Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

Telephone: 020 7066 9346
Email: enquiries@fs-cp.org.uk

Maggie Craig
Policy, Risk and Research Division
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

23 September 2014

Retirement Reforms and the Guidance Guarantee

This is the Financial Services Consumer Panel's response to the Financial Conduct Authority's consultation paper 'Retirement Reforms and the Guidance Guarantee'.

The Consumer Panel welcomes the plans laid out for the new guidance service. While we are broadly supportive of the proposals outlined in the consultation paper, we are concerned that the overall intention is to let delivery partners interpret the principle based standards proposed by the FCA. This could mean that guidance looks very different depending on who the delivery partner is.

The standards should not be open to interpretation. A set of standards should be clear in their aims and provide a template for their practical use. The standards should also provide examples of good practice or compliant actions. In other words, there should be no 'grey areas'.

Given that consumers may access the guidance service many times during their lives (as stated in paragraph 4.5) and particularly when accessing different pension pots at different times, it is imperative that consumers experience the same service irrespective of which delivery partner may be providing the service. This will be difficult to ensure without some standardised format across delivery partners. We believe that the FCA should reconsider its pure principle based approach, and instead, balance this approach with prescribing standards where necessary.

We have therefore outlined ways in which the FCA could bolster its approach below.

Q1: Do you have any comments on the proposed standards for the delivery partners?

In our response to the government's consultation 'Freedom and Choice in Pensions', the Consumer Panel stressed that it strongly believed the guidance service should be independent, professional, sustainable, seamless and holistic. We also outlined specific issues which we believed the guidance service should cover. We are pleased to note that the FCA's standards reflect some of our key features.

The standards

Free at the point of delivery: Agreed. This should hold true, not just for the launch in 2015, but for the foreseeable future.

Delivering the guidance: We agree that the delivery partners must deliver the guidance service with due skill, care, and diligence. However, we believe that more prescription is required here. Please see our comment on professional standards below.

Professional standards: Simply stating that delivery partners must ensure that those providing guidance are '***competent and have sufficient knowledge and expertise to deliver the guidance….***' is not enough. We believe that the standards should specify: (a) how many years of relevant experience an individual guide should have, and (b) what qualifications guides are required to hold. A list of acceptable qualifications and awarding bodies should be specified with the requisite flexibility to update these.

We believe that, without a more prescriptive approach, not all partners will necessarily understand how important prior experience and recognised expertise are to this type of service. The Pensions Advisory Service, Which?, Money Helpline and the Life Academy are the only organisations we are aware of that currently have advisers who could deliver this service, and none of these is yet able to provide a complete service as they have different knowledge and skills gaps. Other delivery partners entering this market will need a clear understanding of what is involved.

Communications: Whilst we agree with the sentiment expressed, and understand that this complies with Principle 7 of the FCA Principles for Business, we know that even some regulated firms consistently fail to meet this principle. We believe that, at the very least, the record of the guidance session that will be given to consumers should be the same, irrespective of delivery partner.

Complaints Management: We were surprised at the omission of the Financial Ombudsman Service or the Pensions Ombudsman as adjudicators for disputes that cannot be resolved between the consumer and the guidance delivery partners. Whilst the guidance service is not a regulated activity, these ombudsman services are the only adjudication services that have the necessary expertise and understanding of the financial services industry. For consumers to have full confidence in the guidance service it is essential that a trusted and recognisable dispute service is available.

We believe that complaints management would benefit from more prescription and accountability. The FCA should prescribe the time frame within which service deliverers must deal with first line complaints, before they are escalated to an independent adjudicator. Also, we believe the FCA should require all delivery partners to publish complaints data annually. Complaints data, particularly if contextualised, will give early indications of how the service is faring, and, more importantly, the intelligence gathered from complaints data could be used to drive up standards where necessary.

Guidance input: We believe the FCA should prescribe the format of the input. Effectively, this is the 'fact-find' and it is imperative that the same information is requested, uniformly, irrespective of delivery partners. A good fact-find is not necessarily easy to do, and the FCA can draw on its experience in dealing with regulated firms to develop a suitable document.

Next steps: Good signposting will be crucial and it will be important that all delivery partners signpost to the same organisations in the same way. The experience should be seamless for consumers

Guidance output: As with input, the format of the information provided to the consumer must be uniform. This information will be used by the consumer after the guidance session, particularly when consulting a regulated financial adviser. It is important that regulated advisers can trust the information provided from the guidance session as this should help towards making the regulated session more streamlined, focused and therefore less costly.

Recommendation: We suggest that the FCA should consider the possibility of the delivery partners all using the same online system for recording data and producing records. This means that advisers working for different organisations log in to one guidance system, and all work to the same standards, procedures and processes.

Q2-5: The consumer Panel does not have the requisite expertise to comment in depth on the fee regime or structure. However, we are pleased that the FCA has given this due consideration. It is our strong belief that any fee structure must be sustainable and transparent.

Q6: Do you agree with the proposed content of the signposting information? If not please provide alternative suggestions

We agree entirely with the intention to make rules to require providers to signpost their pension customers to the guidance service. We believe that the quality of how good this signposting is will be one of the main factors contributing to the success or failure of the guidance service. Given this, we agree with the first two bullet points in paragraph 4.7, but have concerns about the third bullet point i.e. Provide the customer with the information they will need to make an informed decision about that pension pot (either with or without use of the guidance). Despite the ABI's Code of Conduct for the Open Market Option, we have seen that over 50% of customers still stay with their current pension provider when they choose an annuity. There are many reasons for this, for example, the wake-up pack being too complicated, and the process for shopping around too onerous to name but two.

One of the reasons the new guidance service was proposed was to ensure that consumers had access to unbiased and independent help before making irreversible decisions about their retirement income. The pension reforms will afford customers more flexibility it is true, but will also provide them with more options to consider and more complexity, making shopping around even more difficult. If pension providers are permitted to provide information to their customers about how they might access their pension pot without the guidance service, this will encourage many customers to do as they do now – simply stay with the provider they have been with for many years, the logic being 'better the devil you know'.

Our recommendation is that product providers and pension schemes provide the factual information customers will need in order to navigate their options, i.e. size of pot, any guarantees that apply to the scheme, any limitations, etc., but firmly point customers to the guidance service in order to discuss the options open to them. If information about options is provided at this point by the pension provider, many customers might avoid the guidance service as yet more red tape and take the default option.

We note that in paras 4.14 to 4.15 there are proposals to use COBS 2.1.1R and the principle to treat customers fairly to prevent the guidance being undermined. We wholly agree with this (see our response to Q10), but we would suggest that if pension providers are permitted to provide all the information customers need in order to make a decision, then by default the guidance service will be undermined.

Q7: Do you have any thoughts on the standardisation of this information in the future?

We think it vital that the information from pension providers and pension schemes is standardised, so that consumers do not get different messages depending on who their scheme provider is.

Q8: Do you agree with the proposal to align the timing of the signpost with the existing timing requirements for wake-up packs?

Yes. We think this is a sensible proposal, certainly while the guidance service is in its infancy. There is likely to be a large surge of demand just after the guidance service is launched, fuelled by media attention and the resulting curiosity this will attract. However, for the guidance service not to fall at the first hurdle, it is vital that demand is controlled in some way. By keeping signposting to the guidance service within the existing wake-up packs it will ensure that those who need the guidance most will be the first in line. We do, believe, however, that the wake up packs will need some streamlining to make this effective.

We would suggest that media communications around the launch of the service stress to consumers that, at launch, the service is primarily for those intending to access their pension pots within the next few months (i.e. not everyone who has just had their 55th birthday).

Q9: Do you agree with the proposal to introduce a transitional provision to ensure that those receiving wake-up packs before April 2015 do not miss out on being signposted to the guidance?

Yes.

Q10: Do you agree with the proposal to add this guidance?

We appreciate the FCA's intention in introducing regulatory guidance is to ensure that the new service is not undermined, however we believe this will confuse the position and is unnecessary.

The FCA has stated that any undermining of the new guidance service would be a breach of COBS 2.1.1R and the principle to treat customers fairly, and therefore if the FCA makes it clear to firms that they would be in breach of its rules should they use tactics to undermine the new service, surely this should be enough.

Supervision teams should also be checking customer services processes put into place after the pension reforms are introduced to ensure that firms are complying with the FCA's requirements.

Q11: Do you agree with the proposal that firms should refer to the availability of the guidance whenever they are communicating with a customer about retirement options?

Yes, we do agree that the guidance service should be referred to in all communications firms have with their customers leading up to retirement.

We believe that consistent messaging is the only way to get across the importance of taking independent guidance before making a decision and if communications are sent to the client in the early stages of the decision making process that understate the need to take guidance, this might lead to less people taking up the offer of guidance at a later, and perhaps more critical stage.

Q12: Do you agree with our proposal to clarify the information provision requirement and add guidance on information that should be included?

Yes. Our suggestion would be that firms all include the MAS leaflet in their communications with clients, so that information on the options open to an individual are coming from an unbiased third party. Information concerning the pension itself should come under the pension provider's name as this is factual information concerning the customer's policy with them.

Q13: Do you have any comments on whether further requirements should be placed on provider behaviour and communications?

Yes. It is imperative that the FCA remains vigilant in supervising how firms are dealing with those customers wishing to access their pension pots.

We do not believe FCA's regulatory guidance will be sufficient in this area. There is already a plethora of regulatory guidance out there and it is not always clear where regulatory guidance sits alongside the Conduct of Business rules. We would suggest, instead, that the FCA relies and invokes on such rules as are relevant in this area (you have already cited COBs 2.1.1R and the principle of treating customers fairly as two examples). Firms have had many years prior to the pension reforms to get this right and have failed to do so. The FCA must not give them any leeway in their behaviour towards retiring customers.

Q14: Do you agree with the proposal to remove the reference to maximum withdrawals and require a general statement about sustainability of income and to add to the guidance that the suitability letter should include a description of the potential tax implications?

In theory, yes, but we remain extremely concerned that retirement income products may continue to be sold without full, or even focused, advice and that this might include products such as income drawdown or flexible annuities. As the FCA is aware, those providing non-advice or execution-only services don't have to provide a suitability report, therefore the proposed guidance in these cases is meaningless.

The only solution we can see to this disparity in legislation is for the FCA to discourage the sale of certain retirement income products unless accompanied by regulated advice. The regime covering the sale of equity release products is a precedent.

Q15: Do you agree with our proposal to remove the reference to maximum withdrawals in COBS 13 Annex 2.2.9R?

We understand that the only change here is to remove the reference to maximum withdrawals, but that a warning about longevity risk (put in simple straightforward terms) will still be included, in which case we agree with this proposal.

Q16: Do you agree that there does not need to be any changes to the Key Features content rules? If you disagree, please explain why.

We agree.

Q17: Do you agree that the projection of an annual income in retirement and a projection of the total fund is still useful and therefore this rule should not be amended?

We do agree that such a projection is important and should be retained. However, currently the projection is given using average annuity rates. If the projection is still based on annuities, then this needs to be made clear to consumers i.e. that a retirement income product that provides a guaranteed level of income has been used and that the level of actual income that can be taken might be more or less than this. Again we would strongly suggest that illustrations are standardised so that consumers receive similar information irrespective of pension provider.

It is widely recognised that current pension statements are complex and not easily understood by consumers. We feel the pension reforms present a good opportunity for the FCA to look in depth at the communications from pension providers to their customers throughout the accumulation period, as well as prior to decumulation, although we accept that this would be a separate project and not part of this consultation.

Q18: Do you agree with the proposal to add a requirement for providers to provide their customers with a description of the possible tax implications when they are applying to access some or all of their pension fund using any of the options available?

Yes.