Consultation Response

Financial Conduct Authority (FCA)

CP21/13: A new Consumer Duty

August 2021

Contact: joel.lewis@ageuk.org.uk

Age UK
Tavis House
1-6 Tavistock Square
London WC1H 9NA
T 0800 169 80 80 **F** 020 3033 1000
E policy@ageuk.org.uk
www.ageuk.org.uk

Age UK is a charitable company limited by guarantee and registered in England (registered charity number 1128267 and registered company number 6825798). The registered address is Tavis House
1-6 Tavistock Square, London WC1H 9NA.

About this consultation

The Financial Conduct Authority (FCA) is consulting on a Consumer Duty that would set clearer and higher expectations for financial services firms' standards of care towards consumers.

Key points and recommendations

- Age UK supports the introduction of a new FCA regulatory principle for a Consumer Duty, backed by cross-cutting handbook rules and four outcomes for firms to strive to.
- Whilst we continue to believe that the FCA should consult on a formal Duty of Care, for the time being, the financial services sector should focus on effectively implementing the new Duty. The implementation of the Duty must be regularly evaluated to see if it is bringing about the intended change in firm behaviour and customer outcomes.
- We support the anticipatory intention of the new Duty in protecting against harm but also believe its role should be to promote positive financial wellbeing.
- The Consumer Duty can help protect older consumers experiencing vulnerability caused by digital exclusion, reduced income, health and cognitive function and lack of family support. These circumstances can lead to older people being exposed to greater harms such as financial exclusion, financial loss, and not getting the best deal.
- The Duty must require firms to act with and on behalf in the best interests of their customers. This should not preclude securing the best outcomes in the medium and longer terms.
- The Duty can only be effective if the new regulatory framework is clear for those working in compliance, supervision, and enforcement within the financial regulatory system.
- All firms across the retail distribution chain should have responsibilities under the Duty. Customer facing firms should only source products, services and contracts which serve the best interests of the 'end-user'.
- The FCA should consider placing compliance with the new Duty as a single person responsibility so that the boards of firms are actively considering the needs of their customers and acting in their best interests.

About Age UK

Age UK is a national charity that works with a network of partners, including Age Scotland, Age Cymru, Age NI and local Age UKs across England, to help everyone make the most of later life, whatever their circumstances. In the UK, the Charity helps more than seven million older people each year by providing advice and support. It also researches and campaigns on the issues that matter most to older people. Its work focuses on ensuring that older people: have enough money; enjoy life and feel well; receive high quality health and care; are comfortable, safe, and secure at home; and feel valued and able to participate.

Introduction

Age UK fully supports the aims of the FCA's proposed Consumer Duty. In our response[1], to the FCA's 2018 Discussion Paper on a Duty of Care, we argued that despite the Treating Customers Fairly' (TCF) principle having been in place for nearly 20 years, many consumers are still being routinely exposed to a range of harms.

We agree that the new Duty – if implemented, supervised, and enforced correctly – has the potential to achieve a much-needed and significant positive change in the processes, behaviour, and culture of financial services firms. We also agree that the new Duty should be anticipatory in nature and ultimately look to create 'an environment where consumer harm does not occur in the first place'. However, the proof of the pudding is in the eating, and principles themselves do not provide protection to consumers. It will be necessary to see how the Duty is applied in practice and how firms respond to the change in regulatory regime.

The financial lives of older people

Age UK research[2] has found that someone's resilience and well-being in later life depend on several factors including but not limited to - **their social and digital engagement, financial resources, physical health and ability, cognitive and mental health, and social and family support.** The impact of the Covid-19 pandemic will have exposed millions of older consumers to potential or actual harm due to negative changes to these circumstances. Our consultation response features calls and messages from older people, and those that support them, to the Age UK Advice Line[i].

Retirement is a period when people's financial resilience will be tested. For many this is due to having a reduced income and, as time goes on, experiencing a decline in cognitive capability. People often experience a lack of support in how to manage their money and make decisions

---

[i] The Age UK Advice Line is a free and confidential national phone service for older people, their families, friends, carers, and professionals. Case studies featured in this consultation response are from calls and messages received by the Advice Line between March 2020 – May 2021. Identifying information has been changed to protect the anonymity of those contacting the charity. https://www.ageuk.org.uk/services/age-uk-advice-line/

involving complex products and investments. Maintaining a financial buffer to be able to plan and cope with life-events such as bereavement and the onset of health and care needs is crucial to reducing the exposure to potential harms resulting from these vulnerable circumstances.

Access to financial services

Older people often left behind as banking and payment services have moved online. Those who are unfamiliar with digital banking will naturally be hesitant about breaking the habits of a lifetime and using a totally new system to make such important financial decisions. 51% of those aged 65+ do not use internet banking, or have not recently, compared to only 10% of those aged 25-34[3]. Those who lack the skills and confidence for online financial transactions - they may not have experience of doing so during their working life - and often face a much higher barrier to entry for banking compared to other online activities.

Lack of access to face-to-face banking services can also be hugely impactful on older people. Between 2012 and 2020, the total number of bank and building society branches in the UK fell by 28%[4]. The South West region of England, the region with the oldest average age[5] , saw the highest proportion (33%) of its bank and building society branches shut in that period[6].

Outcomes and best interests

The new Duty must help facilitate firms working with customers to optimise outcomes. We believe the role of the new principle should not be solely focused on protection against harm, but to enable resilient and financially included consumers. Firms must recognise that their customers are often unable to know what ‘good’ looks like and to act in their own best interests. This could be due to the asymmetry of information, poor access, behavioural biases, and the result of vulnerable circumstances such as reduced mental capacity. Firms should aim to support their customers’ decision making, rather than placing an undue responsibility on them to make optimal decisions off their own back. The Duty must therefore require firms to act with and on behalf of customers as appropriate, and ultimately in their best interests. This must extend throughout the customer journey from product design, marketing, point of sale, communications, customer service, and renewal.

Compliance, Supervision and Enforcement

Age UK supports the implementation of the Consumer Duty, but that support is contingent on how the FCA’s proposals develop over the course of the consultative and policy development period.

The Duty can only be effective, and consumers well served, if this new regulatory environment is clear and workable for those working in compliance, supervision, and enforcement.

Question 1: What are your views on the consumer harms that the Consumer Duty would seek to address, and/or the wider context in which it is proposed?

Age UK welcomes the publication of the Consumer Duty consultation paper and strongly supports its ambition of setting "higher expectations for the standard of care that firms provide to consumers". We welcome the intention to provide a new regulatory framework which expands on the TCF principle and provides clarity to both consumers, firms, and regulators.

Older consumers face circumstances (retirement, bereavement, cognitive ageing and impairment, low digital skills) which lead to specific harms (reduced access, reduced control, paying higher costs, exposure to scams). However, many of these circumstances and the harms they lead to can and should be reasonably foreseen by firms. We support the anticipatory nature of the proposed Duty and believe that preventing harm must be its primary focus. Firms must acknowledge that failing to act appropriately can also lead to harm and should look to work in the best interests of consumers.

We also hope that the anticipatory nature of the Duty will help protect against harm which has not breached existing rules or where supervision and enforcement has been ineffectual. Examples of this over recent years includes:

- Loyal customers penalised in the cash savings market
- Loyal customers penalised in home and motor insurance
- Loyal customers penalised in the mortgages market
- Harm caused to customers in the retirement incomes market by firms promoting loyalty rather than shopping around, and through levying hidden charges on drawdown products
- Treatment of vulnerable customers
- Lack of protection for customers targeted by authorised push payment fraud

The new principle could also provide protection in unregulated markets offered by FCA authorised firms. The FCA has recently committed to regulating pre-paid funeral plans and 'buy now pay later' products. Many investment markets such as crypto assets and mini-bonds are not regulated and poor outcomes in these can expose customers to significant financial loss.

Question 2 What are your views on the proposed structure of the Consumer Duty, with its high-level Principle, Cross-cutting Rules and the Four Outcomes?

For it to be truly effective and enhance the current regulatory regime, the new Consumer Duty must sit at the pinnacle of regulation and be a guiding principle that firms adhere to. It is essential that that the three components which comprise the Duty are carefully designed and worded to remove as much ambiguity as possible. Age UK would be supportive of efforts to enshrine adherence to the Duty in legislation, but this should be balanced with the need to implement the Duty in a reasonable timeframe.

The FCA should consider placing compliance with the new Duty as a single person board level responsibility, similar to audit processes and anti-money laundering requirements. This level of personal accountability would focus minds on serving the best interests of customers. It could also be instrumental in affecting the cultural change the FCA seeks with amendments to regulation but is often hard to achieve in reality.

Q3: Do you agree or have any comments about our intention to apply the Consumer Duty to firms' dealings with retail clients as defined in the FCA Handbook? In the context of regulated activities, are there any other consumers to whom the Duty should relate?

It is important that the FCA has recognised that the new Duty should apply for authorisations and firms entering the market or increasing their range of regulated activities. The Consumer Duty must also apply to actual and potential customers. Both actual and potential customers need protection as harms can occur before the point of sale. For older consumers, this may be marketing of products or services that are not in their best interests due to their timescales or span of control and access. This could also include promotion of investment products to those with limited financial capability to understand associated risks, and/or in vulnerable circumstances who are more likely to experience greater harm such as exclusion or financial loss.

Q4: Do you agree or have any comments about our intention to apply the Consumer Duty to all firms engaging in regulated activities across the retail distribution chain, including where they do not have a direct customer relationship with the 'end-user' of their product or service?

We support the intention for all firms across the retail distribution chain to have responsibilities under the Duty. It must be incumbent on customer facing firms to source products, services and systems which serve the best interests of the ‘end-user’. Principles of inclusive design should be utilised to get product design right in the first instance.

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

There will always be a tension between working in the best interests of customers, which implies serving their needs in the present, and in securing good outcomes which suggest a focus on impact of the relationship at some point in the future. This tension will often change depending on the age and other circumstances of the customer and the nature of the product they are using. Securing good outcomes would require longer-term assessment which may not always be practical or realistic for older consumers.

We support the positive intent of the two proposed options with the focus on achieving good outcomes/best interests rather than only looking to prevent harm. It is important for firms to act in what they know to be in the best interests/achieve the best outcomes, using their own market research, customer engagement, and data. This may differ from a customer’s own expectations.

The essential nature of many products or services means that customers with limited capability will still need to access them. This can be particularly true for so-called “financial novices”, older people who suddenly become responsible for managing household finances like mortgages, home insurance, and investments. Firms abiding by the new Duty should take appropriate steps to support informed decision-making for those navigating complex products and markets for the first time. This support must consider the customer’s own personal circumstances as well as the wider market environment. Compliance with the Duty would mean firms helping customers to understand their level of personal responsibility as well as what is possible, realistic, and what has worked for others in similar circumstances. It would be helpful for the FCA to set out some case studies of real or fictionalised scenarios and what this might mean for firms abiding by the new Duty.

Whilst not offering whole-hearted support, we would favour the approach of Option 2 for the proposed principle; *A firm must act in the best interests of retail clients*. The new principle must enhance the current principle 6; *A firm must pay due regard to the interests of its customers and treat them fairly.* Regardless of the option or wording chosen, the essence of the Duty will be in the specific elements of how it should be interpreted, which will no doubt be made clear in future guidance and regulatory changes by the FCA, as well as its supervision and enforcement.

We would also urge the FCA to consider a principle in the social care sector known as the ‘mum test’. Would you want your mum to receive care in this manner or setting? If the answer is no, then it is not suitable. The same principles should exist in financial services with regulation providing the framework for firms to act in the best interests of customers, support decision making, and ultimately achieve the best outcomes.

Q6: Do you agree that these are the right areas of focus for Cross-cutting Rules which develop and amplify the Consumer Principle’s high-level expectations?
&
Q7: Do you agree with these early-stage indications of what the Cross-cutting Rules should require?

We support the wording of the three cross-cutting rules but the prefix requiring firms to ‘take all reasonable steps to…’ may be too open to interpretation and ultimately hard to supervise and enforce against effectively. Firms could argue that they took reasonable steps, but this might not serve the needs of vulnerable customers who need extra support.

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

The 65-74 age group are the most likely to have a characteristic of vulnerability[7]. The FCA must explain how the new Duty will enhance firm’s treatment of vulnerable customers. The flexible and often unanticipated nature of vulnerability means any consumer can be one life event or one decision away from being exposed to greater harms than they otherwise might have. All consumers should expect to receive good outcomes and the FCA must work with firms to demonstrate the extra support that vulnerable customers might need.

The Duty must also serve to reduce the supply-side factors that can cause and increase vulnerability and exposure to harm. The actions of a firm, the limitations of the market or the nature of the product or service due to its complexity, timescale, distribution channel, span of control and governance can make someone more vulnerable. Firms should also be aware of the impact not just on the customer themself but also on those that support them, whether it be formally through a legal instrument like power of attorney or more informal help with financial tasks.

In the present context, understanding the long-term financial impact of the pandemic on people's circumstances and finances will be crucial. Although the pandemic has financially affected many people, Age UK believes it is particularly important to understand how those in the lead up to retirement in their late-fifties and sixties have been impacted. For example, Financial Lives 2020 shows that of those surveyed aged 65+ who had not yet retired, 37% expected the state pension to be their main source of income in retirement[8]. Retiring on a low income will likely affect someone's financial resilience and this is an example of where firms abiding by the Consumer Duty should seek to understand how best to support customers in this situation. Promoting understanding of cheaper borrowing, reduced mortgage interest, or not marketing unsuitable packaged current accounts could all be beneficial.

Q9: What are your views on whether Principles 6 or 7, and/ or the TCF Outcomes should be disapplied where the Consumer Duty applies? Do you foresee any practical difficulties with either retaining these, or with disapplying them?

Our view is that Principle 7 should continue and that depending on the final wording of the consumer principle, it may be possible for Principle 6 to be disapplied to avoid duplication. The FCA throughout this process must clearly explain exactly how the Consumer Duty enhances the TCF principle and outcomes, and how the new set of principles will make it easier and more straight forward for firms and the regulator to act. Cross-cutting rules that are a significant change from what currently appears are necessary, so that firms recognise they are working to a higher standard and can make clear and measurable changes to their business model and customer service as a result. In the interests of quality improvement, even outstanding firms will need to consider what more they can do.

It will be the responsibility of the regulator and the wider sector to explain how these regulatory changes will directly impact customers. If consumers understand that firms are supposed to treat them fairly, but they have still experienced significant harms because of supply side practices, then this could fatally undermine their future trust and faith in the new regulatory regime.

Q10: Do you have views on how we should treat existing Handbook material that relates to Principles 6 or 7, in the event that we introduce a Consumer Duty?

The FCA places too much emphasis on consumer responsibility which might undermine principle 6.

Q11: What are your views on the extent to which these proposals, as a whole, would advance the FCA's consumer protection and competition objectives?

What really matters is not the setting of good principles (which are sound in this Duty), but the enforcement of them. So, we can really only answer this question when the details regarding supervision and enforcement are explained.

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

We have previously identified two types of gaps within the FCA's existing regulatory framework and approach to consumers which make us supportive of the concept of a duty of care. Firstly, gaps where firms create harm but do not appear to be breaching any existing rules or principles. Secondly, we see gaps where the behaviour may be in breach of existing rules or the TCF principle but where enforcement has been slow, difficult, or has not happened at all.

However, we offer qualified support to the implementation of the Consumer Duty and its effective supervision and enforcement. There may come a time in the future where the FCA should consult on the adoption of a more formal duty of care, but our view is that the mind of the sector should be focused on ensuring the success of the proposed new regulatory regime.

Q13: What are your views on our proposals for the Communications outcome?
&
Q14: What impact do you think the proposals would have on consumer outcomes in this area

This outcome should focus more on consumer understanding rather than solely about communications. This and the other outcomes should be more aspirational and focus on what firms are expected to achieve and not simply the type and channel of communications. They must also be significantly different from current regulation so as firms recognise what more they need to do.

Older people might suffer even more from complexity and risk associated with lack of digital access. For example, exclusion is higher among older adults who are single. 41% of single people 65+ are digitally excluded compared with 18% who are in a couple[9].

Good communications are not just about warning people about changing interest rates or rising premiums but supporting customers to act to get the best deal and to inform and empower customers to understand and act in their own best interests. Firms are the gatekeepers and must also consider often low levels of literacy and numeracy and how well consumers can understand communications and T&Cs. This is relevant in the FCA's own analysis of how well consumers understand borrowing terms and getting the best deal. Wherever possible, language should be simplified, or protection should be enhanced.

Retirement is such an important life transition: people may still have a lot of the same financial commitments as when they were working but now doing so on a reduced income and potentially with greater risk of being in vulnerable circumstances. The aid of a 'retirement checklist' could support older people to explore what preparations they feel comfortable making, whilst letting them know at the same time what else is possible to plan for should they wish to.

"I have been a customer with [my bank] for over 40 years and have repeatedly told them about the issues older people face in managing their accounts. They closed my local branch (nearest now several miles away) and no longer send a weekly text of my balance. Their call centre is only interested in moving customers online which I don't want to do. I have an old mobile for emergencies, not a smart phone. I find reading numbers difficult due to my eyesight. Do you know of any banks which are more age-friendly?"
Message to Age UK Advice Line

"We sold our house have been struggling to find a suitable property. The proceeds from the sale were put into our bank account. We were ready to exchange contacts last week but the bank has frozen our accounts and will not speak to us or tell us when they will help us. We are going to be homeless at the end of the month. My wife is in her eighties and has serious cardiac issues, but they will not listen to me. Please can you help us as no one will listen.
Message to Age UK Advice Line

Q15: What are your views on our proposals for the Products and Services outcome?
&
Q16: What impact do you think the proposals would have on consumer outcomes in this area?

There needs to be less on what consumers should discern for themselves here, and more on what things should be in place to stop firms exploiting the power/information imbalance between them and their customers. We also need to see more discussion on what can be done about it from a regulatory perspective to avoid this and exploitation of biases.

Age UK in its Age Friendly Banking report[10] describes how firms need to correctly serve customers and meet their needs, rather than placing an unfair or ill-considered expectation of adapting to new design and processes. An example might be the phasing out of passbook savings accounts for customers who don't bank online and don't have access to a local branch.

"I'm 64 and on a modest pension. All my life I have managed my money but have not used internet banking or contactless cards. I'm starting to worry as Covid has accelerated the trend towards online payments and banking. My computer is pretty old & I use my phone for the internet. Importantly this keeps costs down but is not a secure way to access internet banking. I'm not sure what options I have and feel like I am being forced to change how I make payments & manage my money. I need a bank which is age friendly. Please help."
Message to Age UK Advice Line

Older borrowers aged 65+ (45%) were much more likely than those approaching retirement (24%) aged 55-65 to have an interest-only residential mortgage[11]. They are also often more likely to be on a variable rate of interest compared younger consumers. Firms should recognise the circumstances of these consumers – can they access a better rate, how are they coping paying higher rates of interest, and seek to act in their best interests.

"I am in my mid-sixties and can't retire for a few more years. My mortgage is an interest only and has more than ten years to run. When I retire, I won't have enough to pay the mortgage, so I am starting to look at shared ownerships for pensioners."
Message to Age UK Advice Line

Financial shocks can have a huge long-lasting impact. Whether you or your partner will need long-term care is so hard to predict and the costs involved in providing it are so great that it is not reasonably possible for most people to plan for it. The market does also not often serve the needs of consumers. Consumers want to see firms innovate to offer a wider and more tailored range of products and services and the possibility of reform of the social care system could create better products better able and suited to help prepare for the costs of care.

Client's father is in a care home and his house has been sold. Client is looking at buying an immediate care needs annuity & has sought financial advice about this. Client getting conflicting advice / different fees that are to be paid & wants to know if there is a standard fee payable? Client also unsure about how an annuity would work and if his dad is eligible for NHS continuing healthcare - would this still be payable?
Caller to Age UK Advice Line

Q17: What are your views on our proposals for the Customer Service outcome?
&
Q18: What impact do you think the proposals would have on consumer outcomes in this area?

We would urge firms to utilise proactive market research and consumer engagement, across all types of customer groups. Whilst many customers will be hesitant to share lots of information as they worry about what it will be used for, firms should think about how they can incentivise customers to provide relevant details of their circumstances.

Boards should also be encouraged to actively consider the diverse needs of their customer base, which could take the form of consumer panels or focus groups which should cover a range of consumer needs relevant to the firms' business model – including vulnerable and/or high-risk customers. Only by truly understanding the needs of their customers can firms properly comply with the new Duty.

We would call for more staff to receive training on dealing with bereavement, recognising vulnerable circumstances, and signposting for those that need support with access, control, and decision-making. Systems also need to improve as these can serve to exacerbate vulnerability. The FCA also need to be more explicit about how the consumer voice will be used in the consultation and how it will relate to the future work around the proposal. Firms need to be flexible where they can and recognise many older customers can have issues around identification.

My dad is in his nineties and lives in a nursing home. We have just sold his house to raise funds to pay the care costs. However, we would like to invest some money for him, but he does not have a current passport, current driving licence or any household bills. Therefore, it is proving impossible as we don't have valid ID, could you advise me on what we could do please?
Message to Age UK Advice Line

My wife has Dementia and is the main card holder of our credit card, I am a second card holder. New cards arrived need activating but she is no longer able to do this. Tried ringing [the provider] to try and discuss but cut off after 25 minutes. I have power of attorney, but will this help in a case like this? I use this card for most of our financial transactions, food online etc. Have you come across this problem at all?
Message to Age UK Advice Line

"We pensioners in our seventies feel we are being bullied by our bank - where we have been customers for over 45 years. I have never needed or used a debit card. However, [the bank] send them anyway despite us never asking for them, activating them, or using them. This may be unusual, but we just want to have access to the branches where we have always gone…. They said in the branch quite forcefully we must."
Message to Age UK Advice Line

Q19: What are your views on our proposals for the Price and Value outcome?
&
Q20: What impact do you think the proposals would have on consumer outcomes in this area?

This proposal raises a further question of whether 'reasonable' prices are indeed 'fair' prices, and how these prices are determined within a business and evaluated externally. The issue of affordability is a key concern for those who a) who can't access the products they need because they can't afford the price of what's available (financial exclusion and the poverty premium) or (b) have to pay high charges if they don't have any alternative. As the FCA's recent interventions into the insurance market have shown, customers may have been paying a reasonable price for their premium, but that is in a system that was wholly designed to penalise loyal often vulnerable customers. We want the adoption of the Duty to build on any recent and current work that the FCA has done to reduce loyalty penalties in the insurance, overdraft, mortgage, and cash savings markets. Older people are still paying higher insurance premiums due to the exemption of age within the Equality Act 2010. Is this reasonable or fair? Without a change in this law, the Consumer Duty can help protect both older and younger consumers from paying higher and personalised prices set by unaccountable algorithms that they will never be privy to. We believe that the next stage of the consumer duty work should explore firms use of customer data and how it can exacerbate harms.

We would also hope that the new Duty would improve markets such as that for 'guaranteed acceptance life insurance or 'over 50s plans' where despite the existing rules around clear, fair, and not misleading communications customers are still buying poor value products.

I would like advice on a current account that doesn't charge me a service charge each month! Currently I've been with [my bank] for years who charge me nearly £20 per month. I don't need any of the services since retiring, I am in my seventies and find it hard making ends meet since stopping work.
Message to Age UK Advice Line

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

We broadly support the creation of a private or collective right of action (CROA) for consumers to seek redress against firms who breach the Consumer Duty. This would help provide the strongest possible protections against the harms that the duty is seeking to address. Firms that are abiding by the principle, rules and outcomes of the duty would have nothing to fear from a PROA or CROA being established. We do not foresee significant legal action taken by individual customers, the majority of whom will not have the financial resources and time to pursue such claims. This is likely to be particularly true for many older customers in vulnerable circumstances.

We would also expect private actions generally to be limited to situations where existing redress routes had failed and (i) individuals had experienced high levels of harm; or (ii) where many individuals had experienced significant harm. In these cases, it would seem reasonable that an individual should be able to seek redress directly. It also seems important to focus the mind of firms on the experience of consumers. We envisage that the new Duty should be entirely possible to comply with and therefore firms should not expect to be subject to high levels of claims.

We would also suggest the FCA & Treasury considers how fines paid by financial services firms could be used to enhance financial wellbeing, resilience, and capability. Money raised in fines by Ofgem to energy suppliers goes the to the energy redress scheme which is managed by the Energy Savings Trust. A similar redress scheme could support community and voluntary sector organisations who have extensive expertise in supporting customers in vulnerable circumstances, maximising incomes, reducing levels of personal debt, increasing digital inclusion, as well as helping to fund research on innovation which can improve outcomes for these and wider groups of consumers.

Q22: To what extent would a future decision to provide, or not provide, a PROA for breaches of the Consumer Duty have an influence on your answers to the other questions in this consultation?

Q23: To what extent would your firm's existing culture, policies and processes enable it to meet the proposed requirements? What changes do you envisage needing to make, and do you have an early indication of the scale of costs involved?

Q24: [If you have indicated a likely need to make changes] Which elements of the Consumer Duty are most likely to necessitate changes in culture, policies or processes? 53 CP21/13 Annex 1 Financial Conduct Authority A new Consumer Duty

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

We believe the adoption of the new Duty will bring significant benefits and increase consumers' financial wellbeing and capability. It should help create better trust and more engaged consumers who have better access to loans, credit, insurance, savings, and investments. These products should all become better tailored to their needs and serving them well in respect to access and price. The Duty should reduce harm and exposure to poorer outcomes.

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

Age UK strongly believes that the benefits of the proposed Duty would far outweigh any risks for both consumers and firms. We hope that the new regulatory environment will make it easier for firms to innovate and compete to provide the best customer service. We also hope it will create a clear regulatory framework which is appropriately supervised and enforced which will result in all stakeholders, both consumers and firms, seeking redress.

There may be some concerns that the introduction of the Duty could lead to financial exclusion with firms offering a smaller range of products and services to a narrower band of customers. This could be at the detriment of marginalised and vulnerable groups, some of which may already be underserved and not able to access certain credit and loan products. We believe that the Duty would require firms to consider the needs of all customers, including those deemed to be higher risk. It should be contingent on firms to offer less risky and lower cost credit and loans to underserved groups. By creating products with inclusive design principles, firms should be able to better understand the risk profile of different customer groups.

Therefore, the FCA should consider how the Duty's outcomes, specifically the one on customer service, could ensure that individuals and customer segments are not being unfairly excluded simply due to the firms' attitude to risk.

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

Firms have been hit financially by the crisis, but there is a clear business case for investing in support that goes beyond regulatory compliance. Building a reputation as a firm that is age friendly, provides products and services for the life course and gets things right first time will all help give a competitive advantage. People remember when difficult situations are dealt with compassionately and constructively.

[1] https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/consultation-responses-and-submissions/money-matters/age_uk_response_to_fca_duty_of_care_november2018.pdf

[2] https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/health--wellbeing/rb_april15_vulnerability_resilience_improving_later_life.pdf

[3] https://www.ons.gov.uk/file?uri=%2fpeoplepopulationandcommunity%2fhouseholdcharacteristics%2fhomeinternetandsocialmediausage%2fdatasets%2finternetaccesshouseholdsandindividualsreferencetables%2f2020/internetaccesspublicationtables2020final1.xlsx

[4] https://researchbriefings.files.parliament.uk/documents/CBP-8570/CBP-8570.pdf

[5] https://www.resolutionfoundation.org/app/uploads/2019/10/Ageing-fast-and-slow.pdf

[6] https://researchbriefings.files.parliament.uk/documents/CBP-8570/CBP-8570.pdf

[7] https://www.fca.org.uk/publication/research/financial-lives-survey-2020.pdf

[8] https://www.fca.org.uk/publication/research/financial-lives-survey-2020.pdf

[9] https://www.fca.org.uk/publication/research/financial-lives-survey-2020.pdf

[10] https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/money-matters/rb_april16_age_friendly_banking.pdf

[11] https://www.fca.org.uk/publication/research/financial-lives-survey-2020.pdf