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HM Treasury  
1 Horse Guards Road  
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7 June 2022

## **Application for designation as a 'super-complainant' to the Financial Conduct Authority and Payment Systems Regulator**

I am writing on behalf of the Money and Mental Health Policy Institute to apply to be designated as a 'super-complainant' to the Financial Conduct Authority under section 234C of the Financial Services and Markets Act 2000 and to the Payment Systems Regulator under the Financial Services Act 2013. The information below demonstrates that we represent the interests of consumers and meet the criteria for designation specified by HM Treasury for both regulators. Unless stated otherwise, the information supplied is applicable to the criteria for both the FCA and the PSR. We note the requirement to notify the Treasury of any material changes to the information supplied which could be relevant to meeting any of the criteria, and commit to do so.

### **Criterion one: The body is so constituted, managed and controlled as to be expected to act independently, impartially and with complete integrity.**

The Money and Mental Health Policy Institute is an independent charity, registered with the UK Charity Commission on 12 April 2016, charity number 1166493. The objects of the Charity are, for the public benefit: (a) to advance understanding of mental health, financial difficulties and capability and the relationship between the two; (b) to improve the lives of people with mental health problems, particularly in relation to their financial experiences, and (c) to promote the preservation of good mental health, with a particular focus on the impact of people's financial experiences, including by carrying out research, facilitating discussion, designing and testing new approaches and disseminating the useful results of these endeavors. Over the last six years we have become the go-to organisation for trusted insights into the toxic link between money and mental health problems, with a reputation for producing high quality, robust research and advocating effectively on behalf of the 50% of consumers who will experience a mental health problem at some point in their life. Our sole motivation in pursuing super-complaints will be the interests of consumers and the detriment they may be suffering.

The charity is completely independent and is not affiliated to any other organisation, it does not have a trading arm. It is governed by a board of nine trustees, and led by our Chief Executive and four-person Senior Management Team. A full list of trustees and members of the Senior Management team is attached, together with their CVs, a current list of directorships, shareholdings and any other substantial interests in other companies held by them. We confirm that there is no information to disclose regarding the subjects listed in paragraph 1.16 of the HM Treasury guidance for bodies seeking designation as super-complainants to the FCA.

The charity is funded through donations and income from charitable activities. The majority of our income to date has come from a charitable donation from our Founder and Chair, Martin Lewis CBE. Additional income has come from charitable grant-giving foundations, donations or sponsorship from corporate entities with an interest in our work (for example banks) and income from charitable trading activities. This is primarily through our Mental Health Accessible scheme, through which we use our research insights to advise essential services providers about how to ensure that their products and services are accessible to people with mental health problems. A full breakdown of our income to date can be found on the Charity Commission website [here](#). The charity takes a very clear line on the editorial independence of our research, and all sponsorship, grant or other income agreements establish this independence.

**Criterion two: The body can demonstrate considerable experience and competence in representing the interests of consumers of any description.**

Money and Mental Health has significant experience of acting in the interests of consumers since the charity was established six years ago. This relates particularly to the 50% of consumers who will experience a mental health problem at some point in their lives, but also more broadly to minimising the detrimental impact of products and services within regulated markets on the mental health and wellbeing of all consumers. This includes our campaigning work which has successfully brought about significant changes to policy and practice, and our publications, events and hands-on consultancy work which have helped to deliver practical improvements to products and services. The selection of highlights below demonstrates that we take part in the following activities, taken from the list of examples set out at 1.11 in the guidance document:

- representing the interests of socially or economically vulnerable consumers
- promoting the general welfare of disadvantaged groups who may have special needs as consumers
- promoting high standards in the quality of goods and services provided to consumers (specifically in relation to outcomes for consumers with mental health problems)
- encouraging businesses to present complex information clearly and simply so as to make it easier for consumers to assess options
- promoting high standards of safety in goods and services (including, but limited to, tackling the link between debt collection activity and suicidal ideation).

Research Community

Everything the charity does is rooted in the lived experience of our ‘Research Community’, a group of 4,500 people with personal experience of mental health problems. This community is run through a state of the art market research platform, which enables Money and Mental Health to collect views from hundreds of people in this often excluded group, on a weekly basis. The Community takes part in in-depth surveys, focus groups, product testing, policy development workshops and online diaries. Their insights ensure that the charity’s research accurately reflects problems as they really are today, not just as they were the last time national data was collected. The in-depth qualitative responses also allow us to explore the causal relationships between statistical results, as well as to test the popularity and practicality of solutions. Money and Mental Health is also committed to having those with experience of mental health problems represented at every level in the organisation; on the board, the staff team, the advisory board and through all of our communications and events.

### **Mental Health Accessible Programme**

Our Mental Health Accessible programme works with regulated essential service providers to improve outcomes for consumers with mental health problems. The programme was launched after the charity’s in-depth research on accessibility found extensive barriers faced by people with mental health problems, and poor understanding by firms of how to adapt to address these. The research underpinning the programme includes:

- [An extensive literature review](#)
- [The development of a tool to evaluate ‘admin anxiety’ based on the American Psychiatric Association’s Severity Measure for Social Anxiety Disorder](#)
- Nationally representative polling
- Surveys and focus groups with members of Money and Mental Health’s Research Community, a group of 4,500 people who have lived experience of mental health problems
- Workshops and depth interviews with employees working within essential services firms, in roles ranging from customer service to product design and strategy.

The research found that mental health problems can make it harder to choose, use and pay for essential services by affecting a range of factors including our:

- Short-term memory
- Impulse control
- Planning and decision making
- Attention; and
- Communication.<sup>1</sup>

The programme was backed by Cabinet Office and Nesta through [the Inclusive Economy Partnership](#) and now provides a range of services to firms. These include:

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<http://www.moneyandmentalhealth.org/wp-content/uploads/2017/02/Seeing-through-the-fog-Final-report-1.pdf>

- Carrying out a detailed assessment of a firm's products and processes against six core areas related to accessibility, providing an in-depth action report and, where appropriate, accrediting firms to demonstrate progress and help consumers choose accessible services.
- Bespoke consultancy to help a firm deliver specific improvements for customers with mental health problems, for example testing new customer journeys.
- Assessing functionality and content of websites and apps for customers with mental health problems.
- Reviewing debt communications to minimise distress and maximise help-seeking.

So far the programme has worked with five major financial service providers in the UK and one internationally, bringing about improvements for consumers including:

- Offering staff a specialist tool to help them signpost customers to external organisations.
- Making communications to customers with debt problems more supportive and less intimidating.
- Giving customers more choice and channels through which to engage with their account, including telephone, webchat, email, online and letter. This will help customers who struggle to use some communications channels.
- Introducing a "Trusted Person Card", through which customers can allow a third party to use the card to withdraw cash and make purchases on their behalf in a secure and transparent way.
- Creating account support markers so that customers should not need to repeatedly disclose their situation.

### **Stop the Debt Threats Campaign**

[Money and Mental Health research](#), drawing on analysis of new national data from the Adult Psychiatric Morbidity Survey, and an in-depth survey of people with personal and professional experience of issues around suicide, found that people in problem debt are three times more likely to have considered suicide than people who are not in problem debt. While long-term factors such as persistent poverty and financial insecurity can put people at risk of becoming suicidal, the research also found a strong link between suicidality and sudden triggers like the intimidating and threatening letters people receive from lenders.

Following a campaign by Money and Mental Health, the Government agreed in October 2020 to change the Consumer Credit Act rules on 'default notices', simplifying language, removing text in block capitals and providing more appropriate signposting. These changes were implemented in June 2021, along with improvements in the accompanying FCA factsheets which were reviewed by the charity's lived experience Research Community. This campaign won Consumer Campaign of the Year 2021 at the SMK National Campaigner Awards.

### **Recovery Space campaign**

In 2018 the charity published research (funded by the Barrow Cadbury Trust) which found that 23,000 people in England alone were struggling with problem debt last year whilst in hospital for their mental health. Many thousands more were managing debt whilst in the care of a crisis team in

the community. The research revealed that this group were receiving visits from bailiffs, phone calls, letters and texts from debt collectors, escalating fees, charges and interest on their debt at a time when they were acutely unwell and largely unable to engage with essential service providers or debt collectors. Money and Mental Health identified that this group would be unable to access and benefit from the Government's proposed Breathing Space debt respite scheme, as their mental health would leave them unable to take part in debt advice that is one of the necessary entry requirements.

Following a concerted Money and Mental Health campaign, the Government listened and agreed to extend the Breathing Space scheme to anyone using NHS mental health crisis services, and to make it last for the duration of their care under those services, plus 30 days. This groundbreaking change means that, from the scheme's introduction in May 2021, people in mental health crisis should have time to focus on recovery without the acute distress caused by fees, charges and debt collection activity. Since the Government's announcement the charity has worked with Treasury on the design of the scheme and with the Money and Pensions Service to assess bids to deliver it. This campaign won Consumer Campaign of the Year 2019 at the SMK National Campaigner Awards.

### **Best practice resources for firms**

The charity is committed to translating research into best practice resources to help essential services firms to better meet the needs of customers with mental health problems. This includes producing ten best practice guides, for audiences ranging from current account providers to credit reference agencies, debt advice providers and insurers. Money and Mental Health runs a 'professional network' of over 1,000 people working in essential services, debt advice, mental health and related fields who wish to stay updated on our research, and who attend regular events to share the latest insights and best practice. In 2021 the charity held nine events, with speakers including two Government Ministers, the Chair of the FCA, Senior Directors from essential services providers and a speaker with lived experience of mental health problems at every event.

### **Engagement with regulation and policy**

A core part of the charity's mission is to use our research and policy insights to inform policy and regulation to improve outcomes for consumers with mental health problems. In 2021 this included submitting 18 responses to substantial consultations and calls for evidence from a wide range of government departments and regulators. In 2021 alone our research was cited in nine key policy documents published by government departments or essential service regulators. We also directly feed the research in through representation on groups including: The Government's Financial Inclusion Policy Forum, the Advisory Group to the Money and Pensions Service board, the Steering group to the Behavioural Insights Team's Gambling Research and Policy Unity, the Consumer Advisory Group to UK Finance and the UK Regulators Network Expert Panel.

### **Competence within, or available to, the organisation**

Our in-house research team combines sector-leading expertise in financial services and wider regulatory policy with practical experience working within firms, polling agencies and mental health

settings. It also has a track record of delivering outstanding mixed methods research, making the most of quantitative data and qualitative insights as well as practical experience. This insight is complemented by our trustee and advisory boards, which include members with experience at CEO, Director and Board level in financial services, regulation and research as well as a lawyer. In particular, the charity's advisory board includes an Ombudsman at the Financial Ombudsman Service, a number of academics and consultants with experience working on consumer vulnerability within firms and the former head of outreach and customer insight at the Financial Ombudsman Service. We ensure that these groups' insights feed into the development of our work programme, as well as drawing on their expertise in depth for specific research projects.

We have also developed a strong relationship with a leading discrimination barrister, who provided us with support and insight throughout our work on the Equality Act in essential services. We would expect to be able to draw upon her expertise in future projects, although would also take more formal legal advice as and when required.

Combining our research and policy expertise, lived experience insight, communications and practical consumer advocacy skills and network of advisors with experience in consumer redress makes the charity extremely well-placed to represent the interests of consumers through the means of a supercomplaint.

### **Criterion three: The body has the capability to put together reasoned super-complaints on a range of issues.**

The insights generated by our Research Community, combined with our research skills, policy expertise and experience advocating for and delivering change in regulated markets means that we have the capability to put together reasoned super-complaints on a range of issues. In particular, our research on the Equality Act, online harms and submission to the FCA's consultation on a proposed 'Duty of Care' demonstrate that we are able to deal with complex legal, competition and economic issues raised in super-complaint cases.

#### **Equality Act research**

In early 2022 Money and Mental Health published the results of a research project exploring the legal duties that essential services firms have towards customers with mental health problems under the Equality Act 2010 and the extent to which those protections are being realised. This project involved input from firms and regulators, as well as a leading discrimination barrister. The research found that many essential services providers are likely to be failing to meet these legal duties, which require them to anticipate and address the needs of customers with mental health problems.

The research findings showed that:

- Only three in ten (29%) people with mental health problems say that essential service providers usually anticipate and meet their needs, as required under the Equality Act

- Less than a third of people (32%) with mental health problems say they have been asked by most of their essential services providers if they have any needs that would affect their ability to use services.

The report made a set of key recommendations to firms, the EHRC, sector regulators and to the Government. The charity wrote to the CEOs of 45 of the UK's biggest banks, energy, telecoms and water providers to raise the research and request to meet to discuss how the firms are currently going about ensuring they meet their obligations.

### Online harms research

Throughout 2020/21 Money and Mental Health research looked at the [online harms](#) experienced by people with mental health problems. The research focused on areas including:

- [online gambling](#)
- [shopping and Buy Now Pay Later \(BNPL\) credit](#)
- [scams](#).

The research identified a range of significant harms, often caused by the interaction between symptoms of mental health problems, product design, marketing and the nature of online environments - which are not being adequately addressed by regulation. The research particularly highlighted areas where developments that may be positive overall for consumers can present risks for some more vulnerable groups, as well as exploring how to effectively regulate for harm emerging at the regulatory perimeter, or in gaps or overlaps between the responsibility of different sector regulators.

The research on shopping and BNPL credit found particular harms for people with mental health problems and was instrumental to the charity's input into the FCA consultation on regulation of BNPL. The charity's Chief Executive sat on the Advisory Panel to the Woolard Review which led to the regulation of BNPL. Along with the research on scams described in more detail below, we discussed our findings on online shopping with senior staff at the Competition and Markets Authority on numerous occasions throughout our online harms programme of work. The CMA's Senior Director for Consumer Protection spoke at the launch of our final report on the issue in March 2021.

The research on online gambling was central to an extensive programme of work with financial services firms (funded by the Gambling Commission) exploring their role to tackle gambling related **harms**. This included advocating for optional gambling merchant category code controls and working practically with firms to understand their effective implementation; 90% of current accounts now provide this as an option. This also involved establishing how gambling blocks could work through different payment systems. The charity undertook a major programme of work in partnership with the FCA to explore the potential for financial transaction analysis to identify people at risk of gambling harms.

The research on scams identified both that people with mental health problems are at significantly higher risk of being victims of scams, and the psychological impact that scams can have on all

victims. It also identified a lack of effective regulation to tackle scams. The research led to the charity setting up a coalition with partners including Which?, City of London Police and Money Saving Expert to campaign for the inclusion of scam adverts in the Online Safety Bill. This campaign was extremely successful, with user generated scams added to the Bill in spring 2021 and scam adverts added following further campaigning in early 2022.

### **Duty of Care consultation**

In 2018 the FCA consulted on proposals to introduce a new legal Duty of Care. Our response to this particularly considered the harm caused by adverse distributional effects in financial markets, where the free-if-in-credit current account model has created a range of cross-subsidies between consumers who use unarranged overdrafts, and those who are largely in credit.

Our analysis considered the sometimes-conflicting operational objectives of the FCA, to promote competition and ensure adequate consumer protection, and the challenges for firms managing distributional decisions between different consumer segments while profit seeking. We made the case that customers with mental health problems were being disproportionately affected by this distributional effect, facing higher fees and charges as a result of a reduced ability to actively engage in management of their money. We proposed a change to the FCA's principles of business, in part to clarify the regulatory expectations on firms for how they should navigate this issue of cross-subsidies between consumer groups. The FCA's new Consumer Duty closely reflects our recommendations.

### **Access to cash research**

In 2018 we were commissioned by the Independent Access to Cash Review (funded by LINK) to conduct research into the experiences of people with mental health problems using cash, and their attitudes to cash and digital payments. We later published this research as a short publication, including making recommendations to the PSR around the importance of strong regulation of digital payments to reassure and protect consumers who are nervous about moving away from cash transactions. We went on to engage directly on the issue of access to cash with the Treasury through consultations and roundtable events, UK Finance (as a member of their consumer advisory group) and with the PSR through their roundtable discussions.

We have reviewed the PSR and FCA's guidance on how to make a super-complaint, and are confident that we would be able to comply.

### **Criterion four: The body is ready and willing to co-operate with the Financial Conduct Authority (FCA) and the Payment Systems Regulator (PSR). In particular, the body agrees to take account of any guidance issued by the FCA and PSR.**

We confirm that we are ready and willing to co-operate with the FCA and the PSR, and to take account of any guidance issued by the regulator. We meet regularly with a range of people within the regulators to share our research insights, advocate for change in regulation, or to feed into ongoing work at the regulator. We are members of the FCA's consumer network, and respond regularly to their consultations. Our Chief Executive was a member of the Advisory Panel to the 2021 Woolard Review of change and innovation in the unsecured credit market and we have



engaged extensively with the regulator through the development of the new Consumer Duty and their recent guidance on the treatment of vulnerable consumers which cited our research.

Equally, the FCA has shown a willingness to engage with our work, with the Chair, Charles Randell, and Director of Consumer and Retail Policy, Nisha Arora, both speaking at our events in recent months. We also engaged with the FCA and the PSR through our research on access to cash, including attending a PSR roundtable.

Although we have an active interest in the importance of payment systems and their effective regulation for people with mental health problems, our engagement with the FCA has been more extensive to date as a result of their broader remit. Examples of our work that demonstrate a willingness to engage with the FCA include:

### **Reviewing FCA information sheets**

When borrowers miss payments, there are letters containing prescribed content that creditors are required to send. Alongside these letters, firms are also required to include an information sheet produced by the FCA. These information sheets contain useful information about what it means to be in arrears or in default as appropriate, as well as signposting to debt advice agencies. The FCA contacted Money and Mental Health to ask us for our insights into how the information sheets could be improved. With the FCA's permission, we distributed the proposed updates of the information sheets with our Research Community, asking for their feedback. We shared the Research Community's insights, as well as those of our research team with the FCA, with specific advice on the formatting, ordering, wording and information provided. The FCA decided to issue new sheets with mental wellbeing signposting, incorporating a number of the suggestions made by our team and the Research Community. This should ensure that these information sheets are as practically useful and supportive as possible for those who are struggling financially.

### **FCA techsprint**

In March 2017 we partnered with the Financial Conduct Authority to run a two-day 'techsprint' (or hackathon). Hosted by PWC and facilitated jointly between the charity and the regulator, the event brought together over 100 financial technology experts from over 40 of the UK's biggest banks and fintech firms and set them an ambitious challenge – to design and develop solutions that could help people with mental health problems to avoid financial difficulty and pitch them to a panel of judges. The teams developed an impressive range of solutions, including an app to help manage impulse spending with the ability to automatically 'freeze' your card; a tool that analyses a wealth of financial and non-financial data to understand when people need greater support, and a jam jarring tool that automatically puts aside the money you need for upcoming bills and recurring subscriptions. We then held a follow-up event with the FCA a year later to understand progress towards making these tools available to the public, and published a paper exploring barriers to implementation. One such barrier identified was lack of confidence in both customer and regulatory appetite for firms to analyze customer data to identify risk of harm. This led to the work below to focus in more depth on this issue.

### **Collaborative work on transaction data analysis**

In 2019 we collaborated with the FCA on a joint programme of work to explore how financial firms could use customer transaction data to spot signs that people are at risk of falling into debt, and to offer proactive support. For example, it showed how customer transaction data could reveal signs of potential financial difficulty such as sudden drops in income, dramatic increases in spending or persistent use of unauthorised overdrafts. It also set out ways that financial firms could intervene in those situations — for example by alerting people via text message if they are spending more than usual, or signposting them to sources of debt advice. The report highlighted that this support could be particularly useful for people with mental health problems, who may struggle to manage money due to common symptoms such as memory problems or reduced concentration, and who may also find it more difficult to ask for help. Crucially, it also showed there is strong consumer appetite for financial firms to use data in this way. The work kicked off with a half-day conference hosted at the FCA's offices, at which their Chair, Charles Randell, gave supportive remarks. This was followed by a series of roundtable workshops hosted at the FCA's offices and facilitated jointly with their team, demonstrating very effective collaboration between our charity and the regulator.

### **Constructive challenge**

While we have a very positive working relationship with the FCA and PSR, we are also committed to speaking out and challenging where we think the needs of people with mental health problems are not being met. For example, in 2017 we brought together a group of consumer organisations to write to the FCA to flag serious concerns about their proposed new definition of vulnerability and the impact it would have particularly on those with 'hidden' disabilities. We also raised these concerns in meetings at the FCA, through the media and at events, and were delighted that the regulator listened - reverting back to their previous definition.

**Criterion five: The fact that a body has a trading arm will not disqualify it from being designated provided that the trading arm does not control the body, and any profits of the trading arm are only used to further the stated objectives of the body and the body has established procedures to ensure that any potential conflicts of interest are properly dealt with.**

The charity does conduct some trading activity, but this is all classed as charitable activity and no trading arm has been required. This criterion is therefore not relevant to the charity.

**Criterion six: Where it appears to the Treasury that a body primarily represents the interests of businesses in their capacity as consumers of financial services, the body must be able to demonstrate that it primarily represents the interests of small or medium sized businesses.**

This criterion is not relevant to the charity.

APPENDIX ONE - CVs and declarations of interest. This information is personal and not usually in the public domain. We request that it is omitted from the application when it is published on the Treasury website.

APPENDIX TWO - Two years worth of statutory accounts. We have included our accounts for 2019 and 2020, as well as the draft accounts for 2021 which are due to be signed off by our board in the coming weeks. Please do let me know if you require a completed copy once this has happened.

APPENDIX THREE - A list of trustees and senior executives