

StepChange Debt Charity response to FCA consultation paper: A new Consumer Duty (CP21/13)

July 2021

Introduction

StepChange Debt Charity is the largest specialist debt advice charity working across the UK. In 2020 over 500,000 people contacted us seeking debt advice and over six million users visited our website. We welcome this FCA consultation on a proposed new Consumer Duty and believe our experience dealing with financially vulnerable people makes us well placed to respond.

In brief summary our response will highlight:

- We strongly support the proposal for a new Consumer Duty and believe the changes outlined by the FCA should help bring the consumer protection and competition objectives together and achieve positive culture change among financial services providers for the benefit of consumers.
- The structure of the proposed duty looks broadly well-constructed. However, the effectiveness of the Consumer Duty will depend greatly on how it is implemented, including the final form of wording and the rules and guidance that will underpin and explain the detail.
- The clarity, urgency and ambition of the language used by the consultation paper to make the case for the Consumer Duty does not yet carry fully into the language and design of the Duty itself, which is arguably not so very different from the present Treating Customer Fairly (TCF) framework. In particular, we would like to see a strong tone-setting message that firms should not seek to profit from exploiting information asymmetries, consumer inertia, behavioural biases or vulnerabilities.
- We have some concerns that the *reasonableness* concept set out in the paper risks anchoring the proposed Consumer Duty too closely to the existing consumer protection 'have regards' and an emphasis on process rather than outcomes, an approach which the FCA rightly highlights has limited the effectiveness of the TCF framework.
- There is some disconnect between the high-level Consumer Principle and the four 'low level' outcomes. The outcomes (excluding price and fair value) look similar to the existing TCF outcomes, raising the question as to how the FCA will ensure that firms do not continue to focus on process (compliance) rather than good customer outcomes. There are also areas of firm activity that fall within scope of the Duty but do not appear to fall fully or clearly within the scope of the outcomes; notably, supporting customers in financial difficulty is not highlighted as an area of focus. Further development of the outcome areas, and clarification of their relationship to the high-level Duty, would be welcome.
- StepChange's culture as a not-for-profit advice provider is aligned with the aims of the Consumer Duty. We welcome the framework the Duty provides to review and reflect on the way the services and products we offer work for our clients. StepChange cannot (and will not seek to) pass on implementation costs to clients; we therefore see it as particularly important that, in due course, the FCA seeks to support not-for-profit organisations in implementing the Duty through support and guidance.
- We broadly support the argument for a Private Right of Action (PROA).

- We believe that the proposed Duty would carry more force if supported by amendments to the Financial Services and Markets (FSMA) Act 2000 when the opportunity arises. Specifically, this would allow:
 - Updating and alignment of the section 1c consumer protection objective and 2e competition objective ‘have regards’ with the Consumer Duty.
 - A new financial inclusion objective, reflecting aspirations commonly articulated by government, the FCA and others to find solutions to financial exclusion issues.
 - Clarification of roles and responsibilities at the interface of regulatory and social policy so that government and the regulator are better able to act in concert to prevent harms and promote financial inclusion.
 - ‘Hardwiring’ of the consumer voice into FCA policy making.

Our detailed responses to the consultation questions are as follows:

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?*

We agree with the FCA (paragraph 1.8) that there is ongoing consumer harm caused by the products and practices of financial services firms that have not been addressed within the present regulatory framework.

As a debt advice provider, StepChange is particularly concerned with the needs of financially vulnerable consumers and harms linked to credit products and related services. Here we continue to see practices exploiting information asymmetries, behavioural biases or vulnerabilities that cause harm, including:

- Lending to consumers with insufficient resources to repay affordably, increasing hardship and over-indebtedness.
- Product design that can exploit consumers’ financial vulnerability, for example in ‘low and grow’ revolving credit products that entrench financial difficulties.
- Profiting from financial difficulty and vulnerability by failing to respond responsibly to, or effectively identify, repayment difficulty.
- Excessive costs that cause harm to consumers and are disproportionately high in relation to the utility of the credit provided.

Since 2014, successive interventions by the FCA, such as the high-cost credit review and the credit card market study, have uncovered ongoing harms that firms had not felt compelled to address under the current principles and the longstanding TCF initiative:

- Current account providers could have easily confirmed that overdraft charges were disproportionately harming lower income customers who were often trapped in repeat overdraft use and changed their charging practices. Few banks made significant changes before the FCA intervened through the high-cost credit review.
- Rent-to-own providers could have seen that their changing practices were distorting credit cost comparisons and leaving, as the FCA noted, ‘a highly vulnerable group of consumers are paying too much for household goods’.¹

¹ Financial Conduct Authority (2018) [CP18/35: Rent-to-own and alternatives to high-cost credit –](#)

- Credit card providers could have addressed lending practices and product design that was leading large numbers of customers to become stuck in expensive persistent debt before the FCA identified these issues and intervened.

Instead proactive, and ultimately rules-based, interventions by the FCA were required to address widespread causes of consumer harm.

TCF outcomes were introduced with the aim of encouraging firms to take proactive responsibility for meeting high standards of conduct.² Understanding why that approach has not delivered the expected culture change is crucial in articulating a new consumer duty that will translate the regulator's higher expectations for firms into better outcomes for consumers.

We agree with the analysis in this consultation that firms may have approached TCF from the perspective of their own processes and compliance, rather than putting customers' interests and good outcomes at the centre of what they do.

In this respect we do not believe that the existing high-level Principles and the TCF initiative have been fully successful in aligning firms' incentives with the interests of consumers or the FCA's expectations. We hope that the Consumer Duty will be more successful in focusing firms on root causes of consumer harm, including poor product and service design and seeking to profit by exploiting consumer biases, vulnerabilities and constrained choice.

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?

The way the Consumer Duty is structured and articulated is crucial to its future effectiveness. Firms will need to clearly understand how the Consumer Duty sets a higher standard for their culture and of the conduct that the FCA expects of them. In this respect we believe the consultation paper clearly articulates the FCA's purpose for the Consumer Duty. For instance, in paragraph 2.21 ('Outcomes we are seeking'):

We want to bring about an environment where the consumer harms described above do not occur in the first place, because firms are consistently placing their customers' interests at the heart of their businesses. We want firms to extend their focus beyond ensuring narrow compliance with specific rules, to also focus on delivering good outcomes for consumers.

This aim is nicely captured in the concept of firms 'putting themselves in their customers' shoes' (paragraph 1.3). We also welcome the clear feedback in paragraph 1.8 on causes of consumer harm and strongly support the FCA's analysis that harm is caused where firms exploit information asymmetries, consumer inertia, behavioural biases or vulnerabilities.

We see some risks that the proposed structure does not align coherently to deliver the high-level outcomes the FCA has articulated. Firstly, the clarity, urgency and ambition of the language used by the paper to make the case for a new consumer duty does not carry fully into the structure of the duty itself. While we agree with a stronger and more explicit principle that firms should deliver good

[feedback on CP18/12 and consultation on a price cap](#)

² Financial Services Authority (2006) [Treating customers fairly – towards fair outcomes for consumers](#)

outcomes for, and act in the best interests of, their customers, this is arguably not so very different from the existing requirement to *treat customers fairly*.

In this respect, the cross-cutting rules appear to be a well-conceived innovation, using the FCA's analysis of the causes of consumer harms to set explicit requirements for firms and anchor the consumer principle in clear expectations. The detailed rules and guidance that operationalise the cross-cutting rules will be crucial to the success of the Consumer Duty. We would expect to see some of the clear and ambitious language set out in this paper to flow into the detail of the cross-cutting rules. In particular, we would like to see the strong tone-setting message that firms should not profit from exploiting information asymmetries, consumer inertia, behavioural biases or vulnerabilities carried into the cross-cutting rules.

We see a second risk to the effectiveness of the consumer duty in the design of the four outcomes and the 'reasonableness' concept. We have no particular concern with any of the outcomes set out in the paper per se. Each of the proposed outcomes expresses an important area of a firm's relationship with its customers, and the increased emphasis on price and value (fair value) is a good innovation to bring explicitly into the Consumer Duty. However, the outcomes on communications, product design and customer service look similar to the existing TCF outcomes, raising the question as to how the FCA will ensure that firms do not continue (as the consultation argues in paragraph 3.18) to focus on process (compliance) rather than impact (good customer outcomes).

We would also point out that the four consumer outcomes do not form a comprehensive description of the aims the FCA has for the Consumer Duty: there are areas of firm activity that fall within scope of the Duty but not fully within the scope of the outcomes (such as supporting customers in financial difficulty).

In respect of consumer credit markets, the outcomes do not necessarily pick up questions of financial inclusion (noting the Woolard Review concern that mainstream lenders should or could be asked to do more to provide alternatives to high-cost credit), or how lenders might redesign products to build in financial resilience against problem debt and prevent harmful or unreasonable extra costs to borrowers (as well as the social cost) of problem debt.

These issues of scope and alignment mean that firms may continue to focus their attention on narrow issues of compliance with the outcome statements rather than, as the FCA intends, the high level intent of the Duty and all aspects of activity within its scope. It would be helpful for the FCA to provide further clarity that the four outcomes are not, of themselves, a test of compliance with the cross-cutting rules and the high-level duty.

Finally, the consultation paper implies that the most important part of the proposed structure of the Consumer Duty will be the 'reasonableness concept', as this is said to 'clarify the objective standard of conduct' that firms would need to meet. We have concerns about this concept and the way it is employed:

- First, the list of factors influencing what is reasonable looks much like the list of 'have regards' in Section 1C (2) of the Financial Services and Markets Act (FSMA) 2000, that we would argue both under-define and overly constrain the consumer protection objective.

- Second, the way the reasonableness concept is described seems likely to drag the Consumer Duty back towards a narrower compliance framework. This concern is perhaps best expressed by highlighting the statement in paragraph 3.28 that ‘the Consumer Duty would not change the nature of a firm’s relationship with its customers’. This seems at odds with the high-level aims of the Duty (which appear to hang exactly on getting firms to reappraise their relationship with their customers) and potentially limiting in terms of the Duty’s concern with consumer vulnerability.

While we are positive about the FCA’s articulated intent for the Consumer Duty, we believe that there are some mixed messages in the design and structure of the Duty as currently proposed that are likely to hamper its effectiveness in meeting that intent.

3. 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?

We broadly support the FCA’s intention and have no further comment at this time.

4. 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 broadly support the FCA’s intention and have no further comment at this time.

5. 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?

We recognise that the FCA views the difference in the two options as a difference of tone and not a difference of substance, and that both formulations should therefore achieve the same end goal. We also acknowledge the FCA’s commitment to push firms to evidence how they have pursued good outcomes in the best interests of customers regardless of the wording (3.12). This is key to the implementation of the principle as it is unlikely to be effective without an effective framework of monitoring and enforcement to back it up.

Nonetheless, as an overarching principle, it is important that the FCA recognises and stresses the importance of both acting in consumers best interests and delivering good outcomes. These are not the same and the nuances in the language may lead to different courses of action. Given the objective of the new Consumer Principle to underpin and drive culture and conduct change it is important to get this right.

Providing *good outcomes* at one point does not necessarily preclude harm in the longer term. The concept is subjective and, as the consultation document states, does not have an established legal meaning. In practice, different interpretations of good could lead to very different outcomes. For

example, considering consumers on very low incomes taking out high-cost credit because they have constrained choice and are under financial pressure. A firm may argue that a good outcome is to provide the credit (at high cost), as meeting the consumers immediate needs is a good outcome and other options (dealing more holistically with the customers financial vulnerability) are unavailable from the creditor either as a product or an advice service. The immediate outcome therefore superficially appears to be a *good* one. But the long-term outcome is likely a *bad* one, i.e. negative impact on the consumer’s budget and spiralling debt. Our *Red Card* report on sub-prime cards highlighted credit products aimed at already financially vulnerable customers that had a short-term utility but increased financial difficulties for many.³

We recognise that it may not be the firm’s role to ensure the *best* outcome for every customer and the onus is on the customer to make good decisions, providing they have good information they can act on. However, the Consumer Duty (and the FCA’s Vulnerability Guidance) should place firms under a duty to consider the broader welfare implications arising from their relationship with their customers, especially where constrained choices leave consumers vulnerable to exploitation. This is an essential characteristic of the Consumer Duty and should mean that firms must look further and deeper than they are required to do in their current relationships with customers.

In this respect, it is important to consider the consumers best interest as well as good outcomes. Firms should be encouraged to weigh up the balance of risk to consumers as well as to themselves when designing and marketing products. The consultation document already states that “*the Consumer Principle should prompt firms to ask themselves questions such as ‘Am I treating my customers as I would expect to be treated?’ or ‘Are my customers getting the outcomes from my products and services that I would expect?’*” In line with this expectation, we feel it appropriate to use a formulation that includes both *best interest* and *good outcomes* in order to capture the nuances of the two aspects of good firm practice and stress the importance of both.

6. Do you agree that these [the cross-cutting rules] are the right areas of focus for Cross-cutting Rules which develop and amplify the Consumer Principle’s high-level expectations?

The three areas of focus of the proposed rules for firms (‘avoid causing foreseeable harm’, ‘enable customers to pursue their financial objectives’ and ‘act in good faith towards customers’) are a potentially powerful articulation of the Consumer Principle. However, to achieve the FCA’s aim of a meaningful improvement in consumer protection, the cross-cutting rules will need support from explanatory handbook rules and guidance, which must be sufficiently clear that there is no ambiguity as to the intent, meaning and implication of the cross-cutting rules for firms. Here the FCA will need to be clear in pointing out how and why these cross-cutting rules set a higher bar than the TCF initiative.

In this consultation, the FCA outlines the cross-cutting rules, but without further context there is room for multiple interpretations; so (at present) the commentary in the consultation on these rules is as

³ StepChange Debt Charity (2019) [Red Card: Subprime cards and problem debt](#)

important as the rules themselves. Experience shows that firms have incentives to interpret rules differently to the regulator's expectations (for example, there are examples of firms failing to properly interpret and apply the CONC creditworthiness and affordability rules). The FCA must be clear how it will ensure its interpretation of the cross-cutting rules is embedded through the cross-cutting rules themselves and handbook rules and guidance.

From a consumer protection perspective, we see two areas of focus as central to the effectiveness of the Duty. The first is ensuring firms clearly interpret the duty and rules to proscribe practices that exploit consumer vulnerability. In paragraph 3.25 the FCA develops the proposed aims of the first cross-cutting rule, explaining that it means: 'Firms should not seek to exploit customers' vulnerabilities, behavioural biases or lack of knowledge.' At present, this analysis is one step removed from the wording of the high-level duty and cross-cutting rules. Given its importance, this language should be incorporated into the Duty: it could become a cross-cutting rule itself or be incorporated into supporting rules.

The second area of focus we see as crucial is a 'fair by design' standard for products and services. Elements of such a standard are present in the second proposed outcome ('Products and services are specifically designed to meet the needs of consumers and sold to those whose needs they meet.'). However, the framing of the proposed outcome dilutes its relevance to the high-level duty, shifting the emphasis to concepts such as designing products in line with 'the reasonable expectations of consumers'. The concept of fair by design is central to meeting the aim of the consumer duty and should be incorporated at this level of the duty (the cross-cutting rules) and tied clearly to the Consumer Principle.

7. Do you agree with these early-stage indications of what the Cross-cutting Rules should require?

We broadly agree with the requirements given for the three proposed rules, with the caveats set out above. However, as we note in our response to question 2, we are concerned that the concept of reasonableness, as outlined in the consultation paper in paragraph 3.28, will overly limit the scope and effectiveness of the cross-cutting rules. We recognise that a test of reasonableness has a place in the regulatory framework, but the framing of the *reasonableness concept* here risks reducing the cross-cutting rules to a series of process-led assessments by firms that may replicate the limitations of the existing TCF framework and the FSMA 2000 consumer protection objective 'have regards'.

The consultation states that the concept of reasonableness 'will clarify the objective standard of conduct that firms would need to meet', but this is properly the job of handbook rules and guidance that expound upon the cross-cutting rules. Firms will of course need to apply the cross-cutting rules in a way that is reasonable and sustainable, but that must be led by the fundamental purpose of the new Consumer Duty.

Ultimately, the need for a new Consumer Duty springs from a realisation that the current regulatory framework is not delivering the desired market and consumer outcomes. To change that situation, the Duty must set different, higher expectations of firms. This will not be achieved if everything that

the Duty does to raise standards is mediated, qualified and ‘taken back’ by language that reflects the current regulatory settlement and expectations.

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

Layering the intent of the FCA’s Vulnerability Guidance into the cross-cutting rules, as well as supporting rules and guidance, of the Consumer Duty would re-enforce the effectiveness of both initiatives and form a single set of expectations on the appropriate level of care for vulnerable customers. Care for vulnerable consumers is, by necessity, a core part of the Consumer Duty’s principle and cross-cutting rules. This means it is likely necessary to revisit the ‘voluntary non-binding’ status of the Vulnerability Guidance.

In making this point we are highlighting how vulnerability, in the context of both foreseeable consumer harm and delivering good consumer outcomes, is not something that arises in the specific characteristics of consumers, but in the relation of consumers to the products, services and practices of financial services providers. The Consumer Duty’s ambition for a shift in culture towards the avoidance of harm by ‘getting it right in the first place’ should reinforce the Vulnerability Guidance by requiring firms to be more proactive in anticipating and preventing harm.

Whether the Consumer Duty actually enhances firms’ focus on appropriate levels of care for vulnerable consumers depends in large part on how well this intent is communicated through the rules and guidance still to be developed. For example, we note in our response to question 6 that the focus on not seeking to exploit customers’ vulnerabilities, behavioural biases or lack of knowledge is one step removed from the wording of the high-level duty and cross-cutting rules. Incorporating this language into the Duty, or making it into a cross-cutting rule, as suggested above, would serve to strengthen not only the Consumer Duty but also protections for vulnerable consumers.

The success of the Consumer Duty for consumers with vulnerable characteristics also greatly depends on effective enforcement and how the new Vulnerability Guidance informs the FCA’s interpretation of compliance with the Consumer Duty. We understand that further details of how the FCA intends to supervise and embed the Consumer Duty will be provided in a subsequent consultation. Nonetheless, we feel it is important to stress the need to centre considerations of vulnerability when considering the steps that firms should take to prevent consumer harm.

9. 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?

We support the FCA’s proposed approach of retaining Principles 6 (and the TCF framework) and 7 alongside the new Consumer Duty. These principles ground the FCA’s current expectations of firms’ standards of conduct and care for customers and create a base to build on through the Consumer Duty.

The FCA will need to explain clearly how the requirements of the new Consumer Duty change expectations of the application of the existing Principles by firms. In this respect the TCF outcomes may need to be revised to align with the Consumer Duty outcomes.

The FCA notes that the Consumer duty may not fully replicate existing standards of conduct and it will be important to ensure that the Principles and Consumer Duty are aligned in a way that does not inadvertently reduce consumer protection standards.

We would ask the FCA to consider how the Consumer Duty would change expectations on the application of other high-level Principles. For instance, Principle 9 concerns the suitability of advice and discretionary decisions, both of which appear to fall within the scope of the proposed Consumer Duty.

10. 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?

Given our interest in the effectiveness of consumer credit regulation, we note that Principle 6 is an important reference point for a number of Consumer Credit Sourcebook (CONC) rules and guidance. For instance, Principle 6 is cited in relation to the general principles for credit-related regulated activities (CONC 2.2. 2 (G)) and in 2.10.10 (G) (where firms are required to put 'suitable business practices and procedures in place for the fair treatment of customers who they understand, or reasonably suspect, have or may have a mental capacity limitation'). It appears that the new Consumer Duty could serve the same function. Principle 6 is also cited in a number of CONC provisions that relates to supporting customers in financial difficulty including:

- 7.3.2 (G) (Dealing with customers in arrears and default)
- 7.7.1 (G) (Application of interest and charges)
- 5C.4.2 (G) (Impact of changes to overdraft charging structures)
- 5D.3.3 (G) (Interventions to be taken in the case of repeat overdraft users)

Each of these guidance provisions (G) remind firms of their requirements under Principle 6. References to Principle 7 in CONC provide similar guidance. This will presumably need to be revised to include a reference to requirements under the Consumer Duty, although (initially at least) this might be best dealt with by an explanatory statement in the Consumer Duty rules and guidance on the relationship between the Principles and the Consumer Duty when interpreting existing handbook material that explicitly refers to a Principle.

The FCA will need consider, over time, whether any other specific handbook provisions require revision to align with the raised expectations of the Consumer Duty. However, the FCA has noted that the Consumer Duty may not completely replicate existing standards. We would ask the FCA to ensure that there is no reduction in consumer protection in key areas such as the level of support for customers experiencing financial difficulty as a result of handbook revisions.

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

We strongly support the FCA's ambition for the Consumer Duty to bring together the consumer protection and competition objectives. Our experience of dealing with problem debt and repeated FCA reviews of the consumer credit market show highly vulnerable consumers experiencing detriment from expensive and unsuitable credit products. These are consumers who may have few or no other choices to meet their (often desperate) financial needs and face diffuse and persistent market failure where firms are able to profit from exploiting information asymmetries, consumer biases, inertia and vulnerabilities (including financial vulnerabilities and the associated constrained choices).

We hope that the Consumer Duty will be successful in ensuring consumer credit markets are fairer, safer and better value for financially vulnerable consumers in particular. We believe that the Consumer Duty, if well-articulated and effectively implemented, can take the following steps to achieve this aim:

The Consumer Duty should enhance consumer protection by strengthening the requirement on firms to understand the potential for products and services to cause some or all of their customers harm and use this understanding to design out potentially harmful features of products and services. A key issue here is how firms will demonstrate to customers and potential customers the results of such a review.

The Consumer Duty focus on good faith and fair value should ensure that firms are pricing fairly and not profiting from their customers' weak bargaining position or constrained choice. We recognise that making an objective, transparent assessment of the fairness of risk-based pricing in financial services like consumer credit is not a simple undertaking. There are questions about whether a risk-based price is actually a fair reflection of risk and whether that risk is priced against reasonable default and other costs. In the case of consumer credit, the fairness of pricing is likely to be influenced by conduct issues such as the quality of affordability assessments, aggressive collection approaches that drive customers to borrow more, or people who are trapped in repeat borrowing. In which case a firm's assessment that a price relative to a benefit represents fair value may be both highly subjective and reflective of the practices of other firms, which may themselves be unfair.

The Consumer Duty may be capable of addressing these pricing issues in consumer credit markets, but it will not be easy. The FCA will need to give clear and extensive guidance to firms on how to approach a fair value assessment, while at the same time addressing market- or sector-wide issues that may contribute to poor value outcomes for financially vulnerable consumers. Here we note the evidential questions to help assess pricing fairness set out in DP18/9, which include an assessment of whether society would view price discrimination as 'egregious / socially unfair'. This seems relevant to the Consumer Duty in two respects:

First, with respect to credit markets, the commonly repeated argument that 'high-cost credit is better than a loan shark' suggests firms may cite a range of quite abstract benefits to justify high risk-based pricing that might otherwise be considered egregious. The rules and guidance on fair value will need to incorporate this social context of price.

Second, limiting the ability of firms to profit from high consumer risk may ultimately result in a smaller market for price-to-risk financial products (like credit) and more under-served consumers. The

Consumer Duty does not seem to include a *financial inclusion* element that would require firms to consider, as a fairness issue, how their pricing practices may exclude some consumers. We note elsewhere in this response that the aspirations of the Consumer Duty seem to make it more urgent that the FCA works with government to quantify and provide alternatives for underserved consumers whose needs cannot be met by the market without harm.

More generally, the recent Woolard review on the unsecured lending market noted that alternatives to high-cost credit have still not developed at scale and called for 'more mainstream lenders to participate at lower costs in this part of the market'. It is not clear whether the Consumer Duty will be able to persuade mainstream lenders, or other financial service providers to ensure affordable products are available for lower income and other under-served consumers to meet their financial needs.

These issues highlight how vulnerable and low-income consumers may require integrated regulatory and social policy solutions. The proposed Consumer Duty, developed within the current FSMA statutory framework, does not obviously provide for this. StepChange has previously called on the FCA to share information on consumer needs and problems that cannot be addressed sufficiently by the FCA with government to inform policy making. In the long run, we remain of the view that the FCA's statutory objectives could be usefully revised to surface and clarify responsibilities at the interface between regulatory and social policy.

We recognise the FCA's argument that a 'one line duty' in legislation would be no more effective than what it is able to achieve through a Consumer Duty within the present statutory framework. However, we feel it is important that the Consumer Duty is supported by sufficient statutory authority to drive culture change. In the long run, we believe that this is most likely to be achieved if the Consumer Duty is established in legislation. We do not see this as a matter of a one line addition to the FSMA 2000, but rather as a suite of amendments to align the statutory framework coherently with the outcomes the Consumer Duty seeks to achieve:

- Aligning the section 1c consumer protection objective and 2e competition objective 'have regards' with the Consumer Duty and updating those objectives in light of evidence and learning since 2012, particularly to take account of new behavioural evidence, the impact of digitisation and heightened concern with consumer vulnerability.
- Giving consideration to establishing a new financial inclusion objective, reflecting aspirations commonly articulated by government, the FCA and others to find solutions to financial exclusion issues.
- Clarifying roles and responsibilities at the interface of regulatory and social policy so that government and the regulator are better able to act in concert to prevent harms that manifest in regulated financial services and drive interventions to meet the needs of consumers who cannot otherwise be safely served by financial services markets.
- 'Hardwiring' the consumer voice into FCA policy making. The FCA's consumer protection objective, its general duty to consult and statutory consumer panel do not currently fully meet that objective. Consumer representation should be articulated as an end in itself in the consumer objective, or in the general duty to consult, in a way that drives more consistent and

effective consumer representation in the policy making process, and stronger mechanisms, supported by adequate resources, within the FCA for understanding and giving voice to consumer issues.

Legislative change can also help drive the political, policy and public dialogue that is helpful (and arguable necessary) in underpinning an ambitious realignment of expectations and would ensure the Duty is seen as a core component of the FCA's duties rather than an initiative.

As we have noted, to be effective the Consumer Duty must not simply reframe TCF and inherit that framework's limitations; it may be argued that those limitations, at least to some extent, stem from the parameters of the FSMA framework. Without statutory change, there is likely to remain some tension between the aspirations of the duty and the constraints of the FCA's remit.

Ultimately, we believe the aims of the Consumer Duty are best served by an explicit integration of the Duty and the FCA's statutory objectives in legislation.

12. 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?

The Consumer Duty has the potential to take large strides towards achieving fairer outcomes for consumers. Its proactive focus on preventative action to reduce harm in financial markets is ambitious in scope and provides space for large shifts in the culture of financial services firms. However, the history of the TCF framework, and the FCA's own analysis suggests that the Consumer Duty may also underperform without more prominence in the regulatory structure.

We understand the FCA's argument that a 'one line duty' in legislation would be no more effective than what it is able to achieve within the present statutory framework; but we feel it is important that the Consumer Duty is supported by sufficient statutory authority to drive culture change. In the long run, we believe that this is most likely to be achieved and sustained if the Consumer Duty is established in legislation to directly interpret the consumer protection and competition objectives, rather than being subordinate to 'have regards' and seen as an initiative rather than a core component of the FCA's duties. Statutory change also has the potential to drive the political, policy and public dialogue that is helpful (and arguable necessary) in underpinning an ambitious realignment of expectations.

As we have noted, the Consumer Duty must not simply reframe the TCF initiative and inherit its limitations; it must reframe the culture of firms and the quality of outcomes consumer can expect from the financial services market. We believe this is best served by an explicit integration of the Duty and the FCA's statutory objectives.

13. What are your views on our proposals for the Communications outcome?
14. What impact do you think the proposals would have on consumer outcomes in this area?

Our response to Question 2 outlines some concerns about the proposed outcomes as a whole.

We agree with the FCA that ensuring the quality and effectiveness of firms' communications to consumers is a vital component on both consumer protection and competition objectives. Our specific comments on paragraphs 4.3-4.29 are as follows:

We agree that enabling consumers to make informed decisions is an important outcome, but this is not the sole purpose of communications from firms to consumers. Firms' communications to their customers can also be a call to action, an offer of help or a warning of possible future harm. The outcomes' focus on 'informed decisions' (alongside the implied emphasis on product choice along with the heavy focus on consumer responsibility in this paper) looks too narrowly focused on consumer decision-making rather than the wider need for communications to facilitate consumers' agency. We suggest developing the communications outcome along the lines of: 'Communications **should ensure that** consumers **can understand the** effective, timely and properly informed **actions and** decisions about financial products and services **that are necessary to ensure outcomes that are consistent with their best interests.**

Paragraph 4.9 suggests as an outcome standard that communications are 'reasonably likely to be understood'. This looks weak and uncommitted. The Consumer Duty should require communications **to be readily understandable for their target audience** in the same way that the Consumer Duty proposes that products and services are specifically designed to meet the needs of consumers and sold to those whose needs they meet.

We strongly agree with the statement in paragraph 4.11 that 'firms should put themselves in their customers' shoes' when considering whether their communications equip their customers with the right information. However, 4.11 also appears to limit this by adding: 'unless this is part of their advisory role, this would not extend to informing customers about alternatives available in the wider market'. This does not seem consistent with a consumer-focused approach to information needs and positions this Consumer Duty outcome as being led by firm specific process issues. There are circumstances, particularly relating to high-cost credit products, in which it is not plausible consumers have the information they need to act in their own best interests if they are not informed of the potential availability of alternatives.

We welcome the emphasis in paragraph 4.17 on timeliness and giving consumers the appropriate amount of time to take in information. This fundamental point should perhaps be framed as a requirement rather than an expectation. That said, we would question how the important requirement for consumers to have time to take in information will be applied in fast moving sales environments like digital applications for consumer credit.

The FCA notes that the Consumer Duty is motivated in part by developments such as digitization of financial services. One characteristic of this trend in consumer credit is the much closer relationship between communications and product design. The way that a product is presented and its structure and cost can be inseparable. For example, this is notably the case for credit cards and online point of sale BNPL. We question how the communication outcomes requirement for time to take in information will be met by firms offering such products in respect of the timing of online promotions, pre-contractual and contractual information and execution of the sale / credit agreement.

We strongly agree with the proposal in paragraph 4.19 that firms should take a test and adapt (or test and learn) approach to communications. This sits well with the paragraph 4.12 need for firms to tailor communications to their audience.

We agree with the statement in paragraph 4.27 that the consumer duty should set a higher standard than Principle 7. Communications may not work well for consumers for a variety of reasons including:

- Any imbalance between the detail of disclosure and the reality of consumer attention and comprehension.
- The behavioural biases of customers, particularly in situations in which they are experiencing pressures arising from financial difficulty and constrained choices.

In this context we agree that there is benefit in moving expectations beyond the current 'clear, fair and not misleading' standard and the proposed wording does so.

The FCA should be clear that approaches to communications should not be conditioned by current norms. Consumers may accept what they are familiar with (and in some cases have little or no choice about). This should not be taken by firms as confirmation that their communications are meeting customers' needs. The high-cost credit review and the credit card market study both highlighted examples of consumers 'stuck' in a harmful and or poor value credit use cycle that detailed communications did not alter.

In summary, the communication outcome is important and has potential to help deliver the aims of the Consumer Duty. However, there is a danger, reinforced by some of the language in this section, that firms will see this as a compliance process and consumer outcomes will not move very far forward from where they are now.

15. What are your views on our proposals for the Products and Services outcome?

16. What impact do you think the proposals would have on consumer outcomes in this area?

StepChange warmly welcomes the focus on product and service design in the proposed Consumer Duty. Our response to the earlier *Duty of Care* consultation described the need for a *fair by design* principle for products and services along with preventing firms from profiting by exploiting consumer biases, vulnerabilities, and constrained choice as key elements of a duty of care for financial services firms. We recognise and support the analysis on causes of harm in paragraph 4.31-4.35.

The outcomes stated in paragraph 4.36 that 'products and services are specifically designed to meet the needs of consumers and sold to those whose needs they meet' looks sensible, well-defined and achievable. If implemented properly and in good faith by firms, this outcome can go a long way to meeting the aims of the Consumer Duty. However, we have several specific observations on the text of this section.

Paragraphs 4.37, 4.40 and 4.52 of the product and services outcome section and paragraphs 3.21 and 3.28 in the cross-cutting rules section qualify the Consumer Duty in terms of the 'reasonable expectations of consumers'. Paragraph 3.28 states that 'what the firm needs to do to comply with the Consumer Duty will vary depending on what a reasonable consumer would expect'. This is deeply concerning and seems at odds with the fundamental approach and purpose of the Duty. While we

understand that firms will need to take a proportional and sustainable approach to understanding consumer need and outcomes, 'reasonable consumer expectations' look a very poor place to start. For instance:

- This feels highly procedural, and firms may be encouraged to substitute their business-as-usual position for 'reasonable consumer expectations'.
- Given the FCA analysis of repeat and persistent harm in some products and sectors, consumers may be habituated to low expectations from some financial service sectors. So consumer expectations may simply reinforce existing expectations rather than raising them.
- The concept of 'reasonable expectations' looks highly gameable as a compliance standard when assessed by firms who are accustomed to 'start out by considering what they can profitably sell to whom, rather than by identifying a consumer need which they can profitably serve' (paragraph 4.31).
- A 'reasonable expectations' compliance standards looks at odds on requirements on supporting the needs on vulnerable consumers who may rely on firms assessing their actual needs rather than their reasonable expectations.
- The essential value and success of the product and services outcome rests on how well firms gather and interpret feedback from the lived experience of their clients, which may not be readily boiled down 'reasonable expectations' (which may itself become a shorthand for average customer outcomes).

Paragraph 4.40 suggests that identifying consumer need and the target market might be a straightforward exercise for 'simple products intended for a mass market'. Credit cards and overdrafts could be described as simple products intended for a mass market, but the credit card market study and high-cost credit review findings suggested that ensuring such products worked as intended for a target market was far from straightforward (indeed issues in the credit card market required a fairly complex FCA remedy package).

We strongly support the paragraph 4.46 expectation (which should perhaps be framed as a requirement) for firms to 'monitor their products and services to ensure that they remain consistent with the identified need for the target market and deliver the expected outcomes'. We would argue that reviews of products and services should be informed by consumers' lived experience, external challenge and inclusive design principles. Firms should seek out views that pose a different set of questions to those that arise from an internal perspective.

Paragraph 50 states that firms would not be expected to apply the standards of this outcome to products and services taken out before the Consumer Duty is implemented. However, many financial products and services are long lasting and may, under a single agreement, create new obligations, costs and risks to consumers as they go along. It does not seem reasonable to exclude products taken out before the Consumer Duty entirely from this standard. The requirement to monitor, review and act if product outcomes are not as expected should apply to all products and services that involve an ongoing relationship between firms and consumers.

Paragraph 4.51 states that 'these rules would not make firms responsible where harm to the consumer arises from the crystallisation of a risk relating to the product that the firm reasonably believes the

consumer accepted'. This may be a valid argument for certain less complex investment products, but it looks likely to promote poor consumer outcomes if applied to products like high-cost credit.

17. What are your views on our proposals for the Customer Service outcome?

18. What impact do you think the proposals would have on consumer outcomes in this area?

Good customer service is the heartbeat of good relationships between firms and consumers and therefore is an essential part of a well-articulated Consumer Duty. We strongly support the FCA's statement that firms should provide a level of customer service that meets consumers' needs throughout their relationship with the firm (paragraph 4.53). However, the text proposing the actual outcome in paragraph 4.62 seems rather narrower in ambition.

While ensuring that consumers get the benefit of products and services and can act in their own interest without undue hinderance is a good outcome (and would be a better outcome if the low bar standard implied by 'undue' were removed), like the communications outcome this seems to overly focus on one facet of customer service to the detriment of a range of other needs.

Good customer service should help when things go wrong, quickly offer solutions for problems and help customers act in their own interests and, where appropriate, act pre-emptively to support a customer's best interests (as credit firms are supposed to do when customers show early signs of financial difficulty).

In this respect we are unclear where key responses to financial vulnerability such as prevention, early intervention and firm responses to customer financial difficulty fit into this (and other) outcomes. This is crucial because the nature of a firm's relationship with a customer can significantly shape a customer's experience of coping with financial difficulty.

19. What are your views on our proposals for the Price and Value outcome?

20. What impact do you think the proposals would have on consumer outcomes in this area?

We welcome the inclusion of a Price and Value outcome in the Consumer Duty and support the FCA's aim to 'require firms to give greater consideration to the price and the role it plays in the fair value of products and services'. Ensuring the consumers get fair value from products and services is rightly a key component of a successful Consumer Duty.

That said, while we agree that the relationship between overall price and benefits is a good starting point for an assessment of fair value, determining whether that relationship is a reasonable one raises a number of questions that the FCA may need to address in guidance.

The effectiveness of this outcome stands or falls on the interpretation of 'reasonable' and the FCA will need to develop further guidance on this for firms. At paragraph 4.108 the FCA makes it clear that the intention of this outcome is not for the regulator to set prices or cap margins. However, the relationship between price and benefits speaks directly to the problem of firms profiting by exploiting information asymmetries, consumer biases and vulnerabilities (including financial vulnerability and constrained choice).

Oversight and transparency in respect of this outcome will be challenging in respect of assessing costs, particularly in products with risk-based pricing (and even more in areas like consumer credit where default costs are not wholly separable from a firm's own conduct and product design decisions). It is perhaps notable that current price controls on the high-cost short term credit market have resulted in some clustering of price at the limit of the cap, it would be useful to understand how the fair value outcome might be applied in that sector.

Past widespread consumer problems, like payment protection insurance show that firms' assessment of the benefits of a product or service for consumers may be widely off the mark, with consumers having to 'reclaim value by redress'. Oversight and transparency in respect of firm's assessment of benefits will also be important.

The FCA's work on fair pricing and price discrimination is a helpful starting point for the fair value outcome, setting a conceptual framework for assessing reasonableness and some benchmarks for assessing benefits. We strongly support the inclusion of concepts of socially unfair and egregious pricing in that framing, which should be an important consideration for products with risk-based pricing in particular. Public confidence that pricing of products like credit and insurance is not egregious is an important outcome of the Consumer Duty.

Past FCA interventions in consumer credit markets, including in high-cost short-term credit, unauthorised overdraft charges and rent-to-own, show that price is a central component of outcomes for consumers, and particularly those most vulnerable to detriment and harms. At present, we do not have a clear picture of what the proposed outcome means for credit products, particularly for high-cost products where price can cause harm independently of an assessment of benefits.

Paragraph 4.108 asks firms to give particular consideration given to vulnerable consumers and consumers with protected characteristics. This raises two questions: first, we presume that there is nothing in the price and value outcome that would prevent firms from exercising price discrimination where this supports vulnerable consumers and consumers with protected characteristics from achieving socially acceptable outcomes?

Second, it is possible, if not likely, that firms may respond to the Consumer Duty by withdrawing products from the market or reducing access for some consumers. This may be particularly likely in markets like consumer credit where there is a wide spread of risk-based price points. The Consumer Duty does not include a financial inclusion objective to ensure consumers are able to meet key financial needs at a fair and affordable cost. So we would ask the FCA to consider how it will help increase access to affordable credit (and other essential risk-based products) as a component of the Consumer Duty.

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

The consultation paper gives a good summary of the possible benefits and unintended consequences of introducing a PROA. On balance we would support the introduction of a PROA:

- The Consumer Duty will be central to the FCA's consumer protection and competition objectives. In this paper the FCA has stated (paragraph 2.36) that the introduction of the Consumer Duty may lead to less use of rules-based interventions and may result in the

removal of some handbook material if this is superseded by the Consumer Duty. Currently, FCA rules are subject to a PROA but the high-level Principles are not. Unless a PROA is extended to the Consumer Duty, any move towards outcomes-based regulation based on the Consumer duty may represent a reduction in standards of consumer redress.

- We see no reason why breaches of the Consumer Duty should be excluded from the Section 404 provisions for industry-wide redress schemes. Indeed, given the barriers that consumers may face in seeking individual redress (even through the Financial Services Ombudsman) we would argue the Consumer Duty should be supported by a more proactive stance from the FCA on redress, not less.
- Similarly, we do not see why consumer detriment arising from breaches of the Consumer Duty should be excluded from the Financial Services Compensation Scheme (FSCS) if a firm defaults. Given that we have recently seen a number of firms failing with outstanding redress claims, or seeking to limit their liability for FOS decisions through the courts, the credibility of the Consumer Duty might be undermined if breaches are excluded from the FSCS.
- We agree court claims in respect of breaches of the Consumer Duty may be rare, but that is not a good reason to disallow the possibility of redress through the courts. We are not convinced by the argument that a PROA will be a powerful disincentive to breaching the Consumer duty compared to the FCA's enforcement and sanction powers; nor are we convinced that a PROA will make firms more risk averse in a way that harms consumer outcomes, for the same reasons.

In summary, on balance we believe the Consumer Duty, and public trust in the Consumer Duty would be enhanced by a PROA.

22. 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?

Our view on the Consumer Duty is not dependent on the FCA's decision to introduce a PROA or otherwise. We have noted where we believe the language of the Duty should be developed and explained, and why we favour introducing a statutory duty of care in the long-term but believe the Consumer Duty can be introduced and enforced usefully and effectively.

23. 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?

StepChange very much puts consumers at the heart of everything it does; and this is reflected in both the charity's strategy and in its day-to-day operations. StepChange's principal charitable objective is the relief of problem debt, with its various operations designed to both provide help to those in debt crisis (curative services) and prevent consumers from falling into crisis debt in the first place (preventative services).

The charity operates a robust three lines of defence model which provides assurance to the Board that the charity is meeting its strategic priorities and objectives, whilst at the same time delivering a compliant, high-quality suite of regulated activities and services. Core to this framework is the management of conduct risk, for which the charity has an established risk management framework as part of its embedded governance structure. This framework ensures that risks to consumers of potential detriment from the charity's services are identified, assessed, and mitigated on an ongoing basis.

The charity has structured policies, processes and approaches for new product development, existing service delivery and for governance and assurance. All of these ensure that the charity's activities operate in the best interests of its clients.

The charity also successfully implemented the Senior Managers and Certification Regime, ensuring that key decision makers are responsible and accountable for core services, for key decisions, and for ensuring that the highest quality, compliant service is provided to new and existing clients.

Changes that may be needed to meet the proposed requirements will be considered in detail when we have sight of a more final version of the FCA's expectations. Our initial thoughts are that some enhancements may be needed if mandatory evidential requirements are confirmed, particularly at the product/service design stage and at the point of ongoing testing and monitoring. Should evidential provisions be increased as a result of the Consumer Duty, we would welcome guidance around the level of evidence that should be retained.

24. 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?

Stepchange Debt Charity is a not-for-profit organisation providing free-to-client debt advice and debt solutions.

All of our clients are seeking advice as a result of financial vulnerability and in 2020 half of new clients had an additional vulnerability in addition to their financial difficulties. Our clients are predominantly households with low incomes at the time they seek advice and almost a third had a negative budget at this point. Our clients often have needs and circumstances that can make them vulnerable to poor practices where financial services providers seek to exploit their vulnerabilities, both before and after they seek debt advice.

As we see the harm caused by poor products, services and conduct by financial services providers, our culture as a not-for-profit advice charity is aligned with the aims of the Consumer Duty. We understand and embrace the principle that our clients are at the centre of everything we do.

As an FCA-regulated service provider working with vulnerable consumers, we understand the need to review and reflect on the way the services and products we offer work for our clients, and the need to demonstrate compliance with FCA rules and principles, including the proposed Consumer Duty. In this respect we support the aims of the Consumer Duty to consolidate and enhance understanding of the FCA's raised expectations for firms across the financial services market.

As a charity, it is very important for us that our resources are used in furtherance of our charitable objectives. Clarity from the FCA on the rules and guidance supporting the Consumer Duty will be very important in helping us achieve this. In particular, we believe the following points of clarity will help us embed the Consumer Duty for the benefit of our clients:

- The Consumer Duty set out in this consultation covers a lot of ground at quite a high level. Further guidance explaining how we should understand key terms in Duty, and further examples of possible good practice approaches from the FCA would be helpful.
- Further clarity on how the Consumer Duty will interact with existing principles and rules will also be important.
- We support the aims of the Consumer Duty's four outcomes and the need to understand our clients needs and behaviours and review, test and adapt products, services and communications we offer them. We currently undertake a range of activities to help us do this, from analysing client data to user experience research, to product and service reviews, to measuring (and publishing) data on client outcomes from our debt advice service. We know the value of insight we gain from this data, but also that building and analysing our evidence base takes time and resources, which as a charity are limited. Clarity of the FCA's expectations on how a not-for-profit debt advice provider should evidence its approach to the Consumer Duty outcomes would therefore be welcome.
- We have not yet attempted a detailed analysis of possible additional costs associated with embedding the Consumer Duty. However, we know that we will have to meet any costs from our existing revenue, which we cannot (and would not) increase by passing costs onto our clients. So we would ask the FCA to consider specifically how it might support regulated not-for-profit organisations to implement the Consumer Duty.

25. 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 have set out in detail our view of the design and wording of the Consumer Duty. We support the FCA's aim of raising expectations of standards of conduct and believe the proposed Consumer Duty has great potential to do so. However, we also believe that the proposed Duty currently comes with caveats that mean it is unclear how effective it will be in raising standards to match the FCA's ambition set out in this paper.

We have note we would like to see the wording of the Duty framed with more directness and clarity in relation to sources of consumer detriment to make it more effective. The rules and guidance supporting the Consumer Duty will be crucial, as will the FCA's approach to enforcing the Duty, including effectively measuring its impact and responding to that evidence, as well as using its regulatory toolkit effectively through authorisation and supervision.

We remain concerned that the current statutory framework has limitations that will restrain the effectiveness of the Consumer Duty. It (the statutory framework) does not sufficiently address the full range of constraints and limitations on consumer choice, leading to an unbalanced emphasis on consumer responsibility. The Consumer Duty remains subordinate to the 'have regards' that we believe both under-define and overly constrain the consumer protection objective. The Consumer

Duty is fairly silent on the need to join-up social policy and regulatory policy to protect vulnerable consumers and promote financial inclusion. Ultimately, consumers use financial services to meet needs that need to be understood in a wider social policy context. Good outcomes for consumers can only be fully served by coherently aligned regulatory and social policy.

26. What unintended consequences might arise from the introduction of a Consumer Duty?

We see the greatest unintended risk of the Duty that it is ineffective in meeting its aims. Given consumer detriment and harm has arisen in the past, it cannot be assumed that such problems will not arise in future. It is entirely possible that a 'fuzzy' and untransparent principles- and culture-driven approach to regulation could be less effective than the current rules-based approach; particularly if outcomes reporting is not sufficiently transparent and consumer-focused.

We see a risk that the Consumer Duty will not be effective in constraining the wrong type of innovation. We agree that firms should continue to be able to offer choice and innovate in the interests of consumers (paragraph 3.27). However, in recent years we have seen firms enter the consumer credit market under the guise of innovation but the FCA has later raised concerns about their conduct and business practices, which have also been held to have harmed consumers in FOS decisions. Some of these firms have left the market leaving consumers without redress in respect of upheld complaints. Innovation should not be confused with testing the meaning and limits of regulation and regulatory expectations.

An intended outcome of the Consumer Duty, but one that could be perceived as unintended, is decreased access to some products, such as high-cost credit that can be harmful to consumers, but which may currently be perceived by some (particularly financially vulnerable consumers) as the only way to meet important financial needs. This issue highlights the need for broader social policy to support the aims of the Consumer Duty, where the need is to actively 'make a market' for products that works for otherwise underserved or exploited consumers, rather than just focusing on preventing detriment from unsuitable and poor value products.

StepChange highlighted in our response to the Woolard Review that the FCA's regulatory interventions (particularly around high-cost credit) have repeatedly brought to light areas of consumer detriment driven by gaps in the social policy framework. There are clear links between the social safety net, regulation and demand for credit; however, in our experience harms arising from credit use among low-income households are not necessarily well-known to government policy makers. Other stakeholders may raise concerns about unintended consequences for the market and chilling effects. We note that there are solutions to those issues, such as alternatives to high-cost credit and a more proactive financial inclusion agenda, and we would like to see the regulator and government work closely to pursue those solutions.

27. 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?

We would welcome clarity from the FCA on the likely timetable for implementing the Consumer Duty and whether this will happen all at once or in stages (like the Senior Managers and Certification Regime). We are keen for the Consumer Duty to start working for consumers as quickly as possible, particularly in high-risk areas of financial services. However, given the revenue and resource constraints of not-for-profit organisations, we will need sufficient lead-in time to embed the Consumer Duty fully. We initially estimate this process could take around 18-24 months.