



The Consumer Council for Northern Ireland response to the Financial Conduct Authority's consultation on Motor Finance discretionary commission models and consumer credit commission disclosure.

1. Introduction

The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland.

- 1.1 The Consumer Council welcomes the opportunity to respond to the Financial Conduct Authority's (FCA's) consultation on Motor Finance discretionary commission models and consumer credit commission disclosure. In responding, The Consumer Council asks that key differences within Northern Ireland are taken fully into account when assessing UK markets. We ask this because consumers here face a number of issues in relation to financial services, as outlined below¹, which will have particular relevance to their ability to avail of the financial products which work best for them.

2. Considerations about Northern Ireland

- 2.1 Of the devolved UK nations, Northern Ireland has the lowest median wage with median weekly earnings at £521² compared to the UK average of £569³. In its consultation document⁴, the Money and Pension Service (MaPS) lists key aspects of financial capability measured in 2018. Of the 14 areas, Northern Ireland is listed as the worst performer for 11 of the indicators. (Figure 1)
- 2.2 According to the FCA Financial Lives survey, 37% of UK adults are confident about managing their money, compared to only just 26% in Northern Ireland⁵. Confidence can play a big part in consumer interactions.

¹ <https://moneyandpensionsservice.org.uk/wp-content/uploads/2019/04/Listening-Document.pdf>

² <https://www.nisra.gov.uk/statistics/labour-market-and-social-welfare/annual-survey-hours-and-earnings>

³ <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2018#measuring-this-data>

⁴ <https://www.moneyandpensionsservice.org.uk/wp-content/uploads/2019/04/Listening-Document.pdf>

⁵ <https://www.fca.org.uk/publication/research/financial-lives-consumers-across-uk.pdf>

2.3 Figure 1 further expands on Northern Ireland’s lack of financial capability. A number of key indicators show how Northern Ireland compares to the UK average. Critically, 71% said they did not feel they could determine what happens in their life when it comes to money. Over half lack confidence in making financial decisions. (51% v UK average response of 47%)

2.4 Figure 1. Money Advice & Pensions Service 2018 – Listening Document ⁶

The table below shows some of the key aspects of financial capability measured in the 2018 UK-wide survey. Green and yellow show where people in a devolved nation show a variation from the UK average that is at or more than 5%. Rows in grey show where populations across the different nations are very close to showing the same characteristics.

	UK	Scotland	Wales	NI
Day-to-day money management				
Rarely or never save.	21%	20%	24%	24%
Have less than £100 in savings and investments.	22%	26%	27%	28%
Often use a credit card, overdraft or borrow money to buy food or pay bills because they have run short of money.	17%	15%	14%	11%
Over-indebtedness				
Are over-indebted	17%	14%	16%	16%
Planning ahead				
Could last three months or more without borrowing if they lose their main source of income.	49%	53%	51%	49%
Have a plan for financial goals for the next five years.	53%	48%	48%	47%
Do not feel that they understand enough about pensions to make decisions about saving for retirement. (18-64 only)	55%	54%	57%	61%
Are not engaged with how they would manage financially if they need to go into long-term residential care. (65+ only)	43%	40%	33%	48%
Accessing information, guidance and advice				
Know of organisations and websites that can offer free or affordable financial information, help and support.	58%	59%	56%	58%
Did not seek financial help or support for life-events or situations experienced in the last 12 months (working-age only)	59%	61%	58%	65%
Have used the internet for online or mobile banking	69%	66%	67%	63%
Confidence				
Do not feel confident making decisions about financial products and services.	47%	46%	51%	51%
Sense of control				
Do not feel they can determine what happens in their lives when it comes to money.	63%	64%	67%	71%
Do not focus on the long term when it comes to money	61%	66%	62%	67%

Note: Because England comprises the vast majority of the UK population, the UK average and the results for England are almost always identical.

3. Consumer Principles

3.1 The Consumer Council uses eight consumer principles to understand how particular issues, policies and regulatory proposals are likely to affect consumers, we have gone into detail on the applicable principles below. The principles are:

1. Access – can people get the goods and services they need or want?
2. Choice – is there any?
3. Safety – are the goods or services dangerous to health or welfare?
4. Information – is it available, accurate and useful?
5. Fairness – are some or all consumers unfairly discriminated against?
6. Representation – do consumers have a say in how goods or services are provided?
7. Redress – if things go wrong, is there a system for putting them right?
8. Education – are consumers aware of their rights and responsibilities?

⁶ <https://moneyandpensionservice.org.uk/wp-content/uploads/2019/04/Listening-Document.pdf>

- 3.2 We believe that safety, information and fairness are key aspects which financial brokers must embrace, especially at the point of sale. Where financial products are concerned, it's therefore important that commission amounts paid to brokers are fully disclosed to consumers before they commit to a huge financial outlay like buying a car.

4. Answers to Questions posed

Please note we have responded only to those questions where we believe we have the evidence and expertise with which to do so.

Q1: Do you agree with our proposed ban on discretionary commission models in the motor finance market?

- 4.1 We welcome the FCA's plans to ban the way some car retailers and brokers receive commission linked to customers' car loan interest rates. The arrangement which means the higher the interest rate, the more commission is payable is demonstrably anti-consumer. In recognition of this, the FCA note that some firms have moved, or intend to move, away from using discretionary commission models in recognition of the harm they cause.⁷ To quote the FCA:

"The widespread use of this type of commission creates an incentive for brokers to act against customers' interests.

Q3: Do you agree with our proposed commission disclosure clarifications?

- 4.2 The Consumer Council would like to know more about the FCA's decision making rationale on this issue. The FCA has decided not to follow a new disclosure requirement whereby customers are advised about the nature of the commission charged (including orally). We acknowledge FCA's assertion that:

'Consumers are unlikely to engage with detailed explanations of complex commission models'.

- 4.3 However as commission based selling has been identified as an area of consumer harm, where firms operate in 'conflict of interests'⁸ to the consumer and where there are already 'high levels of noncompliance'⁹; has the FCA considered other means by which consumers *could* be advised of the commission charged?

⁷ <https://www.fca.org.uk/publications/consultation-papers/cp19-28-motor-finance-discretionary-commission-models-and-consumer-credit-commission-disclosure>

⁸ <https://www.fca.org.uk/publications/consultation-papers/cp19-28-motor-finance-discretionary-commission-models-and-consumer-credit-commission-disclosure>

⁹ <https://www.fca.org.uk/publications/consultation-papers/cp19-28-motor-finance-discretionary-commission-models-and-consumer-credit-commission-disclosure>

Q4: Do you agree our proposed commission disclosure clarifications should apply across all consumer credit markets?

- 4.4 When the FCA took over the regulation of consumer credit, (including the rent-to-own sector, in April 2014) its stated actions were:

'To tackle immediate concerns with the lack of transparency of costs, product bundling, affordable lending and the treatment of people in financial difficulties.'

- 4.5 Clarification on commission disclosure aligns with these aims and is, we believe, a positive step toward consumer protection. The Consumer Council shares FCAs concern that if disclosure rules remain unclear:

'Disclosure rules could also be misinterpreted in other markets'¹⁰

- 4.6 It is ever more important that consumers are treated fairly and this goes hand in hand with transparency and clarity. To this end we believe that the FCA should apply disclosure rules to wider markets where harm is suspected or identified. FCA should robustly identify, address and remedy market inequalities much as has happened to date with pay day loans¹¹ and the rent to own market¹².

- 4.7 Ahead of implementing similar rule changes in other markets, the FCA should carefully consider any potential unintended consequences that could negatively affect consumers.

Q5: Do you agree our proposed commission disclosure clarifications should take effect on the day the rules are made?

- 4.8 The Consumer Council believes that the FCA is best placed to gauge this decision in collaboration with firms themselves. However we are keen to understand how the FCA intends to measure compliance with the new rules.

5. Other points not raised elsewhere

- 5.1 The FCA has said the new rules will:

'Allow discretionary commission models to operate but only with sufficient justification.'

- 5.2 Can the FCA outline how they intend to monitor firms' compliance on allowable discretionary commission models?

¹⁰ <https://www.fca.org.uk/publications/consultation-papers/cp19-28-motor-finance-discretionary-commission-models-and-consumer-credit-commission-disclosure>

¹¹ <https://www.fca.org.uk/news/press-releases/fca-confirms-price-cap-rules-payday-lenders>


¹² <https://www.fca.org.uk/publications/policy-statements/ps19-6-rent-own-price-cap-feedback-cp18-35-and-final-rules>

5.3 We note that the FCA lists a sample size using 20 lenders, which represents '60% of the market'. The Consumer Council is very keen to know if this sample is fully representative of lenders within Northern Ireland.

6. Conclusion

- 6.1 The Motor Finance Review Final report¹³ identified a conflict of interest and '*significant consumer harm*' caused by brokers setting and subsequently profiting from interest rates charged to consumers. The Consumer Council welcomes the FCA proposals which will ban discretionary models and seeks to ensure that dealers and brokers fully disclose the nature of any commission paid in their financial promotions and when making a recommendation.
- 6.2 We hope that these proposals will lead to consumers accessing clear and timely information relating to car financing.
- 6.3 Thank you for this opportunity to respond to this consultation. The Consumer Council consents to this document being reproduced by the FCA. Should you wish to discuss this response further please contact me on 028 9025 1627 or via email to eimear.duffy@consumercouncil.org.uk.

Yours sincerely



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¹³ <https://www.fca.org.uk/publication/multi-firm-reviews/our-work-on-motor-finance-final-findings.pdf>

