

# **Response to FCA consultation paper “CP25/23: Deferred Payment Credit (unregulated Buy Now Pay Later): proposed approach to regulation**

## **Research Report 2025**

Swansea University Author: Anita Zhao

University of Gloucestershire Authors: Philippa Ward, Ruffin Relja

We commend the FCA for recognizing the rapid expansion of the DPC sector and the potential risks it presents to consumer financial well-being, especially among vulnerable groups. The proposed approach to regulation addresses several key areas, such as transparency, affordability checks, and dispute resolution. However, additional considerations are needed to ensure that the regulation is effective, proportional, and future-proof. Specifically, we believe that three critical issues require further attention in the development of the DPC-specific rules, which we outline as part of our detailed response to your questions.

## **Keywords**

Financial Conduct Authority (FCA), DPC (Deferred Payment Credit), Unregulated Buy Now Pay Later (BNPL), Legislation

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To whom it may concern,

We are responding to the FCA consultation paper “CP25/23: *Deferred Payment Credit (unregulated Buy Now Pay Later): proposed approach to regulation*,” published in July 2025. I submit this response as a member of Swansea University, on behalf of our joint research team from Swansea University and the University of Gloucestershire. This team has established itself as the UK’s leading academic deferred credit payment (DPC) [colloquially termed ‘Buy Now Pay Later’ / ‘BNPL’] research group.

With extensive expertise in consumer behaviour, financial decision-making, and retailing, we welcome the Government’s and FCA’s commitment and efforts to establish a framework that protects consumers while supporting innovation in financial technology services and promoting economic growth.

### Our DPC expertise

Our team has extensively engaged with stakeholders in the DPC network and conducted various studies to gain a deeper understanding of the outcomes of their DPC use. Stakeholders include, for example, consumers<sup>1,2,3,4,5,6</sup>, retailers<sup>7,8</sup>, not-for-profit organizations<sup>9</sup>, public sector organizations<sup>10</sup>, governmental departments<sup>11</sup>, research funding bodies<sup>12</sup>, market analysts<sup>13</sup>, academics<sup>14</sup>, learned societies<sup>15</sup>, and mainstream press<sup>16,17</sup> to shape opinions and practices.

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This ongoing engagement has provided us with broad insights into the benefits and risks associated with DPC use and repayment for consumers. Given our experience, we are well-equipped to provide quantitative and qualitative insights on the proposed DPC regulation. However, we are also aware that we are not lawyers or legal experts, which also shapes the nature and focus of our comments.

### **General observations on the proposed rules**

We commend the FCA for recognizing the rapid growth of the DPC sector and the potential risks it poses to consumer financial well-being, particularly among vulnerable populations. The draft rules address several critical areas, such as transparency, affordability checks, and dispute resolution. However, further considerations are necessary to ensure that the regulation is effective, proportionate, and future-proof.

We believe that three important issues need further attention in the development of the DPC-specific rules:

- First, it is encouraging to see the Consultation Paper acknowledge that some DPC users hold multiple concurrent agreements with either a single DPC firm or across several providers. Although it may not be feasible to address the latter, it is crucial to ensure that the information provided before and during the life of agreements considers the circumstances of users who hold multiple agreements with one DPC firm. This approach would enable proactive and ongoing management of diverse payment obligations, potentially preventing missed repayments or other difficulties.
- Second, since many DPC offers are accessed through electronic devices, it is essential to consider alternative means of communication from DPC firms. This is particularly important for users who are less familiar with technology or have difficulty using it, ensuring they are adequately protected, especially when it comes to repayments.
- Lastly, while we recognize that DPC lenders may prefer a uniform method for assessing creditworthiness, we recommend guidance to support the recognition of the value of agreements in the approaches that DPC firms apply. A differentiated approach would acknowledge the varying sensitivities and risks that arise as the value of an agreement increases. This position appears reasonable in terms of DPC provider implementation, given the core business model of firms such as financial technology companies and their significant ability to offer personalized DPC options.

Given these concerns, we offer our evidence-based responses below.

### **Detailed comments and recommendations**

#### **Question 1: Do you agree that our proposed rules will not have a material impact on groups with protected characteristics?**

We strongly support the direction of the proposed rules, confident that, if implemented with care, they will safeguard groups with protected characteristics while empowering all consumers. Upholding the five guiding principles is essential, particularly that ‘consumers must receive the right information, in the right form, at the right time to make truly informed decisions’ about DPC. However, we must not overlook potential unintended consequences for people with disabilities. Many consumers with disabilities are less likely to have access to smartphones or similar devices, making it harder for them to manage DPC access and repayment through digital channels. This digital gap not only reduces their ability to engage with DPC but also increases the risk that key information or opportunities for timely repayment may be missed. Regulations must ensure that no consumer is disadvantaged by the format

or timing of communications, especially those relying on alternative means, so that fairness and accessibility remain at the heart of these reforms. Such means may extend beyond the provisions under 3.44 and 3.45.

**Question 2: Do you agree that our proposed rules for provision of information before entering a DPC agreement are appropriate?**

The proposed rules for providing information before entering a DPC agreement are welcomed, and their scope is sensible. We appreciate the focus on delivering this information in innovative, contextually appropriate formats—especially for critical ‘key product information’. Tools such as self-assessment calculators, for instance, can model late repayments and empower consumers, counteracting less desirable practices like ‘framing.’

However, it is crucial to recognize that even if consumers are well-informed about a single agreement, the real risk lies in the cumulative impact of holding multiple concurrent DPC agreements. The ability to understand one agreement does not protect against the financial strain and confusion that can arise when several agreements overlap. Without measures to address this, consumers—despite appreciating clear information on each DPC agreement—may still find themselves overextended, struggling to keep track of obligations, and ultimately facing financial difficulty.

**Question 3: Do you think that reliance on the Duty could deliver our policy objectives for information provided before an agreement instead? If so, how?**

Whilst the Duty offers essential overarching protection, the additional guidance proposed under the new rules is critical to safeguarding consumer interests. Clear and specific guidance is needed because, in practice, the boundaries between pre-contractual and contractual stages are often blurred. Without this clarity, consumers may be exposed to risks at the very point where decisions are made and before agreements are finalized. Strengthening guidance at these junctures will help ensure that the consumer’s interests are robustly protected throughout the entire DPC process.

**Question 4: Do you agree that our proposed guidance for provision of information to customers during a DPC agreement is appropriate?**

It is encouraging that sections 3.48 to 3.56 recognize the complexity of consumer practices, including the challenges posed by holding multiple concurrent agreements—sometimes across different lenders—and the heightened repayment struggles faced by those with higher DPC debt loads. Here, providing clear information across the suite of agreements with a single provider and identifying aggregate DPC debt load is essential. It is also imperative that the guidance’s focus extends beyond simply helping consumers once they are already in difficulty. The guidance should prioritize proactive measures that equip consumers to anticipate and avoid financial stress before it arises. By ensuring consumers can easily monitor their overall DPC commitments and identify potential problems early, the guidance can help prevent difficulties—not just respond to them—supporting consumers to maintain control and financial well-being.

**Question 5: Do you agree that our proposed new rules on providing information to DPC borrowers who have missed a repayment are appropriate?**

The introduction of new rules and detailed requirements represents a vital step forward. To truly support DPC borrowers who miss a repayment, information must be delivered not only promptly but also with clarity and empathy—empowering borrowers to act decisively. Clear communication of

timelines, consequences, and actionable next steps is essential to prompt immediate engagement and prevent further harm. Timeliness is not merely a procedural issue; it is the linchpin for protecting consumers in the fast-moving world of short-term DPCs. In this respect, while many DPC users will benefit from managing their agreements through device applications, some will not. There needs to be sufficient force in the rules and in the application of CONC 7 provisions to ensure that communication is used through multiple channels, enabling consumers to receive information in a manner that facilitates a timely response.

Our research also suggests that many consumers are unaware of the potential for missed repayments to be reported to their credit file and the significance of defaulting on repayments for their longer-term record. As such, communication concerning missed repayments is critical, especially where consumers have concurrent agreements. They may, in such circumstances, elect to focus on repaying one agreement in full, leaving others unpaid, which may have a significant impact on their credit record. Given this, communication to DPC agreement holders needs to ensure that they appreciate the potential outcomes of nonpayment in the round, and any guidance also takes into consideration the holding of multiple concurrent agreements with a single lender.

Therefore, we strongly urge the adoption of robust guidance on supporting DPC borrowers—including proactive referrals to not-for-profit debt advice bodies. Involving trusted, independent organizations is not only helpful but also transformative, breaking down barriers and encouraging borrowers to seek help long before their financial problems become overwhelming. Early engagement with impartial advisors offers a critical lifeline, providing both reassurance and practical solutions when borrowers need them most.

**Question 6: Do you agree that our proposed new rules requiring firms to give notice before taking certain actions are appropriate?**

We welcome this requirement and believe that providing adequate notice clearly and straightforwardly is crucial. Whilst we appreciate the decision regarding “not propose[ing] any requirements on how, or through what medium” (3.17) and the intended flexibility that individual DPC firms can maintain, this could also pose operational inconsistencies and potentially generate confusion for DPC consumers, especially those utilizing multiple DPC lenders. We are concerned that the latter could create additional risks to DPC borrowers. As recommended previously, specifying a succinct timeline (indicating actions, notice, and possible implications in chronological order) can make complex information easier to digest. Visualization can also help consumers with communication difficulties, learning disabilities, low literacy skills, or those who are visual learners.

**Question 7: Do you think that reliance on the Duty could deliver our policy objectives for our proposed new rules on firms’ communications to DPC customers who have missed a repayment or where a firm intends to take certain actions instead?**

Reliance on the Duty without the outlined supplementary rules is unlikely to deliver the proposed policy objectives fully.

In terms of the application of specific guidance from the Duty, PRIN 2A.5.12 provides a helpful and appropriate gauge to test individual communications, given its focus on potential scope for harm, the requirement to consider customer vulnerability, and the need to ensure proper communication channels are used and that communication complexity is effectively managed to minimise the risk of harm. However, as it has been developed to consider a single communication in isolation (predicated

on the notion that communication focuses on a single agreement/product), it does not address communication across concurrent agreements. As such, these tests need to be applied more cumulatively. This is particularly important in terms of communication complexity, not only in relation to the single message but also to ensure that overload or the provision of multiple dates and decision points/actions does not create paralysis.

**Question 8: Do you agree that applying our current creditworthiness rules and guidance to DPC lending is appropriate?**

The current regulations outlined in CONC 5.2A provide a robust framework for addressing the repayment practices associated with DPC agreements. Specifically, clause 5.2A.12 (3) is significant, as it prohibits the repayment of DPC agreements through additional borrowing. This crucial provision effectively limits the reliance on credit cards for DPC repayments, promoting a more responsible borrowing culture.

In addition, the importance of CONC 5.2A.22, along with the relevant sections under CONC 2.10 and 7.2, cannot be overstated. These regulations emphasize the importance of assessing customer vulnerability in relation to creditworthiness. This focus is particularly relevant considering the disproportionate number of vulnerable customers who fall into high-risk categories, especially among those heavily reliant on DPC. By addressing these vulnerabilities, we can better protect consumers and foster an environment of fair lending practices that do not exploit those who may already be in precarious financial situations.

DPC providers must prioritize the development of a robust response to the concept of a proportionate approach to creditworthiness, as outlined in CONC 5.2A. Our view is that DPC lenders must recognize the significant variation in the value of DPC agreements and leverage this understanding to implement flexible creditworthiness assessments. When operationalized effectively, this will establish a precise mechanism that ensures responsible borrowing practices. We appreciate that DPC lenders have indicated they would prefer a consistent approach to assessment. However, their business model is predicated on the use of financial technology and personalization, suggesting that they have the capacity to render more nuanced assessments of creditworthiness.

**Question 9: Do you have any views on the extent to which our approach to creditworthiness might inadvertently restrict access to DPC for customers who could afford it?**

Given the nature of the DPC model and its reliance on financial technology, there are potential issues with the use of AI in creditworthiness assessments. Specifically, how mechanisms will be implemented to prevent biases from emerging. We are concerned that if biases do exist, some consumers may be treated unfairly or unequally. We note the provisions under 3.88 and the need to “...test these models’ effectiveness in producing responsible and sustainable lending decisions”. We would urge that this overtly identifies the need for DPC lenders to respond to possible AI bias in their models and ensure suitable consideration of a wide range of issues, including overall DPC holdings and repeat lending, as well as a broad and informed view on consumer vulnerability markers.

**Question 10: Could we achieve appropriate outcomes if we relied substantively on the Duty instead (most notably the obligation to avoid causing foreseeable harm to consumers) rather than the creditworthiness rules in CONC 5.2A?**

Whilst the Duty and its obligation to avoid causing foreseeable harm to consumers provides a broad and appropriate principle, the specificity of CONC 5.2A affords a more comprehensive basis to ensure a balance between consumer protection and inclusion.

**Question 11: Do you agree with our proposal to apply our creditworthiness rules to DPC agreements of any value, or do you have views as to alternative approaches to small sum lending (including relying on the Duty)?**

We recognize that DPC agreements can vary significantly in value. CONC 5.2A introduces the concept of proportionality, allowing DPC providers to create differentiated approaches to assessing creditworthiness based on the range of amounts specified in these agreements. It is also essential to consider the total value of concurrent contracts, as some DPC users may hold multiple agreements. Ensuring a proportionate response to creditworthiness involves considering both the value of each agreement, regardless of its size, and its impact on the overall DPC load. This approach is crucial for achieving effective outcomes for consumers.

This does not preclude the use of information obtained in previous dealings, if timely, and the capacity of systems to now consider DPC users' patterns of application, timing, and amounts. Such information will help consider the creditworthiness of a specific application.

**Question 12: Do you agree with our proposal for applying high-level standards and all other relevant Handbook provisions to DPC lenders?**

Yes, we agree with the proposals and the specific plans not to apply particular provisions to offer a proportionate response for lenders that have temporary permission.

**Question 13: Do you agree with our overall approach to regulatory reporting? If not, why not?**

Yes, we agree on the overall approach to reporting.

**Question 14: Do you agree that DPC should be subject to PSD returns? If not, what alternatives are there to requiring firms to submit PSD returns to meet our intentions?**

Yes. The position on PSD returns offers DPC lenders a more consistent and efficient system than deploying more ad hoc requests under Section 165 of the FSMA powers.

**Question 15: Do you agree that we should collect regular, predictable transaction level data? If not, why not? And how would you propose mitigating the risks of not collecting regular, predictable transaction-level data?**

We believe that the FCA should collect regular, predictable transaction-level data to effectively monitor markets, identify potential risks, and introduce proportionate regulatory interventions where needed. This should also help enhance transparency, provide the scope to publish aggregated data, and take action through the identification of any trends that may arise.



**Question 16: Are there areas where firms may need longer implementation times? If so, how do you propose to mitigate any risks posed by a delay in firms providing us with data?**

No. The proposals to tailor implementation times consider the practical requirement of some DPC firms to implement new systems. As noted in the consultation document, many DPC providers will already meet the required reporting standards for the regulated credit products they currently offer.

**Question 17: Do you agree with our proposal to apply our rules in DISP Chapter 1 to DPC complaints?**

Yes. The application of DISP1 Chapter 1 will help ensure DPC users are treated fairly and consistently when pursuing complaints. The outcomes of such complaints will be critical to building consumer trust in the sector and help them appreciate in what circumstances they may have recourse to the Financial Ombudsman.

**Question 18: Do you agree with:**

- **The FCA's proposals to extend the Financial Ombudsman's CJ to DPC activities?**
- **The Financial Ombudsman's proposals to exclude pre-regulation DPC activities from the VJ?; and**
- **The Financial Ombudsman's proposals to expand the scope of the VJ to cover DPC activities carried on after regulation day from an EEA or Gibraltar establishment?**

**If you disagree with the proposals, please provide details in your response.**

We agree with the proposals made.

**Question 19: Do you agree with the FCA's proposals to suspend complaints reporting rules for complaints arising from DPC activities for firms in the TPR until they become fully authorised?**

We believe that the proposal is reasonable and fair, offering clear guidance on complaints reporting for firms operating under the TPR.

**Question 20: Do you agree with our proposal not to extend FSCS cover to DPC activities consistently with the approach to other consumer credit activities? If not, please provide details on why you think DPC should be treated differently.**

We agree with the proposed approach, as it is consistent with the one applied to other consumer credit activities.

**Question 21: Do you agree with our proposals for the TPR?**

The proposals for the TPR are clear and detailed. To support DPC users, providers need to offer clear communication regarding the timing of Regulation Day, particularly in light of the changes between unregulated and regulated DPC agreements. Many DPC users may have agreements that fall into either category around that time. Ensuring that DPC providers assist their users in easily identifying which agreements fall under which provisions would be a valuable addition to the guidance on managing Regulation Day once it is available.



**Question 22: Do you agree with our assumptions and findings as set out in this CBA on the relative costs and benefits of the proposals contained in this consultation paper? Please give your reasons and provide any evidence you can.**

Yes, we agree with the assumptions and findings set out in the CBA. This position builds upon our BNPL research activity over the past five years and our engagement with market data.

**Question 23: Do you have any views on the cost benefit analysis, including our analysis of costs and benefits to consumers, firms and the market?**

We have three observations that add to what has been presented.

Firstly, we must acknowledge the stark power dynamics present in the relationships between dominant DPC firms, such as Klarna, which has considerable brand equity, and smaller merchants. These smaller entities often find themselves reliant on the influence of larger DPC firms to attract traffic and facilitate transactions at crucial points in the purchasing process. This reliance poses a serious risk, as the potential regulation of DPC could disproportionately hinder these smaller traders, jeopardizing their business models and threatening their very ability to compete in an increasingly challenging market. Without robust support, many of these merchants may struggle not just to survive but to innovate and grow, fundamentally altering the competitive landscape.

Secondly, our research (Relja et al., 2024) underscores the profound impact of algorithmic marketing employed by many DPC firms. This technology significantly influences consumer behaviour from the outset of the purchasing journey, creating a landscape where habitual preferences develop in favour of established DPC providers. Merchants are understandably eager to partner with these firms, drawn by the increased loyalty and consumer trust associated with these brands. However, as these entrenched players are likely to transition into regulated DPC firms, they will continue to create formidable barriers to entry for new and emerging competitors. We acknowledge that quantifying such prospective costs is challenging; however, we view this as having significant potential to hinder innovation and perpetuate market monopolization.

Lastly, we raise an urgent concern regarding the handling of product returns, which are overlooked in the current discourse. As identified in the baseline and key assumptions, a significant portion of B2C DPC agreements tie directly to online shopping, particularly in the high-volume apparel sector. While it is understandable that the CBA primarily targets sales figures, the reality is that many consumers utilize DPC as a low-cost, low-risk solution for a 'try before you buy' model. The immediate convenience of accessing goods quickly through initial installment payments often leads to a worrying trend of high return rates. This not only complicates transaction processing and adds substantial costs for both merchants and DPC providers, but it also raises critical environmental concerns tied to the logistics and disposal of returned items. Data from merchants and their representatives must be analyzed to quantify these impacts accurately.

The ramifications of DPC fostering such consumption behaviour extend far beyond the economic sphere; they pose significant challenges to environmental sustainability. Therefore, we hope that future DPC regulations will serve not only to discourage consumers from reckless financial behaviour but also to align with the Government's environmental objectives as outlined in Section 5 of the Environment Act 2021.

## Conclusion

In conclusion, the draft regulation marks a significant step toward protecting consumers in the DPC market. However, further refinement is necessary to achieve an effective balance between consumer protection, market innovation, and ensuring DPC firms leverage their technological capabilities to respond thoughtfully to variations in consumer vulnerabilities. Additionally, DPC providers need to create proportionate responses to creditworthiness assessments in relation to the values requested for individual agreements and the total debt load held by their service users.

We appreciate the opportunity to contribute to this consultation and would be happy to discuss our feedback or provide additional evidence if required. Please do not hesitate to contact us.

Yours sincerely,



**Dr Anita Lifen Zhao**

Associate Professor in Marketing

Swansea University  
Fabian Way  
Bay Campus  
Swansea, SA1 8EN  
United Kingdom

