moneyadvicescotland

Scotland's Money Charity

RESPONSE

FINANCIAL CONDUCT AUTHORITY:

OUR FUTURE MISSION

26 January 2017

About Money Advice Scotland

Money Advice Scotland is Scotland's Money Charity.

We are the national umbrella organisation in Scotland which promotes and champions financial inclusion and the development of free, independent, impartial, confidential money advice.

Our mission is to be the driving force towards financial wellbeing for the people of Scotland.

Background

Money Advice Scotland welcomes the opportunity to respond to the Financial Conduct Authority's consultation on its future Mission.

On 19 January 2017, Money Advice Scotland held a consultation event with its members – including representatives from local authorities, CABx and insolvency practitioners – at our offices in Glasgow.

The consultation event opened with a presentation from Martin Kuzmicki of the FCA's Strategy Development Team who provided an excellent overview of the Mission. We are also grateful to Luke Tyrrell of the FCA's Consumer Partnerships team and Neil Marshall, Senior Manager in the Consumer Credit Policy Team, for their attendance and invaluable insight throughout the course of the day.

This is a partial response and focuses in on the questions with most relevance to the work of Money Advice Scotland and its members.

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Before considering the FCA approach, it is important to first define what entails a complex product. Perhaps pre-empting the questions on capability and vulnerability, different consumers will have different outlooks on what constitutes a complex product. At different stages in consumers' lives, the right product can become the wrong product. This view was echoed by an attendee at our consultation day who commented that "it's only a complex product when things go wrong." That said, the possibility that things may go wrong should be factored in both to the design of the product and the protection offered to consumers.

As a counter point, prior to the implementation of the high-cost short-term credit price cap, some of the most egregious examples of harmful products were unequivocally simple. In the case of some of these products, the communication around high interest rates was completely transparent, yet consumers still made poor decisions to the extent that regulatory intervention was necessary. In that sense, the case can be made that some consumers will also require protection from ostensibly simple products.

Even products which are considered as relatively low risk can have complex consequences for consumers. One adviser offered the example of a client who had been inundated with communication extolling the benefits (and ease) of switching to a reward account with interest paid on any balance and cashback on certain bills. The client had an authorised overdraft, however, meaning that the charges and interest applicable on this reward account would significantly outweigh any benefits. This is a scenario where a product provider could prevent a consumer from making a harmful decision, but is instead encouraging the consumer to make a poor choice.

In terms of ensuring that consumers are properly equipped to understand complex products, financial education was highlighted as a potential solution. Financial education has been a mandatory component of the Scottish curriculum since 2008, but is often patchy and inconsistent in practice. A number of our members observed a distinct role for representatives from third sector organisations to assist teachers and schools in the delivery of financial education to help protect against consumer harm further down the line.

Terms and conditions were described as overly complex and heavy on jargon and this can be a barrier to understanding products. One adviser noted that listing terms and conditions in sequence of importance would be a possible improvement. Above all else, plain and clear language was considered as essential. The FCA's infographic on the scale of vulnerability in the UK notes the stark finding that one in seven adults has literacy skills that are expected of a child aged 11 or below. In Scotland, both literacy and numeracy rates have declined in recent years.[1] This underlines the importance of clearly communicating the repercussions of a consumer's actions.

Several advisers were of the view that a greater responsibility should be borne by product providers. For many products, the benefits are outlined clearly at the outset, with less focus on what can go wrong. A representative example of what could go wrong – along the lines of a worst case scenario illustration – was considered to be as important as demonstrating the potential benefits.

In terms of the FCA approach, it was agreed across the group that intervention in the HCSTC market had been effective in offering greater protection for consumers. The FCA Mission notes that innovation can help markets meet need, but it can also result in new

[1] Scottish Government, *The Scottish Survey of Literacy and Numeracy (SSLN)*

products that lead to consumer detriment. The price cap, for example, is a response to a harmful type of innovation in the market. When financial products are changing rapidly, money advice agencies are often a bellwether for the types of issues that are causing consumer detriment. The ongoing close engagement between the FCA and money advice providers should feature as part of the continuing approach to assessing what protection is required for consumers.

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Members at our consultation event were keen to reach a definition of what a capable consumer looks like and settled on a person who can accurately explain the action that they had undertaken. Following on from that notion, the concept of a capability test before a consumer can access financial products was suggested by one attendee as a possible protection. However, it was considered that such a test could be easily worked around. During discussion around terms and conditions, one adviser noted somewhat pessimistically that consumers often hear what they want to hear. Similarly, some consumers might say what they have to say to access a product. This is an example of a scenario where consumers with lesser capability may require additional protection from their own predispositions.

Income remains a key indicator of whether a consumer is deemed to be capable or not. The Mission notes that the FCA prioritises the protection of vulnerable consumers on low incomes and this is certainly to be welcomed. More and more debt advisers attest to the growing prevalence of debts that are not a result of profligacy or lack of capability but are instead directly related to the cost of living. Recent analysis from the Improvement Service noted that 60% of people seeking money advice in Scotland have a household income of less than £10,000 per year.[2] If a person on a low income takes out a high-cost loan to meet an essential bill, for example, how much of this is down to the realities of life on a low income rather than lesser capability? Most consumers make mistakes with their finances at some stage, but the poorest consistently pay the heaviest price.

Consumers are often criticised for a lack of knowledge or capability, but the question of how much a consumer should be expected to know also merits consideration. A patient visiting a GP shouldn’t have to be medically trained to protect against being prescribed harmful treatment. In much the same way, consumers shouldn’t have to be experts to prevent themselves from detriment when accessing financial services and products. As outlined in the Mission, products such as mortgages and pensions are long-term commitments and consumers may not realise the detriment until it is too late. This underlines the importance of ensuring that necessary protections are in place.

Members also argued that tests around affordability could be more rigorous and this may prevent problem debt from occurring in the first place. However, this type of approach must also be accompanied with signposting to advice and other services if a consumer is declined access to a product.

---

[2] Improvement Service, *Scottish Local Authorities Money Advice Performance Management Framework 2015-16 Data Analysis Report*

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

Members were in agreement that the four challenges and issues for redress schemes highlighted within the Mission were the correct areas to focus on. The approach to make arrangements for redress if large numbers of consumers are affected is to be welcomed. The focus on prioritising arrangements for redress for vulnerable customers is also appropriate.

In terms of communication around redress schemes, the same concerns raised in our response to Q12 apply in the sense of using language that is clear and easily understood. Consumers often lack confidence, particularly when it comes to complaints. That said, members were of the view that the role of intermediaries in the redress process – notably, in the case of PPI claims should be limited. Concerns were raised around the proposed PPI deadline of June 2019. Whilst it is understandable that banks seek closure on this matter, this should not be at the expense of consumers who lost out in the first place. Both the public awareness campaign that will accompany the deadline and the claim process itself should be made as straightforward as possible.

The Mission notes that some complainants are concerned that the redress procedure does not provide the same level of personal attention that is achieved via an individual complaint to the Financial Ombudsman. However, our members considered the level of personal attention as secondary to the outcome realised for the consumer. It is of more importance that the consumer can access redress quickly in a straightforward process. If the complaint process becomes protracted, then the consumer is also more likely to give up.

In terms of encouraging take-up of redress schemes, members were of the view that, perhaps unsurprisingly, consumers are primarily attracted to the prospect of financial compensation and this should feature at the centre of public awareness campaigns. Again, a representative example of what a consumer can expect to gain may help to increase appetite for redress schemes.

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

The subject of consumer vulnerability has received increasing attention in recent years. Members attending our consultation event welcomed this focus on vulnerable consumers. One adviser commented that “vulnerability is a matter of timing” and this reinforces the view that vulnerability is fluid, as suggested in the FCA’s Occasional Paper No.8.

Throughout the day, several advisers made reference to the old-style bank manager and customer relationship and noted that this helped protect vulnerable people in the past. As retail banking continues to shift away from traditional methods, concerns were raised on whether a bank can adequately know its customers, and particularly those who are vulnerable and require greater levels of protection. On the other side of this argument, however, the opportunities from big data may help us understand the behaviours of consumers in a way that has not been possible previously and to adapt protections accordingly.

The FCA’s Mission asks for examples of where a firm’s actions have either caused or exacerbated vulnerability. One adviser at our consultation event raised the case of a client who was offered (and subsequently applied for) a £15k loan. The client was unsure what to do with the money – underlining the fact that he probably didn't need it in the first instance – but eventually decided to refurbish his home. Regrettably, the client purchased furniture from a rent-to-own provider (which is located very close to his bank branch and is a prominent store in the area) on a high-cost weekly credit agreement. What's more, the loan remained in the client's bank account which impacted on his state benefit entitlement. This is a clear example of the actions of firms exacerbating vulnerability and, indeed, creating a new financial vulnerability.

Mental health was highlighted by our members as a key issue to focus on within the discussion on consumer vulnerability. The Scottish Government estimate that around one in four people in Scotland are estimated to be affected by mental ill-health. It was agreed that a consumer is unlikely to disclose a mental health illness when attempting to access credit, for example, and this raises challenges about the protections required for these individuals. Members at our consultation day suggested the option of a vulnerability check before someone can obtain certain financial products. However, this may in turn adversely affect access to products for this group – the last thing we want to see is a vulnerability blacklist so without question the regulator is faced with a fragile balance. Our members were in agreement, however, that more responsibility should be placed on lenders – and particularly sub-prime lenders – to know more about their customers' vulnerabilities. The scope for redress should also be increased if this prior diligence has not taken place.

Throughout this response, we have stressed the importance of income in determining a consumer's capability. Income is also central to the discussion on vulnerability. The Mission Statement notes that "whatever the individual vulnerability, low income is an overarching factor which multiplies all vulnerabilities and leads to greater detriment." We are of the view that it is appropriate to prioritise this group of people going forward.

Another important aspect to recognise is the insecurity of life on a low income. Research from NYU Wagner's Financial Access Initiative (FAI) suggests that analysis of annualised data often fails to capture the realities of the inherent volatility of life on a low income.[3] Households on the lowest incomes get by day-to-day and week-to-week and these fluctuations that take place across the course of a year are lost or "smoothed out" when we examine annual data alone. This is particularly relevant in light of the growing prevalence of insecure work in the UK. More than 903,000 people are employed on zero-hours contracts.[4] Self-employment in the UK increased from 3.8 million in 2008 to 4.6 million in 2015.[5] These forms of employment both tend to be lower paid with few guarantees on regular working hours. This shift in people's working patterns needs to be considered when examining protections for vulnerable consumers in future.

Andrew Bailey's Mansion House speech noted the growing debate around the intergenerational wealth gap. Recent analysis from the IFS found that people born in the early 1980s have about half the wealth – including housing, financial and private pension wealth – that those born in 1970s had at the same age.[6] Young, healthy, working people are typically unlikely to be considered vulnerable, but this growing wealth gap points toward a potential vulnerability in future. Again, this challenges our preconception of what constitutes vulnerability and, in our view, the regulator is correct to identify future vulnerability and take action to protect consumers.

---

[3] Research can be accessed via http://www.usfinancialdiaries.org/
[4] Office for National Statistics, *Contracts that do not guarantee a minimum number of hours: September 2016*
[5] Office for National Statistics, *Trends in self-employment in the UK: 2001 to 2015*
[6] Institute for Fiscal Studies, *The economic circumstances of different generations: the latest picture*