

Financial Services Consumer
Panel response to:
*'The regulation of
stakeholder pensions', FSA
consultation paper 61*

Stakeholder pensions

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Overall comments

1. This document sets out the Consumer Panel's (the Panel) response to each of the specific questions posed by the consultation paper. However, before we address these questions we have some general points we would like to make.
2. The Panel recognises that due to the constraints imposed by government for the introduction of stakeholder pensions (SHPs) the timetable for this consultation is largely outside of Financial Services Authority (FSA) control. However, the very short consultation period especially during the summer holidays does little to encourage responses and little for FSA's reputation as an open regulator. This is evidenced from the small number of consumer groups that responded to the stakeholder discussion paper published in May.
3. The Panel welcomes Annex A as it clearly explains the responsibilities of both FSA and the Occupational Pensions Regulatory Authority (Opra). However, it also throws into sharp relief the complexity of the proposed stakeholder regime and how far away from the much vaunted one-stop-shop for consumers on complaints and compensation we now are. The

potential consumer detriment of dual-regulation has been a consistent concern for the Panel – it was highlighted in the Panel's response to the original pensions green paper – and we remain concerned about the effects of this complexity on the relatively financially unsophisticated consumers which comprise the stakeholder target group.

4. The Panel intends no criticism of the efforts being made by the FSA on stakeholder pensions and recognises that the problem lies in the increasingly complex nature of pension legislation that now exists.
5. The Panel also has concerns regarding Annex C of the paper. There is no indication of how the impact and probability of the risks were assessed. Our initial reaction is that some of risks to consumers are underestimated, e.g. consumer understanding, but without the explanation of how the assessment was conducted it is difficult to comment. A further concern is the reliance placed on consumer education as a regulatory tool without detailing what this would consist of. The Panel remains unconvinced of the impact of consumer education in the short term.
6. Our final general comment is regarding the regulation of trust-based stakeholder pension schemes (paragraphs 5.44 and 5.45). The Panel considers that trust-based schemes should meet the same requirements to pass on information to members and potential members as contract-based schemes. The statement in paragraph 5.45 that the Department of Social Security (DSS) is “prepared to consider amending their Regulations” in order for this to happen lacks conviction and we would urge the FSA to press strongly for the change to be made.

Specific comments

Section 3 – Compatibility with the FSA’s general duties under the Financial Services and Markets Act 2000

Q 3.1: Do you have any comments on this statement?

7. The Panel does not agree with the statement in paragraph 3.30 that “overall consumers are no less well protected through using the decision trees”. Stakeholder pensions may have some built-in safeguards that are not present in other products but they also create some risks that are not present in other products. Our principle concern is the lack of redress available to consumers who have mis-bought a stakeholder pension as a result of using the decision trees. This includes those consumers who had been “walked through” the tree by a company representative but where the implication of receiving information rather than advice may be blurred to the consumer. Our particular concern is that the group most at risk from this blurring is those on low or uncertain incomes. For this group a stakeholder pension could be an inappropriate purchase due to the relationship with the benefit system, or because other major expenditure, e.g. housing, would be more appropriate than long-term saving for a relatively small pension.
8. However, on the whole the Panel welcomes decision trees as a good response to the issue of low margins which largely precluded the provision of advice and had to be addressed in order for stakeholder to be marketed. The current versions of the decision trees are well designed and have been rigorously tested in consumer research. However, we would emphasise that in our opinion many people will still need to be helped through the trees.

Section 4 - Authorisation

Q 4.1: Do you have any comments on the proposals for handling applications for authorisations and permissions, in particular the way in which the FSA proposes to apply the financial resource requirements?

Q 4.2: Is this regime likely to restrict entry by life insurance companies to the SHP market?

Q 4.3: Do you have any comments on the FSA's proposals for the capital requirements to be applied to banks and building societies and friendly societies?

9. Our only comment on these three questions is that all of the proposals would appear to be sensible providing that there are adequate compensation arrangements for consumers as part of the overall regime.

Section 5 - Conduct of business including decision trees

Q 5.1: Do you agree that SHPs should be treated as packaged products?

10. Yes

Q 5.2: Do you foresee any practical problems over the publication and use of the proposed prescribed decision trees in electronic form?

11. The Panel has a concern here about the introductory text which forms part of the decision trees. This text is an extremely important part of the trees and we have concerns that in electronic form consumers will be less likely to read and absorb the information that it contains. The Panel feels that wherever possible consumers should be urged to print a hard copy of the trees so that the preamble can be more easily read.

12. We fully support the desire for consistency between paper based and electronic versions of the decision tree expressed in paragraph 5.12.

Q 5.3: Do you agree that decision trees should be provided with all SHP key features documents?

13. Yes

Q 5.4: Do you agree with the proposed changes to the contents of the key features document?

14. The Panel agrees with the proposed changes to the key features document (KFD). However, we do not agree with the proposal not to require the delivery of a hard copy KFD as a follow-up to electronic delivery. This concern mirrors that expressed in paragraph 12 above regarding the propensity of consumers to read the introductory text of the decision trees on-screen. This text contains vital information for those on low or uncertain incomes regarding the relationship between pension savings and the benefits system, e.g. the minimum income guarantee, and we worry that consumers will not read and digest the contents of the KFD if they are only shown on-screen.

Q 5.5: Do you agree that trustees and managers should receive specimen key features documents?

15. Yes.

Q 5.6: Do you have any comments on these proposals for projections?

16. The Panel does not feel able to comment on the specific proposals but is concerned about the additional complexity that allowing two different bases of projections (DSS and FSA) introduces. How will consumers be able to compare between different stakeholder schemes if the projections are not on the same basis? We look forward to being kept informed of developments in this area.

Q 5.7: Do you agree that, for direct offer advertisements, reminders should be sent after the transaction has been completed?

17. Yes.

Q 5.8: Do you agree that consumers transacting business as a result of the decision tree process should be sent confirmation with a copy of the relevant decision tree?

18. Yes.

Q 5.9: Do you agree that customers being taken through a decision tree at a distance, for example, over the telephone, should have the decision trees in front of them at the time?

19. Yes. It is imperative that consumers have a hard copy of the decision tree in front of them as they are being taken through the tree. The current wording of paragraph 5.36 is unclear, as the phrase “adequate evidence” is not defined. This lack of clarity raises a host of questions, what would constitute adequate evidence and what would not? Is it the intention to allow firms themselves to decide what is adequate? How is this to be supervised?

Q 5.10: Do you have any comments on the proposed rules and guidance on standards of advice in respect of personal pensions, FSAVCs and group personal pensions?

20. The Panel considers that the current proposal for firms promoting group personal pensions (GPPs) to establish that their scheme is more suitable for most of the employees than a stakeholder scheme does not go far enough and leaves a loophole through which expensive GPPs could be sold instead of cheaper stakeholder schemes. Under the proposed method firms will, in all probability, be comparing a GPP with an employer’s contribution of at least 3% with a stakeholder scheme with no employer’s contribution. If the employer is prepared to contribute to the GPP why not to the stakeholder? Therefore the Panel calls for this proposal to be amended so that any comparisons between GPP and stakeholder is done on a like-for-like basis, i.e. with the same level of employer’s contribution on each.

Q 5.11: Do you agree with the conclusion on differential pricing and types of products?

21. No comments.

Q 5.12: Do you agree with the proposals on pension transfers and record keeping?

22. Yes.

Q 5.13: Do you agree with the conclusion set out in paragraphs 5.49 and 5.50?

23. Yes.

Section 6 – Training and Competence

Q 6.1: The FSA does not propose to amend the existing rules for advisers to take account of SHPs. Do you agree?

24. Yes.

Q 6.2: Do you agree it is appropriate to make employees who oversee those who take customers through FSA decision trees subject to specific Training and Competence requirements?

25. Yes.

Q 6.3: Do you think there is justification for requiring worksite presentations to be given only by qualified advisers?

26. The Panel believes that only qualified advisers should be able to give worksite presentations. Our view is that because of the very direct relationship that exists at these presentations there is a real danger that unqualified representatives will stray, inadvertently or not, over the line from information to advice. Indeed in many worksite presentations the employees will wait until the end and then ask questions that are specific to their circumstances and which would require advice. There is also an advantage to firms for using qualified advisers as it opens up other potential sales opportunities.

Q 6.4: Do you think there is justification for requiring activities away from office premises to be undertaken only by qualified advisers?

27. No. The Panel would like to see use made of the “helper” network that already exists across the country, e.g. Citizens Advice Bureaux, and which is already familiar and trusted by those within the original stakeholder target group. However, these organisations will require help and guidance

as to what they are allowed to do and the materials, e.g. the decision trees that they should use.

28. The helper organisations which could potentially explain decision trees include National Association of Citizens Advice Bureaux, Citizens Advice Scotland, Northern Ireland Association of Citizens Advice Bureaux, Federation of Information and Advice Centres, Money Advice Association, Money Advice Scotland, and the Birmingham Settlement. All of the agencies are linked to and through the Money Advice Trust.
29. Any practical help given to consumers via these organisations would have to be through their local branches, bureau, centres etc. Therefore if their members become involved in helping people through a decision tree, a substantial training programme will be required in order to ensure that helpers do not breach the thin line and move over to advice giving. The Money Advice Trust could act as a conduit to ensure that any training, in respect of stakeholder pensions sits with other training requirements within the money advice sector. However, the sector is under funded and would require additional financial resources in this respect. There needs to be a commitment either from government or FSA that this help and guidance will be provided and that money and resources will be found to facilitate this.

Q 6.5: Do you agree that functions connected with the administration of SHPs should be subject to Training and Competence requirements?

30. Yes.

Section 7 – Supervision

Q 7.1: Do you have any comments on our proposed supervisory approach?

31. The Panel is concerned about the boundary between information and advice and how this boundary is to be supervised in order to identify cases that have moved from one to the other without the necessary safeguards.

We therefore welcome the commitment to mystery shopping as a regulatory tool and request to be kept informed of the results in the future.

Section 8 – Consumer education

Q 8.1: Do you have any comments on the FSA’s plans for consumer information and education? Is there anything you would particularly wish the FSA to take into account in developing these plans further and implementing them?

32. The Panel is generally in favour of the FSA’s plans but it should be recognised that consumer education is a long-term tool and not a short-term palliative. We have some concerns that perhaps too much is expected of consumer education over the next few years.
33. We welcome the distribution of information to consumer bodies mentioned in paragraph 8.2 as it is very important that the FSA’s consumer education programme includes the education and training of the various consumer helper organisations that regularly help and assist people with money related matters. See paragraph 28 for details of these organisations. Provision of information targeted at the helper organisations will also play a part.

Section 9 – Complaints

Q 9.1: Do you agree that the arrangements for handling consumer complaints should mirror the split of regulatory responsibilities? Do you have any other comments on our suggestions for handling complaints about pensions?

34. The Panel has always been enthusiastic about the benefits to consumers of a one-stop-shop for enquiries, complaints and compensation. Unfortunately the complex nature of pension legislation does not appear to allow this to happen. This is deeply regretted but if it is inevitable that the handling of complaints has to mirror the split of regulatory responsibilities it is vital that easy links between the various regulators are established so that the process appears seamless to the consumer.

Section 10 – Compensation

Q 10.1: Can you identify any other circumstances in which claims on the compensation schemes might arise in respect of SHPs. Do you have any comments on our suggestions for handling compensation claims?

35. The Panel considers that the details of the compensation arrangements for stakeholder pensions are still too sketchy to comment upon. However, our overriding concern here is to ensure comparability between individuals and their entitlement to compensation no matter how they came to a SHP or whether it was a trust-based or contract-based scheme.

PART II

36. The Panel has no comments on Part II of the consultation paper.

About the Financial Services Consumer Panel

The Financial Services Consumer Panel was established by the Financial Services Authority (FSA) in December 1998 to ensure that consumers' interests are represented in the development of the regulation of financial services. The Panel is independent of the FSA so that it can: advise the FSA on policy as it evolves, monitor the FSA's effectiveness in meeting its statutory objectives towards consumers, review developments in financial services where they impact on consumers, and publicly report its findings and recommendations. It can raise its own concerns and has resources to carry out its own research.

Who is on the Panel?

Barbara Saunders (Chairman)

Barbara is an independent consumer consultant. She was previously Chairman of the Council of the Insurance Ombudsman Bureau and a member of the Personal Investment Authority Board. Among other public and professional appointments she is a Non-Executive Director of the West Hertfordshire Hospitals NHS Trust and a member of the Architects Registration Board.

Colin Brown (Vice Chairman)

Colin is an independent consultant specialising in consumer affairs. Previously Deputy Director of Research at Consumers' Association and Senior Fellow at the Policy Studies Institute, he has over 20 years' experience of social and consumer research.

Jean Gaffin

Jean was Chairman of the Advisory Committee on Telecommunications for Disabled and Elderly People (until 31.12.1999) that provides advice to the telecommunications regulator, OFTEL, and is a Non-Executive Director of Harrow & Hillingdon Healthcare NHS Trust. She has extensive experience of working on behalf of vulnerable consumers. Previous positions include: the Executive Director of the National Council for Hospice and Palliative Care Services and Chief Executive of Arthritis Care.

Yvonne Gallacher

Yvonne is Chief Executive of Money Advice Scotland, which was set up by the Scottish Consumer Council. She has over 10 years experience of consumer credit/money advice issues and of working with vulnerable consumers in a variety of roles, including debt counsellor, trainer and manager. She is Co-Director and Secretary of the Government funded Lead

Body for Advice, Guidance, Counselling & Psychotherapy (CAMPAG). Yvonne is a member of the Scottish Consumer Council.

Joan Harbison

Joan is Chief Commissioner of the Equality Commission for Northern Ireland. She was Chair of the Commission for Racial Equality for Northern Ireland since its inception in 1997 and is a former Chairman and member of the Executive Committee of the Northern Ireland Association of Citizens' Advice Bureaux. She has held a number of public appointments including being Vice Chairman of the Eastern Health and Social Services Board and the Northern Ireland Standing Advisory Commission on Human Rights and was a founding member of the Human Fertilisation and Embryology Authority.

Gerald Lanchin

Gerry is a Vice President of the National Federation of Consumer Groups. He is a former Under Secretary of the Consumer Affairs Division of the Department of Trade and Industry and author of "Government and the Consumer". His involvement in consumer protection includes being a former Council Member of Consumers' Association and of Consumer Congress Committee. He was the first chairman of the Direct Mail Services Standards Board and a member of the Data Protection Tribunal for 10 years.

Nick Pearson

Nick is the National Money Advice Co-ordinator for the Federation of Independent Advice Centres. A career spent in advice organisations including the National Association of Citizens' Advice Bureaux where he was manager of the Money Advice Support Unit, he has particular experience of credit, debt and personal finance issues and of working with vulnerable consumers.

Richard Smethurst

Richard is Provost of Worcester College, Oxford University; he chairs the Training Standards Panel of IMRO, of which he is a non-executive Director. He has served as an economic adviser in Whitehall, and the Monopolies and Mergers Commission, where he was Deputy Chairman. Richard lectures widely on financial and economic topics to businessmen and adult education groups. He is President of the National Institute of Adult Continuing Education.

Jane Vass

Jane is an independent consumer researcher specialising in financial services. She was previously Head of the Financial and Economic Research Group at Consumers' Association and is still author and editor of a number of Consumers' Association publications in addition to other research, including

work for the National Consumer Council. Her current committee memberships include: Council of the Ombudsman for Estate Agents, the Inland Revenue Tax Law Rewrite Project Consultative Committee and the FSA Training Advisory Panel.

Dave Watts

Dave is a partner in a media business which is involved in publishing, editing and journalism - personal finance plays a large part in this. He is a former editor of "Which?" and "Money Which?" and former Assistant Director of Consumers' Association. He was also a policyholder representative on the Insurance Brokers Registration Council for nine years.

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