this can lead to a vicious cycle of increased borrowing that can be very difficult to break from and can put increased strain on people's mental health.

Drivers of demand for credit to pay for non-essentials

- **Unaffordable spending driven by mental health problems:** Common symptoms like increased impulsivity and low mood can often lead to difficulties with overspending, as people struggle to stay in control of their spending or buy things to lift their mood.[25] This can put already thinly-stretched budgets under increased pressure and can drive demand for credit. Understanding bank statements, keeping track of spending and

[22] Bond N and D'Arcy C. Income in crisis. Money and Mental Health Policy Institute. 2020.
[23] Ibid.
[24] Rogers C, Poll H and Isaksen M. The mental health premium. Citizens Advice. 2019.
[25] Ibid.

budgeting can also become harder when people are unwell, meaning people find it harder to spot and tackle unsustainable spending or credit use.[26]

- **The design and marketing of products**: As set out in response to Question 1c, credit is increasingly sold online and sales journeys are often designed to be quick and easy, making use of automated decision-making. Online, lenders can make use of a wide range of consumer data to target individuals with tailored marketing for credit products. Consumers are commonly exposed to marketing when checking their emails, browsing social media,using a search engine or even while trying to make credit repayments. These developments mean that consumers are only ever a few clicks away from a credit product when online. Our response to Question 7 discusses these issues in more depth.

Question 5: Which consumer groups currently struggle to access the credit market, and why? How has this changed over time and how do you expect it to evolve?

Current situation

Many people with mental health problems currently struggle to access the credit market. An estimated 700,000 people owed money to a private individual in 2012/13 and of those a third (31%) had a mental health problem.[27] Money and Mental Health research found that a key reason for this was that they were unable to borrow from other sources.[28] People with mental health problems are more likely to be living on a low income and often experience difficulties managing money, both of which can affect access to credit. People with mental health problems can also find it difficult to deal with mounting debts when unwell and avoid dealing with creditors which can further exacerbate the problems identified.[29]

"I previously had a problem with overspending and borrowed more than I could afford. I lost my job due to ill health and still have outstanding loans and money owed to various companies... It has ruined my credit rating.… Nobody will touch me with a barge pole due to my outstanding debt and credit rating."
Expert by experience

Without access to affordable credit, consumers can turn to high-cost alternatives or go without credit, both of which can lead to detriment. The recent FCA review of high-cost credit found that many vulnerable consumers experience significant harm when using high-cost credit, and recognised that high-cost credit is not the right answer for some consumers.[30] Consumers who go without credit miss out on the flexibility it can provide and can face budgeting challenges.

Future developments

[26] Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.
[27] Braverman R, Holkar M and Evans K. Informal borrowing and mental health problems. Money and Mental Health Policy Institute. 2018.
[28] Braverman R, Holkar M and Evans K. Informal borrowing and mental health problems. Money and Mental Health Policy Institute. 2018.
[29] Holkar M. Money on your mind. Money and Mental Health Policy Institute. 2016.
[30] https://www.fca.org.uk/firms/high-cost-credit-consumer-credit/high-cost-credit-review

As noted above, as credit markets make better use of financial data over time, this could result in some consumers being judged a poor credit risk and left unable to find affordable credit. Another factor that could change access to the unsecured credit market is the pandemic. The pandemic has already negatively impacted the finances of many people. This has put an increased strain on household budgets and led to both cutting back on essentials and falling behind on debt repayments. Our research found that one-third (31%) of those with a mental health problem had cut back on essentials due a drop in their income because of the pandemic and one in ten (10%) had missed a debt repayment.[31] Many people took up payment holidays as a response to drops in their income, and while these did not have an impact on their credit files, they can be harder to pay off in the future. As the full economic costs of the pandemic become clear in the future, it is likely that many more people will find themselves struggling to access the credit market.

Given these issues, there is a clear need for affordable credit options for people with poor credit ratings or who can't afford existing credit options. There is a strong case to be that a broader range of data should be used (e.g. rental data) by firms when making lending decisions, likely offering a fuller and more accurate picture of a person's financial history. Even with this more holistic approach to assessing creditworthiness, there are still likely to be customers who cannot afford mainstream credit. The government's pilot of no-interest loans could fill an important gap in the market for these consumers. Given the added financial pressures caused by the pandemic, rapidly completing the pilot and offering it more widely could help to reduce the detriment done to consumers in this category.

Question 7: Please provide evidence and/or views on:
a. the main areas of change, innovation and growth in the supply of unsecured credit

The pandemic has likely accelerated the shift towards digital channels, as many consumers who previously avoided accessing credit in this way have had limited alternatives. The FCA must ensure that regulation keeps pace with this shift to online sales, that protections are effective when credit is sold online and that consumers do not experience worse outcomes when transacting in this way. The FCA should pay particular attention to outcomes for people who are digitally excluded or lack digital confidence, as these groups may become particularly susceptible to detriment. Our responses to Questions 1 and 4 provide areas that the FCA should consider when regulating online credit, particularly the degree of friction in the customer journey and the checks in place to ensure the customer understands what they are committing to.

c. new and emerging business models, including those making use of behavioural biases and income from other sources than the end consumer (eg employers, retailers), and how existing models may be adapting to change

Behavioural economics has shown that small changes in choice architecture can have a powerful effect on consumer behaviour. This is particularly true in online spaces. Services can

[31] Bond N and D'Arcy C. Income in crisis. Money and Mental Health Policy Institute. 2020.

target consumers with personalised messages, present product information in different ways and tailor the design of customer journeys to influence the choices we make. These techniques could be used to encourage consumers to make credit decisions that may not be in their best interests. Alternatively, they could be harnessed to improve consumer outcomes, for instance to draw attention to key product features or to support informed decision-making.

Credit and credit-like products are now increasingly integrated into retail customer journeys. On many sites, retailers set 'buy now, pay later' (BNPL) products as the default payment option. This seems a clear example of altering choice architecture to influence behaviour, relying on consumers' behavioural bias towards default options. National polling commissioned by Money and Mental Health found that 43% of BNPL users support banning sites from using it as a default option at the checkout, with just a quarter (25%) disagreeing.[32]

More generally, credit customer journeys are often designed to be frictionless and fast. This can facilitate impulsive and unreflective decision-making that may not be in a consumers' best interests and may lead to harm. This risk may be exacerbated when people borrow to fund a purchase, as people are often more focused on the product that they are trying to buy, rather the terms of the financial agreement they are entering.

As set out in response to Question 1c, our previous research has found that many people with mental health problems have taken out credit online, despite being unable to understand the terms of the agreement, remember details about the product or weigh up the decision at the time. This raises serious questions about the design of credit customer journeys.

There is a potential tension between creditors' desire to design quick customer journeys to optimise sales, and the FCA's desire for customers to be appropriately informed about the products they are purchasing and to understand key terms before agreeing. The FCA should explore current practice and consider rules and guidance around the presentation of credit products. As part of this work, the FCA behavioural economics team should explore:

- How current credit customer journeys work for consumers. This should include analysis of how well consumers understand key product information, retain this information and are able to weigh up advantages and disadvantages of products they are considering
- How the design of credit customer journeys could facilitate informed decision-making.
- How the design of credit products could reduce the risk of impulsive spending fueled by credit. This should include exploring the impact of friction after the point of sale, for instance leaving a 7-day cooling-off period between application and access to credit.

There appears a more clear-cut case for the FCA to intervene to prevent harms arising from some specific elements of the customer journey. Store card providers have recognised that offering discounted prices or equivalent benefits at the point of sale can distort consumer decision making, and do not allow this practice.[33] However, discounts for currently unregulated

[32] Holkar M and Lees C. Convenience at a cost: online shopping and mental health. Money and Mental Health Policy Institute. 2020.

[33] Finance and Leasing Association. Lending code 2019. 2019.

BNPL products are common. To align this practice and ensure consistent fair treatment of consumers, we recommend that the FCA should ban the practice of offering customers a discount on goods or services when they take out a credit product at the checkout.

Another way to reduce potential harm to consumers would be to prevent firms from setting credit, including BNPL, as the default payment method on purchases which can distort consumer decision-making around credit. Given the relatively low rates of understanding reported by people with mental health problems about what exactly they are signing up to when considering taking out credit, preventing it from being the default seems likely to reduce harm for this group.

Question 8: Regarding unregulated credit or credit-like products:
b. What impact has this had on the regulated credit market, and how might it play out in the future?
e. What benefits, risks and harms do these products create? Is there more the FCA or other authorities could do to preserve benefits or address harms and risks?

Money and Mental Health has looked closely at the use of BNPL products as part of recent research into online shopping.[34] Our analysis included a survey of 385 Money and Mental Health Research Community members, all people with lived experience of mental health problems, and nationally representative polling. Our analysis did not differentiate between unregulated and regulated BNPL products.

Our polling found that one in four adults (25%) have used a BNPL service, rising to three in ten (31%) among people who have experienced a mental health problem.[35] Given this popularity, it is unsurprising that many people we heard from in our research valued them. Acknowledging this usefulness, we found evidence that people with mental health problems can nonetheless experience a range of specific problems when using BNPL.

BNPL can form part of a streamlined purchasing journey on shopping sites, significantly reducing the ‘pain of paying’ and encouraging people to spend more. From our national polling, four in ten (43%) users agree that the option to pay later encouraged them to spend more than they could afford,[36] while more than half (56%) agree that these services make it too easy to get into debt.[37] These figures suggest that there may be problems with the affordability of some BNPL lending. Consumers are highly likely to experience harm if they are lent more than they can afford to ‘pay later’, so it is essential that the FCA oversees lending practice in this growing sector.

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[34] For more information see: Holkar M and Lees C. Convenience at a cost: online shopping and mental health. Money and Mental Health. 2020.
[35] Money and Mental Health analysis of Opinium online survey of 2,000 people, carried out 2-6 October 2020. Data is weighted to be nationally representative.
[36] Ibid.
[37] Money and Mental Health analysis of Opinium online survey of 2,000 people, carried out 2-6 October 2020. Data is weighted to be nationally representative.

"It is such an easy option and feels like the purchase doesn't cost anything but when the payments are due later it's unaffordable."
Expert by experience

Some Research Community respondents also highlighted a lack of clarity at the point of sale about what BNPL products entail, which can lead to problems later on. In our polling, more than one in four (27%) users agreed that they did not understand the service's terms and conditions.[38] For any product that entails future commitments, it is essential that customers are clearly informed about key product terms as part of their sales journey. Seven in ten (71%) BNPL users agree that these services should be required to provide customers with clear information about the risks associated with these products, with just one in twenty (5%) disagreeing.[39]

"I was never clear about the buy now pay later process. I found it difficult to keep track of how much I had paid/owed."
Expert by experience

Three in ten (28%) BNPL users agreed that they found it difficult to keep up with repayments.[40] Some Research Community respondents directly attributed this to symptoms of their mental health problem, such as memory problems or difficulties with organisation.

"<Buy now pay later provider> charges you if you miss a payment which I did because I did not know when payment was due and I forgot all about it."
Expert by experience

Customers experiencing financial difficulty are particularly vulnerable to harm. Half of people in problem debt also have a mental health problem,[41] and if providers respond aggressively or insensitively to customers who are struggling this can have a devastating impact.[42] We found some evidence of BNPL providers handling these critical interactions poorly.

"My experience wasn't good as I used the service during a period of poor mental health then couldn't afford to pay off the amount later on. The company were very unsympathetic towards my mental health problems."
Expert by experience

This suggests that some BNPL providers may not be taking sufficient steps to treat their vulnerable customers fairly. The FCA rightly emphasises that regulated firms should embed fair treatment of vulnerable consumers into their culture, practices, and processes throughout the

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[38] Money and Mental Health analysis of Opinium online survey of 2,000 people, carried out 2-6 October 2020. Data is weighted to be nationally representative.
[39] Money and Mental Health analysis of Opinium online survey of 2,000 people, carried out 2-6 October 2020. Data is weighted to be nationally representative.
[40] Money and Mental Health analysis of Opinium online survey of 2,000 people, carried out 2-6 October 2020. Data is weighted to be nationally representative.
[41] Holkar M. Debt and mental health: a statistical update. Money and Mental Health Policy Institute. 2019.
[42] Holkar M and Bond N. A silent killer. Money and Mental Health Policy Institute. 2018.

consumer journey, from product design to customer service.[43] Regulating all BNPL products should ensure more consistent fair treatment of vulnerable consumers.

Beyond the direct experience of using BNPL, debts to unregulated BNPL providers do not currently appear on credit reference agency (CRA) files. This leaves a gap in financial data that may affect other creditors' ability to assess what a customer can afford to borrow or repay, and to respond appropriately. In the longer term, if BNPL continues to grow, this could create significant blindspots for other creditors, undermining their ability to lend responsibly, potentially risking unaffordable lending and consumer detriment. It could also provide such unregulated lenders with an unfair advantage in the market.

A number of new providers have entered the UK market and these services are offered by an increasing range of retailers. As these providers grow and reach into new customer segments, they will encounter a broader range of customers and their conduct will affect the financial lives of more and more people across the country. Unlike regulated credit providers, who have been driven by the regulator to improve in recent years, these firms are unlikely to be taking adequate steps to protect vulnerable customers, either during credit acquisition or collections. Against that backdrop, and given the concerning examples highlighted above, we welcome the FCA's review and urge it to act swiftly to bring currently unregulated BNPL services into regulation, to close the current consumer protection gap and ensure sufficient oversight of these increasingly popular products.

Question 9: Please provide evidence and/or views on:
d. what role the FCA, or others, could play in helping innovation and growth in these areas

The FCA should use its innovation policy tools, such as its FCA Innovate support services, to shine a light on gaps in supply and practically aid innovators in addressing them. However, there may be areas where there are insufficient incentives for firms to meet demand for credit at an affordable price. The FCA should closely monitor supply of and access to credit, and work with the government to ensure that any gaps are recognised and measures developed to support affected consumers. Where the market is not able to supply credit at an affordable price, the social security system and initiatives like the 'no-interest loans scheme' could both play a part in meeting consumer need.

Question 10: Do you think current regulation drives similar outcomes for consumers who use similar or substitutable unsecured credit products?

Similar consumer protections across similar or substitutable credit products are key to ensuring similar outcomes for consumers. As some BNPL products currently fall outside of the regulatory perimeter, we are concerned that this creates a gap in consumer protection that exposes people to harm and undermines the aim of similar outcomes.

[43] Vulnerability guidance

Currently unregulated BNPL products do not charge customers interest, but in many respects they are similar to credit and can lead to similar consumer detriment. The level of interest charged is an important factor that can affect the affordability of credit, but it is not the only potential driver of harm and should not be the only consideration when the FCA weighs up credit regulation. Consumers are particularly likely to experience harm when using credit if they are lent more than they can afford to repay, if the terms of repayment aren't made clear at the point of sale, if they have difficulty managing repayments or if lenders handle collections poorly. All of these risks exist with unregulated BNPL products.

Proportionality is rightly a key consideration for the FCA. While the size of BNPL transactions and debts is often low, we urge the FCA to consider these absolute levels in relation to affordability across different types of consumers. For many customers who struggle to access mainstream credit, a £100 BNPL debt is a considerable commitment. As set out in response to Question 4, people with mental health problems often face affordability challenges due to significantly lower average incomes.

Question 14: Are there gaps in data or the way information flows in the current market that create problems for consumers or lenders? How might these be addressed?

As set out in response to Question 8, debts to unregulated 'buy now, pay later' providers do not currently appear on CRA files and this creates a blindspot for creditors, as well as other users of CRA data.

Q15: Please provide evidence and/or views on the impact of Covid-19, both now and as you expect it may play out in the future, on:
a. the demand for different types of unsecured credit

The use of credit for essentials

Understanding the experiences of people with mental health problems during the pandemic provides a useful insight into a key group of consumers with vulnerabilities. But as a group who are more reliant on unsecured credit, their experiences act as a bellwether of how other stretched consumers are being affected by this unprecedented period and what this may lead to from a credit perspective.

National polling carried out in May 2020 suggests that a significant minority of people with mental health problems had already been adversely affected by the pandemic. While for some a drop in income was manageable - at least in the short term - others faced more disruption. Exploring this question with our Research Community, more than a quarter (26%) of participants had missed bill or debt repayments, and one in five (19%) had missed rent or mortgage repayments.[44] This did not appear to be a one-off adaptation to life on a lower

[44] Bond N and D'Arcy C. Income in crisis. Money and Mental Health Policy Institute. 2020.

income; one in five (20%) Research Community respondents expected to miss an essential bill or debt repayment in the next four weeks.[45]

While some Research Community respondents told us about revising household budgets and making plans on where to cut back spending, the cognitive and psychological effects of many mental health problems can make this a particularly challenging exercise. Faced with difficulties balancing options, assessing budgets and completing the lengthy and complicated forms required to access state benefits, unsecured credit - particular online, low-friction credit - may appear to be a comparatively straightforward option for those struggling to keep up with outgoings.

The use of credit for non-essentials and impulsive spending

Low mood and increased impulsivity are other common symptoms of mental health problems. Against this backdrop of tighter household budgets due to the pandemic, people with mental health problems can find it difficult to control spending habits, particularly when they are at their most unwell. In recent research on online shopping, three-quarters (76%) of Research Community respondents felt that their mental health had made it harder to stay in control of their spending.[46]

As noted in our response to Question 8, a particular form of unsecured credit we have explored is BNPL. In our national polling, four in ten (42%) people with recent experience of a mental health problem reported that they have found BNPL products harder to resist since lockdown.[47] This may suggest greater demand for these products, making the debate around their regulation all the more important.

Based on our research on online harms facing people with mental health problems, we recommend that BNPL products are brought within the remit of formal regulation, with our recommendations made in our response to Question 8.

Q16: Do you think the impact of Covid-19 presents new or unique challenges for the unsecured credit market, or has it just emphasised or entrenched existing issues?

In our responses to the FCA's consultations on its guidance on the fair treatment of vulnerable customers, we warmly welcomed the attention devoted to this crucial issue. The impact of Covid makes that guidance - and its enforcement - all the more important.

Above all, it has highlighted that simplistic approaches to supporting vulnerable customers are insufficient. While the impact of the pandemic has not been equally felt, it has helped to demonstrate how many of us can quickly face challenges that can make us vulnerable and in need of tailored support. One major example of this is the rise in poor mental health identified in

[45] Ibid.
[46] Holkar M and Lees C. Convenience at a cost: online shopping and mental health. Money and Mental Health Policy Institute. 2020.
[47] Ibid.

a number of studies, including by the ONS and the IFS.[48] The growing number of people experiencing symptoms that amount to a mental health problem is unlikely to have been accompanied by a growing number of people with a diagnosis. This means firms offering unsecured credit that are relying solely on disclosure of a mental health problem will miss a significant proportion of those who may benefit from greater support or different kinds of assistance.

The guidance is also vital as an indicator to firms in the unsecured credit market that the FCA takes the issue of vulnerability seriously. Our responses to the consultations on the draft guidance underlined that in order to deliver genuine improvements for vulnerable consumers, effective supervision and enforcement are essential. In order to achieve that, we recommend that FCA supervision and enforcement work focuses on the six consumer outcomes that firms should strive for, as outlined under Principle 6. This would be consistent with the FCA's principles-based approach while enabling the FCA to monitor the impact of steps taken by individual firms and assessing the extent to which this goal is being achieved.

Q17: Do you think any of the measures set out in the FCA's temporary guidance for consumer credit, including those related to credit information and forbearance, or the FCA's wider approach have broader relevance to customers in financial difficulty more generally?

Money and Mental Health has been pleased with the quick and wide-ranging action taken by the FCA to protect consumers since the onset of the pandemic. We believe this period presents a valuable opportunity for the FCA to review the data it collects on how firms and customers have responded to the temporary guidance. Armed with that insight, the FCA should consult on the evidence it has collected on firm behaviour, consumer reactions and consider which of the temporary measures seem to have been most successful. The FCA should ensure that this policy experiment leads to more informed regulation and better outcomes for customers.

Without that market-wide intelligence, our commentary on which measures should be retained is based on our previous research, as well as a survey conducted with our Research Community on the support they received from essential services firms. One of the points made in our response to the draft guidance on the fair treatment of vulnerable customers is that when the FCA is not clear about its expectations, this drives inconsistency across firms meaning repeated interventions are required to improve practice. One notable element of the FCA's approach since March has been the willingness to go beyond a principles-based approach and to be more prescriptive on what exactly good practice looks like. While we do not expect the FCA to move permanently away from a principles-based approach, greater clarity around its expectations of firms and on specific steps that can be taken with respect to vulnerable customers would be a welcome step.

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[48] ONS, Coronavirus and depression in adults, Great Britain. June 2020; Banks J and Xu X. The mental health effects of the first two months of lockdown and social distancing during the Covid-19 pandemic in the UK. Institute for Fiscal Studies. 2020.

Another lesson can be learned from the publicising of support and the signposting which has taken place since March. It is welcome that firms took proactive steps to contact customers to let them know that help and forbearance was in place. What is less clear is how widely such communications were noticed by customers and what difference if any it made to their financial behaviour or mental health.

A survey of our Research Community in March found that over half (52%) our respondents were worried about creditors chasing them for money.[49] And even when forbearance arrangements are available, accessing them is not always easy. Shame, embarrassment, anxiety and difficulties with certain communication channels can mean that debts go unpaid without prior agreement with creditors.

The communications made by firms and responses from customers, segmenting where possible by different groups, should be explored to better understand which approaches appear effective and where greater awareness of communication preferences and other challenges that are commonly associated with mental health problems would be valuable. Respondents to our Research Community survey who were aware of communication from their provider appreciated more tailored and personable offers of support, compared to generic emails sent to all customers.

Respondents also highlighted that the journey to getting a payment holiday was straightforward, a crucial consideration for people who may be struggling with motivation or concentration due to their mental health. In combination, clear communication on what help is available, tailored to people's communication and financial needs, and efforts to reduce hurdles to accessing that help, is likely to result in better outcomes for consumers, particularly those with vulnerabilities.

[49] D'Arcy C. Money and mental health at a time of crisis. Money and Mental Health Policy Institute. 2020.