

StepChange Debt Charity response to the Financial Conduct Authority Call for Input: Open finance

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About StepChange

StepChange Debt Charity is the largest specialist debt advice charity operating across the UK. In 2019, over 630,000 people contacted us for advice and information on problem debt. We welcome this opportunity to respond to this FCA call for input on open finance.

We see the potential for open banking to help us deliver debt advice but also to help our clients. Many of our clients are living on very low incomes and many have additional vulnerabilities that compound their financial difficulties.

While our experience to date suggests that initiatives like open banking, smart data and open finance may not have prevented the people we are seeing from falling into financial difficulties; data based financial tools might help people to get more for their limited money and take some of the edges off their financial vulnerability.

Aside from our public policy interest, StepChange, for example, is currently exploring the practical application of digital tools. So we are keen to contribute real world insights to the discussion on open banking/ finance.

In summary, the main themes we raise in this response are as follows:

- To date, the discussion around open banking has mainly focused on technical and regulatory issues such as technical innovation and implementation, competition, regulatory scope and consumer protection. These are important foundational considerations that will need to be carried into open finance and related services based on greater access to consumers' data.
- However we see a risk of missing the opportunity for new technology to meet the needs of financially squeezed and vulnerable consumers who have been poorly served or left behind by financial services (and other) markets in the past.
- These consumer voices need help to be heard. While initiatives like open banking for good (OB4G) have done an excellent job of bringing focus, insight and products aimed at vulnerable consumers and needs underserved by the market, there remains a sense that we don't, as yet, quite have a handle on things.
- It is still far too early and, as yet, unclear whether improved technical functionality - over the longer term - will indeed provide better/good options for the 1 in 4 adults in the UK who are financially squeezed; and we would further caveat that when thinking about inclusion, experience consistently tells us that the internet/digital is not as good for a subset of the population.
- The FCA's statutory objectives, as well as the public sector equality duty, point to the need to ensure financially and otherwise vulnerable consumers are not excluded from financial markets, products and services, and that they are adequately protected.
- There are outstanding issues around the way consumers' data is being used by lead generator firms, in the debt solutions market in particular. Consumers' control of data is an urgent issue.

- New payment services may undermine protections such as Section 75 of the Consumer Credit Act; and a move away from advice to more execution only products could alter consumer access to redress where things go wrong.
- Discussion around open banking has surfaced a range of concerns about consumers' data more broadly.
- We agree that the GDPR (which falls under the remit of the ICO) alone may not provide a sufficient framework for the development of open finance.
- We further note that there is currently no mechanism to ensure consumers understand exactly how their data will be used in respect of machine learning and AI or how value will be extracted from it.
- As the open banking initiative starts to move beyond the early stages, we believe there is a strong case for more industry transparency on how exactly consumer information is being accessed, and before open banking is broadened out into other sectors; many of which are far more complex than for transaction banking and payments.
- We are interested in exploring the development of the draft principles further, for the reasons cited, ensuring consumers do have true ownership and control over their data will need some intervention from the FCA to achieve the ecosystem you describe in practice.



Taking stock: the development of open banking

Q1: What action can we take to help ensure the potential of open banking is maximised, for instance to support the development of new open banking services?

We understand that it has taken a lot of leg work at service level to get the open banking initiative off the ground. While this has primarily been led by establishing the Open Banking Implementation Entity (OBIE), unlike the FCA and its high level principles for business for authorised firms, the core responsibility of the OBIE is to develop technical standards for systems interoperability, with the OBIE necessarily adopting the role of facilitator in the development of new commercial open banking data services.

Broadly speaking, we consider that the OBIE has laid a solid foundation for open banking. There has been a co-ordinated industry approach to standard setting, new firms have registered, new services have come to market - including some designed to meet the needs of consumers in specific vulnerable situations - and there has been some engagement with consumer groups. This is a good start.

However there some outstanding direct and indirect questions raised by open banking.

To date, as much of the focus has been on the drive for competition and potential industry benefits to manifest from open banking, we have run the risk that the needs of consumers are getting lost and the consumer voice being crowded out, and, although we are seeing some encouraging development of open banking, in lots of different ways, there remains a sense that we don't, as yet, quite have a handle on things or on how the market is taking shape.

The call for input paper highlights, for example, that envisaged services that would bring some direct competitive benefits to consumers (product switching, high balance sweeping etc) have yet to materialise. This might suggest that the incentives for incumbent account holding firms to actively encourage these services to develop are not strong.

The call for input paper further highlights that while there are a few open banking services being developed for more vulnerable people on a commercial basis, others are being incentivised such as through the Open Banking 4 Good (OB4G) initiative. This is a £3million tech challenge for 7 fintech start-ups to work with charity partners and investigate 'use cases' for the financially squeezed. Initial assessments suggest that the 'sweet spot' must be in developing something that is commercially viable with the aim of helping people, instead of taking a product developed for commercial purposes and trying to repurpose it. OB4G initiatives thus usefully provide some early insights into how vulnerable and financially squeezed consumers are using new applications or technology.

We also agree it is exciting to be able to leverage new technology innovation and explore how digital tools could potentially reduce the numbers of people reaching crisis. However, we consider it is still far too early and, as yet, unclear whether improved technical functionality - over the longer term - will indeed provide better/good options. The extent to which they have actually succeeded in helping the 1 in 4 adults in the UK who are financially squeezed essentially remains moot.

We would further caveat that when thinking about inclusion, experience consistently tells us that the internet/digital is not as good for a subset of the population.

What these initiatives do tell us is that there is a need to ensure that the perceived benefits of open banking/finance services actually reach financially and otherwise vulnerable consumers. These are consumers who continue to be underserved by the market, which if not properly addressed, will leave open banking/finance at risk of being financially excluded.

Increasing the take up of open banking services by consumers also relies to a large extent on widespread consumer trust. A 2018 survey of a sample of StepChange clients found levels of trust to be mixed. Around a third of clients felt confident to consent to sharing their banking data with a trusted intermediary like StepChange, a third did not and a third didn't know. Those who were not so confident cited security and privacy concerns among their reasons. Realising the potential of open banking arguably rests on a strong implementation of the 'secure environment' principle and the principle that data supplied by and created on behalf of consumers is owned and controlled by those consumers.

We do not believe that these principles are strongly embedded in the financial services ecosystem at present. For example, we have previously raised the problem of impersonator websites with the FCA. These are websites that either pretend to be StepChange or other advice charities or infringe our brand in a way designed to mislead. These websites harvest consumer data and package this up as 'leads' sold on to debt management/solutions providers. FCA authorised firms may be (are likely to be) involved in the circulation of this consumer information. So, the eco-system is not currently safe.

We believe this may impede the development of open banking in three related ways:

1. If the FCA cannot effectively deal with ongoing problems like impersonator websites, consumer trust in data sharing is likely to be eroded.
2. While open banking requires consumer consent for data to be shared, will this initial consent give consumers sufficient control over TPPs sharing-on data to further commercial partners? We have previously seen credit broking sites using broadly worded consents to pass/sell leads onto a range of high cost lenders or further lead generators that consumers were not necessarily aware of, with some consumers bombarded with calls and text messages as a result.
3. We are concerned that encouraging a growing culture that normalises data sharing in an environment where consumers are neither wholly safe, nor in control of their data, may foster a false sense of security and open people up to scams. Recent experiences of Covid19 scams are a pertinent case in hand.

The FCA's statutory objectives, as well as the public sector equality duty, point to the need to insure financially and otherwise vulnerable consumers are not excluded from financial markets, products and services, and that they are adequately protected. We believe, by leveraging the foundational work undertaken by OBIE, the FCA has a clear role in highlighting needs, opportunities and problems and convening policy makers in respect of these.

Q2: We are interested in your views on what open banking teaches us about the potential development of open finance.

Our answer to question 1 covers much of this. We would add these additional, more general, observations.

- The development of open banking involved a welcome level of engagement with consumer advocates to help gain an understanding of the consumer protection and redress issues, both where these are likely to work well in open banking and where gaps might remain.
- Open banking teaches us that common standards are important – common technical standards, customer journey standards and standards of engagement with stakeholders.
- Open banking has encouraged a discussion about the needs of financially excluded and vulnerable consumers; and that discussion has brought forward initiatives to develop services meeting their needs (some of which were not envisioned). This needs to be carried forward into open finance and developed further on a broader public policy basis, with the aim of fully 'socialising' the possible benefits of open finance.
- Discussion around open banking has surfaced a range of concerns about consumers' data more broadly; what ownership and control mean and the outstanding difficulties with this. These discussions will need to continue into open finance. The regulatory oversight around open finance will need to be capable of addressing data security, control and redress concerns.
- We therefore urge the FCA to take a strong lead on ensuring a secure and controlled environment across the whole consumer data journey – from online and other promotions seeking to harvest data, and the firms making or receiving data from these promotions, through to oversight control of how data might be shared-on and used by different parties.

Q.3 Do you agree with our definition of Open Banking?

We broadly agree with the FCA definition on open finance. However, the definition is largely a functional summary of how open finance would work. It should also be possible to define open finance in terms of regulatory and social policy challenges and outcomes. Discussions around open banking and related areas, such as the credit information market study, suggests that clearly defining regulatory and social policy outcomes is central to developing potential and mitigating risks.

The opportunity of open finance

Q4: Do you agree with our assessment of the potential benefits of open finance? Are there others?

We broadly agree with the FCA's assessment of the potential benefits of open finance, with the following observations:

- The experience of previous financial inclusion initiatives like the Child Trust Fund, suggests that not all consumers will be able to engage with new tools and products developed through open finance in the same way. So there is a need to consider how the services firms develop (or don't) distribute benefits to different groups of consumers.
- The call for input paper highlights a number of services developed under open banking that were not originally envisaged and aim to meet the needs of more financially vulnerable and excluded people. It might be worth the FCA considering how many of these services were developed through initiatives like OB4G, and whether similar approaches will be needed to realise potential benefits of open finance.
- The call for evidence paper recognises that more data sharing could drive both financial exclusion as well as inclusion. A data driven increase in exclusion could possibly go wider than credit, touching upon areas like access to suitable housing for lower income consumers. So the FCA will need to work with other policy makers need to consider mitigation strategies.
- More specifically, in respect of assessments for credit worthiness, our recent report *Red Card* looked into the relationship between sub-prime cards and problem debt, finding credit cards being offered to people at risk of financial difficulty and a significant proportion of people experiencing payment difficulty. 79% of StepChange clients surveyed said taking out a subprime card had a negative overall effect on their financial situation. It seems unlikely that firms were fully unaware of these consumers' financial situation, raising the question of whether it is better data or stronger rules and supervision on how creditors assess affordability that are needed. The point here is that open finance should not be seen as a catch all first approach to problems that might be more easily addressed through other means.
- That said, we have heard credit information service providers state that models based on open banking data can have greater predictive power than traditional credit scoring models. This raises the question as to whether consent to share access to open banking data might or even should become mandatory in many or all credit applications; in a similar way that consent to sharing credit history data is mandatory for many credit applications now. In which case, is there a way to make this happen while ensuring consumers remain in control of their data?

Q5: What can we do to maximise these benefits (given the considerations set out in paragraphs 3.12 to 3.17)?

We would suggest the following steps to help maximise these benefits:

- Firstly we welcome this emphasis on the need to actively look at ways to maximise benefits – keep doing it.
- Keep asking widely and thinking deeply about the needs of different consumers, particularly those consumers less likely to be well serviced by the market.
- Don't rely on firms alone to deliver benefits, particular where social benefits might outweigh the commercial benefits for providers. Work with other policy makers to help develop products and services; and build on the lessons of open banking approaches like OB4G.
- Don't just rely on open finance to deliver benefits – if the FCA's objectives can be met more easily and directly through other interventions, do that.
- Building consumer trust will be important so work hard on tackling those areas of data misuse and other poor practice that currently corrode consumer trust. The current open banking protections around consumer data should be extended into open finance and developed further in respect of consumer control of data, including redress.
- The experience of open banking suggests that developing common industry protocols and standards are important. The FCA could play a central role in this.

Q6: Is there a natural sequence by which open finance would or should develop by sector?

We have no comment in response to this question at this time.

Risks arising from open finance

Q7: Do you agree with our assessment of the potential risks arising from open finance? Are there others?

We broadly agree with the assessment of potential risks.

Q8: Do you consider that the current regulatory framework would be adequate to capture these risks?

We do not consider that the current regulatory framework will be adequate, largely for reasons set out in the call for evidence paper. Given the nature of these risks it will be important to ensure that TPPs are covered by regulation, as is the case for open banking under the PSRs. We believe the Government should act to close gaps and inconsistencies in regulatory protection for consumers. We agree that there should be a clear common framework for liability and redress where things go

wrong. Open finance will rely on consumer trust, and an inconsistent and unclear landscape for consumer protection and redress is likely to erode consumer confidence.

In addition, we would make the following observations:

- As stated previously there are outstanding issues around the way consumers' data is being used by lead generator firms, in the debt solutions market in particular. Consumers' control of data is an urgent issue.
- There is a need to audit how new technology and data sharing might alter the effectiveness of existing rights and protections. For instance, new payment services may undermine protections such as Section 75 of the Consumer Credit Act; and a move away from advice to more execution only products could alter consumer access to redress where things go wrong.

Ensuring open finance develops in the interests of consumers

Q9: What barriers do established firms face in providing access to customer data and what barriers do TPPs face in accessing that data today?

We would broadly agree with the analysis on possible barriers set out in the paper. However, as a not-for-profit advice agency helping financially vulnerable people, we would point out that a fully commercially driven open finance ecosystem may present barriers to us utilising open finance in a way that might benefit our clients. We would urge the FCA to consider how any social benefits that could arise from open finance can best be realised.

Q10: Do you think the right incentives exist for open finance to develop, or would FCA rules, or any other changes be necessary?

As stated previously we believe that common technical standards and a coherent framework of consumer protection in respect of consumers' data, and TPP authorisation and liability are needed.

Q11: Do you have views on the feasibility of different types of firms opening up access to customer data to third parties?

We have no comment in response to this question at this time.

Q12: What costs would be involved in doing so? We are interested in views on the desirability and feasibility of developing APIs?

We have no comment in response to this question at this time.



Q13: Do you have views on how the market may develop if some but not all firms opened up to third party access?

We have no comment in response to this question at this time.

Q14: What functions and common standards are needed to support open finance? How should they be delivered?

Please see our answer to question 16.

Q15: What role could BEIS' Smart Data Function best play to ensure interoperability and cohesion?

The BEIS Smart Data Function (SMF) could play an important role in maximising the benefits of open finance, in particular, by linking financial services to other important markets such as utilities and developing new financial management tools or identifying possible support needs (open banking driven income and expenditure assessments for social tariffs, for instance). In this respect, the SMF could help co-ordinate and align both technical standards and consumer protection around data and TPP conduct and fitness requirements.

Q16: To what extent should the standards and infrastructure developed by the OBIE be leveraged to support open finance?

The standards format and infrastructure developed by the OBIE for open banking seem a sensible template for developing open finance. Here, infrastructure could include the helpful and progressive consumer engagement strategy through the open banking consumer forum. Generalising standards and infrastructure across financial services (and tying in with Smart Data objectives) perhaps implies a different governance structure, but, nevertheless, a similar open approach to engagement with consumer groups.

Q17: Do you agree that GDPR alone may not provide a sufficient framework for the development of open finance?

We agree that the GDPR which falls under the remit of the ICO alone may not provide a sufficient framework for the development of open finance.

More specifically, we consider this is because the interplay between the PSD2 and the GDPR touches directly on the issue of consent and this brings into stark focus (i) how consent is given (ii) what data is being accessed and (iii) whether consumers understand and are wholly comfortable with what is happening to their data.



If consumers do not know and fully understand what is happening to their data: exactly what it is, where it is and how it is being used, they are a very long way from being able to control it, and, indeed, to 'opt out'.

We further note that there is currently no mechanism to ensure consumers understand exactly how their data will be used in respect of machine learning and AI or how value will be extracted from it.

As the open banking initiative starts to move beyond the early stages, we believe there is a strong case for more industry transparency on how exactly consumer information is being accessed, and before open banking is broadened out into other sectors; many of which are far more complex than for transaction banking and payments.

Q18: If so, what other rights and protections are needed? Is the open banking framework the right starting point?

We agree with the call for input that open finance will need an appropriate regulatory regime that builds on the open banking standard for explicit informed consumer consent that is time bound.

We agree that there should be a clear, accessible and easy route to redress and compensation that is free for the consumer. This would be in line with the existing ombudsman principles for financial services consumers. We believe developing this rights framework should be the responsibility of the FCA, working with other policy makers (such as the SMF) where appropriate.

Q19: What are the specific ethical issues we need to consider as part of open finance?

We welcome the FCA's intention to further explore ethical issues that may be raised by AI, algorithm biases and jig-sawing of data sets.

We believe that the principle of consumers owning and controlling their data is especially challenged in the credit information market, where consumers are effectively required to share data but have little control on how it is used. We hope that the credit information market study will throw some light on how best to minimise the possible detriment consumers can experience from sharing credit history data.

The call for input paper argues that real world data sets may capture existing biases and we agree. However the problem may run deeper, given that the problems we see with debt, poverty and conduct issues may disproportionately affect certain groups of consumers. In this respect, the real world can itself create biases in the form of enduring patterned inequalities. So we believe the FCA should consider open finance through the lens of the public sector equality duty alongside these ethical issues.



The role of the FCA

Q20: Do you have views on whether the draft principles for open finance will achieve our aim of an effective and interoperable ecosystem?

We are interested in exploring the development of the draft principles further, for the reasons cited, ensuring consumers do have true ownership and control over their data will need some intervention from the FCA to achieve the ecosystem you describe in practice.

Q21: How should these set of principles be developed? Do you have views on the role the FCA should play?

As stated previously we believe the FCA should take a central role in ensuring the common standards, consumer protections, rights, redress that underpin the idea of an interoperable ecosystem. We also believe the FCA should take a central role in ensuring that consumers underserved by the market benefit from open finance.

Q22: Do you have views on whether any elements of the FCA's regulatory framework may constrain the development of open finance? Please provide specific examples.

We have no comment in response to this question at this time.

