Submission to the FCA's Call for Input on High Cost Credit from Sara Williams

Section 1: High-cost credit

Q1: Which high-cost products do you think our review should focus on and do you think a more consistent approach to high-cost products is feasible or desirable?

I see no reason why a focus on certain high cost products is desirable. Any form of action that restricts some types of products is likely to benefit other ones. The specific payday loan actions in 2014/15 were essential as that particular segment of the market had massively increased and was causing huge harm to large numbers, but in general tackling market segments one at time is less desirable than a broader approach.

I think consistency at a high level is good to provide a framework, with some individual types of lending requiring additional regulation to address specific types of detriment.

Indeed I don't see the need to have rules which only apply to "high cost" products and are therefore dependent on the precise definition. These rules should apply to all types of credit (with the exception of very long prime mortgage lending). In practice low interest lending will not be caught by its very nature. But this broad approach prevents firms trying to design products which just squeeze under whatever the definition of high cost products is, but which have a similar level of consumer detriment.

Q2: To what extent is there detriment from high-cost credit products (other than HCSTC)?

To focus on the "short term" aspect is to miss the point. Short term products tend to be less affordable because the principal has to be repaid quicker, but it is the *affordability* of the repayments that matters, not duration. Indeed long term high cost credit results in more detriment than short term:

- there is a greater chance than some life event will occur during the term of the product, so what may have been marginally affordable at the start can frequently tip over into being unmanageable;
- these products are usually being sold to the desperate and on the basis of "only" costing so much per week/month. All the evidence from behavioural economics is that in this type of situation people do not focus on the overall cost of the credit, it is immediate availability that matters most. So this is an area where encouraging market completion by price simply does not work and regulatory intervention to control maximum costs is needed.

One significant area of detriment to customers occurs when secured borrowing is taken by a customer who already has significant debt. Although this may appear to the customer to be what they need to get through the next few months, secured borrowing removes many options for resolving debt problems in other ways. It shouldn't be undertaken lightly or speedily. Affordability needs to be proved in detail, not guessed at using assumptions about "standard" expenditure.

More generally I think it's important to realise that significant detriment can result from paying high levels of interest of a long period even if no arrears or defaults result. Being trapped in this sort of debt is stressful, can affect people's mental health and their relationships and prevents people saving money or making proper pension provision.

Q3: Where there is detriment, do you consider that it arises from matters not addressed by our rules, or is it mainly caused by firms failing to comply with the rules?

Many areas of detriment *could* be tackled within the current rules, with the three key aspects being the "clear, fair and not misleading" requirement for promotions; adequate affordability checks before lending and during the agreement if the credit limit is being increased or further credit extended; and fair complaint handling.

Clear, fair and not misleading promotions
There does not appear to be any effective regulation of adverts on social media. See this advert from Facebook:

How can it be considered responsible to advertise a secured loan at a high rate of interest in this fashion? "Try out a loan" – makes it sound fun, like taking a car for a test drive. There needs to be an easy way for adverts such as this to be reported and they need to be taken down speedily pending an investigation.

For rent-to-buy, all marketing materials, including in-store signs, need to be changed to give prominence to the purchase cost of the item AND the total cost after credit at the average APR. Any references to the weekly cost should be significantly smaller.

It is common for people with payday loans, doorstep loans, logbook loans and guarantor loans to say that as soon as they have repaid a proportion, often less than half, they start being offered additional credit by email and texts. I think this form of marketing should stop as it is not in the customer's best interest to remain permanently in high cost debt.

Other forms of promotional messages also need to be considered. For example Amigo has been trying to get articles written about guarantor loans suggesting how they can be used to improve someone's credit rating. It is a shame that too many journalists have been suckered into writing unbalanced articles on this subject.

Does this require additional rules or other interventions? Or simply clarification of the existing ones with additional guidance? That probably depends on the extent to which firms are prepared to co-operate.

Proper affordability checks

Affordability checks need to be the basic first line of defence to prevent irresponsible lending. In too many areas they simply do not seem to be happening.

Payday lending is of course the area where this should already have be stopped dead but it hasn't yet disappeared. Here is one comment (I could have listed dozens, this one was chosen simply because it was made yesterday on Debt Camel):

Success with Sunny! Used them continuously from September 2013 until now. Complained at the beginning of January and have had an email today offering:
"In line with my decision, and to return you to the position you would be in had you not been granted a loan, I would like to offer the following:

- *A full refund of all interest and charges paid in respect of your loan, totalling £1908.63*
- *Simple interest at 8%, calculated on the above figure, totalling £508.95"*

Payday lending has improved since 2014. But there do not seem to be any signs that other lenders are putting affordability at the heart of their lending policy, which is where it should be. Credit cards in general and catalogues and store cards in particular appear to raise credit limits far too frequently with little or no consideration for whether this additional credit is in the interests of a customer who may well have been paying only the minimum amount for some time. A recent comment on Debt Camel:

My limits started off low in the hundreds and ended up at £3500 Very and £5500 Littlewoods (I didn't use all this one though). My income was £500 a month when I opened these accounts.

And of course the same applies to bank overdrafts. Here there is even less excuse for the lender not considering the borrower's overall situation as they can see the incomes and expenditures going through. Another comment on Debt Camel in the last few days:

"I had an account with Lloyds and they allowed me to increase my overdraft from 0-£300 and then it kept rising up to £1500 I never paid any back as I couldn't afford so just paid the interest monthly. At the time of increasing I had a bank loan with them, was using payday loans, had catalogues, credit card, mortgage and furniture finance. I then opened another account with Lloyds and they let me go from 0-£1000 over drawn event though there was never any incomings or outgoings in this account and my other account was up to the OD limit."

Complaint handling

Of course mistakes will always be made. But a responsible lender will consider complaints fairly and offer appropriate redress. If this is done consistently, the firm will have a lot less incentive to advertise inappropriately and then lend irresponsibly.

The FCA's DISP rules all too often seem to be largely ignored, or followed to the letter, not to the spirit.

Firms should make it easy for people to complain effectively. This includes:

- providing an email address for complaints, not insisting on a complaint being made by telephone or by letter, both of which can feel intimidating to vulnerable customers, especially if English is not their first language or they don't feel their writing skills are adequate. Catalogue firms are particularly poor in this area. Perhaps DISP 1.3.2 needs to be made a rule not guidance but it is disappointing that this necessary.

- ensuring that a customer does not have to pay indirectly to make a complaint. Where a customer is asking for a record of their account, that should be supplied, promptly and without charge. Whether the firm has to access this by entering it as a Subject Access Request to its own system is irrelevant, it should not be seeking to charge the customer £10 for this.

Lenders also need to paying attention to DISP 1.3.2A. After more than a year of payday loan affordability complaints, they should know by now what a "good" complaint looks like having seen enough ombudsman decisions on the subject. They should then be using that knowledge to apply those standards themselves in-house when their customers complain. This is significantly failing to happen at many major lenders.

Having referred to Sunny above, I will say that Sunny appears to be good at doing this, as the offer they made in that quote shows. In contrast, many other lenders appear to have adopted a policy of being as obstructive as possible and trying to get away with paying the absolute minimums in redress.

QuickQuid habitually reject or offer a low "good will" offers. Debt Camel readers with good complaints typically get 5-10 times as much when the case is taken to the Ombudsman, in some cases 20-30 times. They clearly know this is inadequate, they will often increase it to try to get the complaint settled early. See this comment:

> *QQ should be getting into bother with the FCA surely for playing games…adjudicator asked them to repay all interest bar one loan. They offer £600, reject and the day after they offer £900, advised I will accept interest without added 8% (over double their offer). Be interested to see if they keep upping it or whether it stays in the long queue for an Ombudsman!!*

PaydayUK, Payday Express and the Money Shop don't even make good will offers. And in some cases they have been so obstructive as to refuse to supply loan information even after a borrower has paid £10 for a SAR until there is a complaint (or threat of a complaint) to the ICO, see https://debtcamel.co.uk/ico-money-shop/.

I am not saying that payday lenders should pay redress whenever someone makes a complaint. But they do not appear to be learning from experience. At the moment many vulnerable customers who have borrowed from the same lender over many months are being sent rejections or poor offers, often thousands of words long, designed to make them give up and go away. Occasionally the rejections even appear intended to intimidate.

If the FCA's current rules on advertising, affordability and complaint handling are effectively enforced, a lot of the other more detailed points for different sorts of lending will be far less important.

Q4: If there is detriment arising from matters not addressed by our rules, what sort of interventions should we consider? What would be the impact?

Credit cards, store cards and catalogues – the minimum repayments need to be increased from the current levels which are trapping people in debt for long periods. This is a simple to implement change which will have no distorting effects on the market. I repeat my suggestion made to the FCA's Credit card market study: interim report November 2015 : I think minimum repayments should be increased slowly, perhaps going up by 0.5% a year for the next 3 years. This won't be a major shock to existing borrowers and will set the market back onto a better track.

Doorstep lending – for vulnerable customers this can be a very difficult form of borrowing to manage well - it is not uncommon as a debt adviser to see a client who has defaulted on credit cards and catalogues but continues to pay a doorstep loan. Evidence of income should to be retained, not just viewed by the collections agent. It should not be possible to top-up or refinance a loan.

Guarantor loans – there need to be more effective safeguards against undue influence and simple lack of understanding on the part of the guarantor. I have had a recent case at Citizens Advice when a client agreed to act as a guarantor for the manager of their sheltered housing. In addition this client would have failed any proper assessment of affordability and had little understanding of what they had agreed to do. I think consideration needs to be given to requiring an independent witness to these agreements. It should not be possible to top-up or refinance a loan.

Logbook loans – the proposed legal changes (http://www.lawcom.gov.uk/treasury-acts-to-change-unfair-law-around-logbook-loans/) are long overdue. It should not be possible to top-up or refinance a loan.

All secured loans (including logbook loans, HP, Car finance, rent to buy, guarantor loans – and for guarantor loans this condition needs to be applied to both the borrower and the guarantor) should require proof of income and a detailed income and expenditure assessment of affordability. This may in future be possible speedily through Open Banking, but if at the moment this adds delays to the lending process, this is what needs to happen.

Q5: Should some of the HCSTC protections be applied more widely? What would be the impact on the cost of or access to credit?

I think the concept of a cap on total borrowing cost so it the borrower can't repay more than twice the amount borrowed is simple to understand for customers and has worked well for payday loans. I think the same cap should be generally applied to other loan products. It reduces affordability problems by its nature. By reducing the potential profit on loans, it also forces lenders to make better lending decisions to reduce the default rate. It should be applied to all loans with the exception of prime mortgage lending. This should include sub prime loans secured on property, see for example this proposed loan: https://debtcamel.co.uk/iva-secured-loan/.

Q6: To what extent do you think overdrafts are a substitute, or alternative, for other high-cost credit products?

For most customers they aren't a substitute or an alternative but an addition.

Q7: What do you think are the key issues the FCA should consider on arranged and unarranged overdrafts respectively?

High charges for overdrafts are perfectly acceptable as unusual, unforeseen, short term emergencies. But this is not what overdrafts have become. These are often the hardest type of expensive borrowing for a customer to repay as it is impossible to make a single decision to pay £x a month to it.

I think special consideration is needed about the size of overdrafts that student typically emerge from uni with. These are frequently not at a level which is appropriate for their resulting employment

Q8: What measures could be taken to address these and what would be the risks and benefits?
Banks need to find ways to reduce arranged overdrafts down to more acceptable levels, say 50% of someone's monthly income, or 25% for people on higher than average income. One reasonable approach would be for the banks to consistently offer loans at a reasonable rate to replace most or all of the overdraft.

Section 2: HCSTC price cap review

Q9: Please provide evidence and/or views on:

– the reasons for the substantial reduction in applications from consumers for HCSTC and the reduction in acceptance rates by firms

– whether this decline will continue, plateau, or lending will increase

– the impact of the price cap on the viability of HCSTC and how this might differ for online and high-street, and

– the impact on loan duration and product development more generally of the structure and level of the price cap

The previous patterns of repeat and multiple borrowing are to a large extent responsible for the drop in applications. Someone who was borrowing six times a year – as the average customer did in 2012/3, didn't actually have six points where something in their life happened that made them need to borrow. Usually they had one point and the subsequent five borrowings resulted from the initial payday loan being unaffordable. So after one rejection, the customer needed to find an alternative at that point, and in many cases there would have been no need to make any further applications that year.

This is entirely welcome. It is the previous levels of borrowing that were artificially inflated by the repeat borrowing, not the current levels that are supressed.

Q10: Do you have views and evidence on the risks for consumers of using HCSTC post-cap? Do you agree with our initial assessment that risks of falling into arrears have reduced?

It feels as though the risks have reduced, but because of the significantly lower volumes I don't think I have yet seen enough cases to be sure that it has.

Realistically in 2015 many people using payday loans had had their finances "contaminated" by previous over-lending, as the analysis in Appendix 3 noted: "*There are too few new individuals who have never previously applied for a HCSTC applicants to fully control for this confounding*". It is only from mid 2015 that a more accurate picture of default risks in the post-cap world is possible.

Q11: Do you have any evidence of adverse consequences for consumers as a result of being declined for HCSTC?
No. Anecdotally on Debt Camel I have seen a lot of people with a serious "payday lending habit" talk about how they have moved on in the last few years. Many have ended up in debt management. Some have confessed to partners or relatives and been bailed out – the 10% figure quoted on p46 doesn't feel wrong. Some have used bonuses or promotions to resolve their problem. Some have given up gambling. Some report simply "getting their s**t together".

Those are the success stories and it feels as though they are in the majority. Some have increased their dependence on other forms of HCST credit such as doorstep lending or logbook loans. Some have taken out large poor credit loans at rates of 25-60%+. These are mostly struggling, but it's hard to see that they are in a worse position than when they were juggling several loans a month from different payday lenders.

One adverse consequence is noticeable by its absence. People have talked about many major problems encountered during repeat payday borrowing including lying on loan applications, becoming homeless, losing their cars, their jobs, their partners walking out, depression, anxiety, bi-polar episodes, suicide attempts. "This is like therapy" a few people have commented when they have wanted to talk about how they got caught in a payday loan trap and later escaped. This feels like an environment where people are quite open about their difficulties. But no-one has mentioned turning to loan sharks when they have been refused a loan.

Q12: Do you agree that consumers do not generally move to other high-cost credit products as a result of being declined for HCSTC?

See previous answer. Some do, probably most don't.

Q13: What are the implications for consumers of increasing loan duration for HCSTC?

The obvious: they pay more interest than if they had repaid a payday loan in a month and didn't borrow again, but the loan repayments are more likely to be affordable and there is a greater chance of repaying the loan without further borrowing.

Q14: Do you have views or evidence that the HCSTC price cap has had an impact on other high-cost products: e.g. because consumers use those products as an alternative?

I think it has contributed to an expansion of other products. A detailed analysis of this would need, I suggest, to be done geographically, looking for the impact of other factors such as high rents and the benefit delays occurring with universal credit.

Q15: Do you have evidence that the definition of HCSTC is providing opportunities for firms to evade the HCSTC price cap (and HCSTC regime more generally)?

No.

Section 3: HCSTC repeat and multiple borrowing

Q16: What are your views on our analysis of the data and market with regard to repeat and multiple borrowing?

I make the obvious point in relation to consumer outcomes of cohorts of declined HCST applicants that correlation is not causation. I don't see how it is possible to determine from this type of analysis whether people are being "correctly" declined HCST credit because their finances are deteriorating or whether it is the loan rejection that results in the deterioration.

Q17:Do you have any further evidence on repeat and multiple borrowing?

No.