

## Money and Mental Health's response to the CMA's Annual Plan consultation 2021/22

### 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.

This written submission has been informed by the experiences of our Research Community, as well as our wider body of research. Unless otherwise specified, all quotes in this response are drawn directly from the Research Community.

### Background

- In any given year, one in four people will experience a mental health problem which can affect their cognitive and psychological functioning.<sup>1</sup> Over a lifetime, this proportion rises to nearly half the population.<sup>2</sup> 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.<sup>3</sup>
- 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.<sup>4</sup> 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.<sup>5</sup>
- 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.<sup>6</sup>
- 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.<sup>7</sup>

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<sup>1</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.

<sup>2</sup> Mental Health Foundation. Fundamental facts about mental health. 2016.

<sup>3</sup> McManus S et al. Mental health and wellbeing in England: Adult Psychiatric Morbidity Survey 2014. NHS Digital. 2016.

<sup>4</sup> Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.

<sup>5</sup> Rogers C, Poll H and Isaksen M. The mental health premium. Citizens Advice. 2019.

<sup>6</sup> Holkar M. Debt and mental health: a statistical update. Money and Mental Health Policy Institute. 2019.

<sup>7</sup> Bond N and Holkar M. A silent killer: Breaking the link between financial difficulty and suicide. Money and Mental Health Policy Institute. 2018.

**Do you agree with the overall direction and themes of focus for the CMA set out in the 2021/22 draft Annual Plan? Are there any changes that you think we should make to our main themes for 2021/22?**

Money and Mental Health agrees with the overall direction and themes outlined in the draft Annual Plan. In this response we provide additional information on points raised in the Annual Plan, to help identify issues and opportunities that the CMA should explore further when pursuing the themes. We focus primarily on Theme 1 and Theme 3, although we also address Theme 2 in relation to online spaces.

**Theme 1: Protecting consumers and driving recovery during and after the coronavirus pandemic**

We welcome the recognition in the Annual Plan that the pandemic has exposed consumers to new or added risks. Our research has made it clear that, not only will more people experience mental health problems, those who do are also likely to experience worse outcomes as a result of a number of different consequences of the pandemic.

The past year's negative impact on people's mental health has been well-documented, with analysis pointing to increased rates of anxiety and depression during the crisis.<sup>8</sup> Our Research Community reported that many of the activities and support systems that help them stay mentally healthy have been impossible or disrupted since March 2020. As a result, more people may now be struggling with their mental health, making it harder to effectively engage with consumer markets.

These struggles can play out and interlink in a variety of ways. National polling conducted for our report on online retail showed that people with recent experience of a mental health problem were more than twice as likely as the rest of the population (29% compared to 12%) to have spent more than they could afford when shopping online.<sup>9</sup> Symptoms of many mental health problems can directly contribute to this; increased impulsivity, a desire to raise a low mood or difficulty keeping track of budgets can all leave us more at risk of overspending when unwell.

*"When I'm feeling bad I don't care about consequences and become very impulsive."*

Expert by experience

*"It's a lot easier to lose track of what you've spent online, constantly just clicking buttons and before you know if you've spent a few hundred pounds."*

Expert by experience

Many of these common symptoms of mental health problems can also make us more vulnerable to online scams. Impaired decision-making, increased impulsivity and lower

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<sup>8</sup> See for instance 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.

<sup>9</sup> Holkar M and Lees C. Convenience at a cost. Money and Mental Health. 2020.



motivation can mean people with mental health problems fail to spot fraudulent offers or products and lose money or personal information as a result. Recent polling found that people who have experienced mental health problems are three times more likely than the rest of the population (23% versus 8%) to have been a victim of an online scam.<sup>10</sup>

While scams can be hugely detrimental to our immediate finances and mental health, the uncertainty they seed can also mean we miss out on other opportunities. Noting the Annual Plan's aim for consumer protection law to be effectively enforced so that people feel confident to go out and spend money, scams can leave consumers unwilling to buy goods and services online. In our research<sup>11</sup>, even among those who have never fallen victim to a scam, four in ten (39%) have felt less confident after seeing scams online. This can lead to people not taking full advantage of the internet and missing legitimate opportunities and services.

*"I become scared of clicking on certain links. Rationally I am sure they are OK, but I still dare not go there. This limits my access to sites I may need to use."*

Expert by experience

As well as more disruptive events like overspending or falling victim to a scam, symptoms of mental health problems can make it harder to get the best deal. Across a number of markets, complicated pricing structures, unclear terms and conditions and automatically recurring payments can all present difficulties when we are experiencing a mental health problem and are unlikely to be able to fully compare products or keep on top of payment schedules. 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.<sup>12</sup>

One important component of this disparity that the Annual Plan notes is the difficulty that switching services can present to people with mental health problems. In research on telecoms services - though with findings transferable across a range of markets - members of our Research Community reported difficulties deciding which provider or tariff best fit their needs and completing a switch. As a result, people can become trapped in poor value deals or miss out on alternatives that might better meet their needs. Six in ten (59%) of our respondents felt that they were paying over the odds for telecoms services, but many did not feel confident to navigate the market and find alternative providers. This is a poor outcome for vulnerable consumers but also harms consumers more broadly, by sapping competition in these markets.

*"I find it difficult to decide what's a good deal and I know I'm being ripped off if I don't switch but I don't want to have to keep switching. Sometimes it's best to talk to people on the phone and haggle but that's horrible to have to do."*

Expert by experience

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<sup>10</sup> Holkar M and Lees C. Caught in the web. Money and Mental Health. 2020.

<sup>11</sup> Ibid.

<sup>12</sup> Rogers C, Poll H and Isaksen M. The mental health premium. Citizens Advice. 2019.



Mental health problems can also indirectly influence how we engage in markets and the consequences of uncompetitive or unfair practices. People with mental health problems have lower typical incomes than people without similar conditions, with the gap equivalent to £8,400 a year for people with common mental disorders like anxiety or depression.<sup>13</sup> This means that purchases can present much greater risks, with people with mental health problems having less savings to fall back on if things go wrong.

This mental health income gap makes hard-to-navigate returns and refund processes all the more concerning. Mental health problems can limit our concentration levels and reduce our ability to understand detailed information. For someone struggling with their mental health, the tasks involved in returning items or getting a refund - waiting on hold to speak to a customer adviser or taking a parcel to the post office - can be practically impossible. When retailers have complicated or unfair policies on refunds and returns, this only heightens the risk that people with mental health problems will not be adequately protected. Previous Money and Mental Health research found one in five leading retailers had misleading or unclear returns policies.<sup>14</sup>

*"I'll just keep whatever item it is, regardless of the fact I don't need/want it anymore, because the thought of having to go through the returns process is worse than the loss of money."*

Expert by experience

These risks have all been exacerbated by the fact that people are spending more time online due to the pandemic. Our research on online harms has pointed to several worrying trends since the pandemic began:

- One in four (26%) people who have recently experienced a mental health problem have found it harder to control their spending since lockdown began.<sup>15</sup>
- Four in ten (42%) people with recent experience of a mental health problem reported that they have found 'buy now pay later' products harder to resist since the beginning of lockdown in March 2020.<sup>16</sup>
- Four in ten (38%) polling respondents – regardless of their mental health – had seen more scams online since the beginning of the pandemic, while 6% of respondents with experience of a mental health problem had been scammed online since March 2020.<sup>17</sup>

While acknowledging these risks, online services have been more crucial than ever since lockdown measures were introduced. For those who are less digitally skilled or do not have internet access, this shift may make engaging with markets more difficult currently and in future. In a survey of our Research Community in March 2020, one in four (25%) agreed it was difficult for them to access essential services if they can't leave the house.

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<sup>13</sup> Bond N and D'Arcy C. Mind the income gap. Money and Mental Health. 2020.

<sup>14</sup> Evans K and Holkar M. No return: How people with mental health problems are paying the price for poor returns policies. Money and Mental Health. 2018.

<sup>15</sup> Holkar M and Lees C. Convenience at a cost. Money and Mental Health. 2020.

<sup>16</sup> Ibid.

<sup>17</sup> Holkar M and Lees C. Caught in the web. Money and Mental Health. 2020.

*“Everything seems to be going online, paying bills, banking etc, which is a major stress and source of anxiety. I know it's progress, but there should be a backup plan for those of us who struggle with this.”*

Expert by experience

Making key online services easier to use - as our Mental Health Accessible programme seeks to do<sup>18</sup> - should help, some customers will nonetheless be unable to engage effectively in online markets due to their mental health. Ensuring they are not left behind or disadvantaged simply because of their mental health needs should be an issue the CMA monitors carefully during the pandemic and in the recovery.

While many of these pandemic-driven trends are a concern, our evidence suggests that even before the crisis the ‘business as usual’ approach to online regulation was proving ineffective. In light of Covid-19 and the changes it has brought, the case for stronger action from the government and bodies like the CMA to protect consumers is even more compelling. The Annual Plan’s recognition of the need for strengthened consumer protection law is therefore welcome.

The specific challenges that vulnerable consumers can face should be an important part of this reform. Money and Mental Health is strongly supportive of the proposed outreach to vulnerable groups. Our research is built upon the experiences of people with mental health problems and we would be happy to work with the CMA to help identify problems and solutions. The CMA’s DaTA unit also presents an opportunity to spot complaints that specifically relate to vulnerabilities, or markets in which people with mental health problems appear to be experiencing worse outcomes than other consumers.

But protection and action that focus solely on known vulnerability would not provide broad enough improvements. While one in four of us will experience a mental health problem in any given year, rising to one in two of us over our lifetimes, 36% of people with a common mental disorder have never received a diagnosis.<sup>19</sup> In recognition of this, and the fluctuating nature of many vulnerabilities which the Annual Plan raises, a dual approach is needed. An emphasis on helping markets to function more competitively and inclusively in general, in tandem with more targeted efforts to support people with vulnerabilities, should help to deliver better outcomes for consumers with mental health problems and the wider population.

## **Theme 2: Taking our place as a global competition and consumer protection authority as we assume our new responsibilities after the EU Exit Transition Period**

Our response to Theme 3 below provides further detail on the need for improved policing of online spaces to prevent consumers from falling victim to scams. The global nature of the internet means its regulation is a complex, challenging task. We are pleased that the Annual Plan sets out the CMA commitment to continue working with regulators in other countries. This

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<sup>18</sup> For more information see <https://www.moneyandmentalhealth.org/mentalhealthaccessible/>

<sup>19</sup> McManus S et al. Mental health and wellbeing in England: Adult Psychiatric Morbidity Survey 2014. NHS Digital. 2016.

collaboration should also include working to ensure that, wherever an online service is based, UK consumers are adequately protected from fraudulent products, scams and unfair practices when using it.

Similarly, as the Annual Plan highlights, competition and consumer protection issues may feature in future trade deals. The CMA should promote its insights on how to make markets work well for vulnerable consumers as a consideration in negotiations, meaning there is no trade-off between opening up new trade and the wellbeing of consumers.

### **Theme 3: Fostering effective competition in digital markets**

Online services can be a lifeline for consumers experiencing mental health problems. That is why ensuring digital markets effectively serve a broad range of customers is so crucial. Our work on online shopping, however, uncovered a number of common practices used by companies that can take advantage of people's mental health problems, leading to worse outcomes. Given this, we welcome the Annual Plan's emphasis on behavioural insights and planned work on algorithms. To inform that work, as well as the CMA's broader investigations, below we highlight three key elements of website design that can be particularly problematic for people when they are unwell: minimising friction, putting customers under pressure, and personalisation.

#### *Minimising friction*

Online retailers have designed their sites to make customer journeys faster. Encouraging customers to save their payment details, allowing them to buy an item in one click or offering a 'buy now pay later' option can all speed up the purchasing process. Reducing the time people have to think through purchases during the checkout process can facilitate impulsive buying and make it especially difficult for people with mental health problems to control spending when unwell. Four in ten (41%) Research Community respondents reported that quick and easy purchasing makes it significantly harder for them to control their spending.<sup>20</sup>

*"You can purchase items with one click of a button as your bank details are saved from previous purchases. This makes it so easy to buy items without thinking or realising how much you spend."*

Expert by experience

Minimal friction can also result in transactions feeling less 'real', especially for people who are unwell. National polling for our report found that nearly four in ten (37%) of those who have recently experienced a mental health problem agreed that shopping online didn't feel like spending real money, compared to 25% of people without a mental health problem.<sup>21</sup>

*"When I'm not well it's just numbers I can't relate it back to money because I don't stand at a till and hand over money."*

Expert by experience

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<sup>20</sup> Holkar M and Lees C. Convenience at a cost. Money and Mental Health. 2020.

<sup>21</sup> Ibid.



### *Putting customers under pressure*

When shopping online, notifications about the end of a sale or limited stock play on common biases, such as viewing scarce goods as more valuable. Online retailers can easily integrate these messages into the customer experience in ways that are not always possible in physical stores, such as showing how many people have viewed an item in the last hour. A third (32%) of Research Community respondents felt that information about limited stock and timers indicating the end of a sale made it much harder to control their spending. When people who can struggle to make an informed decision due to their mental health problems are put under pressure, it can lead them to making unnecessary purchases.

*“When you're told x number of people are looking at an item or there's only so many left, irrational panic sets in and I've made foolish purchases.”*

Expert by experience

*“If a site flags that there's only one left in stock and three people (or whatever number) are looking at it, I MUST have it ... I fall for it every time when [I'm] unwell.”*

Expert by experience

### *Personalisation*

Online shopping sites personalise experiences by recommending products others have bought or suggesting additions for a 'bundle', which can play on our biases to go along with the crowd.<sup>22</sup> Three in ten (29%) Research Community respondents felt that recommended products and bundles made it much harder to stay in control of their spending.<sup>23</sup> Personalisation often has a greater impact when people are most unwell, as suggestions appear during key points in the customer journey and can encourage impulse purchases.

*“It's the ‘you bought this, you might like this’ that keeps me spending when I'm unwell.”*

Expert by experience

Personalisation also includes adverts for online shopping in other online environments such as social media. Personalised adverts can affect everyone, but they are particularly hard to resist for those who struggle to control impulses, especially when the journey from seeing the advert to making a purchase is short. A quarter (26%) of people who have recently experienced a mental health problem agreed that seeing adverts online makes it harder to stay in control of their spending, compared to 14% of those who have never had a mental health problem.<sup>24</sup>

*“The personalisation of adverts and ‘things we think you might like’ sections just entice you in with things you wouldn't necessarily buy if you saw them in a shop.”*

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<sup>22</sup> Moser C, Schoenebeck S, and Resnick R. Impulse Buying: Design Practices and Consumer Needs. CHI Conference on Human Factors in Computing Systems Proceedings. 2019; Browne W and Swarbrick Jones M. What works in e-commerce - a meta-analysis of 6700 online experiments. Qubit Digital Ltd. 2017.

<sup>23</sup> Holkar M and Lees C. Convenience at a cost. Money and Mental Health. 2020.

<sup>24</sup> Ibid.

## Expert by experience

Together, these three elements of website design are causing significant difficulties for consumers with mental health problems. In some instances, it appears that misleading or aggressive tactics are being utilised, despite the Consumer Protection from Unfair Trading Regulations 2008. Money and Mental Health recognises that the CMA has already taken action in a number of markets, as highlighted in the Annual Plan. Our research suggests that more online sites and sectors are deserving of similar investigation.

The CMA's investigation of hotel booking sites found that many were breaking the law, including by pressuring customers into making bookings with misleading time-limited offers and nudges designed to create an artificial sense of scarcity.<sup>25</sup> Our work with our Research Community suggests that such unfair practices are not limited to hotel booking sites. To improve competition and fairness across other markets, the CMA should develop similar principles for online shopping sites, to help retailers understand and comply with their consumer law responsibilities and encourage retailers to commit to them. In particular, our Research Community reported troubling experiences with online clothing retailers, which should be a priority sector for future CMA efforts.

Beyond action in specific sectors, we agree with the Annual Plan's view that stronger consumer protection law and stronger powers for the CMA would be welcome. As part of this, the government should task the CMA with reviewing existing consumer protections for online shoppers, to ensure they are fit for the digital age. The review should consider:

- The role of "dark patterns", elements of the design of online sites that can manipulate customers and result in harmful outcomes
- Personalisation in online shopping sites and through advertising. This could be addressed as part of a wider regulatory response to online targeting, as suggested by the Centre for Data Ethics and Innovation
- What is required for effective enforcement of consumer protection for online shoppers
- The extent to which vulnerable consumers, including some people with mental health problems, are protected from harm.

Turning to the largest online firms, we are supportive of the CMA's work on platforms with strategic market status. Our research points to the special role that these large platforms play in online scams, with many of our Research Community members having lost money or personal information as a result of ads or posts on leading social media sites.

We understand that there are many competing concerns when addressing the potentially anti-competitive practices of these firms. However, given the Annual Plan states this initiative seeks to tackle practices likely to reduce trust, significant action on scams appears to sit squarely within this remit. Our Research Community members told us how being scammed, or even seeing what they perceived to be fraudulent content, discouraged them from engaging in

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<sup>25</sup> Competition and Markets Authority. Consumer law protection compliance: principles for online accommodation booking platforms. 2019.



online markets. Not only does this leave such consumers at a disadvantage, missing out on online offers and services, it can also lead to lost revenue for legitimate businesses operating online. The concentrated power and user-base large platforms like Google and Facebook have accumulated presents a huge opportunity to prevent much of the harm our Research Community members identified in relation to scams.

We welcome the DaTA unit's work and emphasis. Our research on online harms has highlighted that, across many parts of the economy, regulators can struggle to keep pace with innovation. This may be potentially concerning but legal practices like 'buy now, pay later' lending, or new forms of scams or fraudulent activity. Against this backdrop of fast-paced change, the DaTA unit could play an important role in helping government bodies be more alert to developing issues. The CMA has already been groundbreaking in this regard, as the example of the CMA's collaboration with Ofcom and the Information Commissioner's Office shows. Helping to upskill departments and watchdogs for whom digital markets may not be the central focus of their activities, but nonetheless are growing or present new risks to consumers, should lead to more responsive, coordinated regulation.