

Financial Services Consumer  
Panel response to:  
DSS Stakeholder Consultation  
Brief 4 – *Regulation, Advice  
and Information*

## Stakeholder Pensions

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DSS Stakeholder Consultation Brief 4 – Regulation, Advice and  
Information

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## Introduction

1. The Financial Services Consumer Panel (the Panel) has the following comments on the DSS proposals for stakeholder pensions regulation, advice and information. All paragraph numbers refer to those contained in the consultation brief.
2. The Financial Services Authority (FSA) established the Panel to advise the FSA Board on the interests and concerns of consumers and to report on the FSA's effectiveness in meeting its consumer protection and public awareness statutory objectives.

## Overall comments

3. The Panel considers that the differentiation made between advice and information in this paper will not be readily understood by the stakeholder target group and that there is a real danger that they will think they are receiving advice when they are not. Our work on the mortgage code suggests that people simply do not understand the difference between generic and specific advice.
4. As a general point, there is also a concern that some of the proposals seem to ignore the nature and circumstances of the target group, i.e. largely unsophisticated investors with little spare cash. One of the principle aims of the proposals must be to make stakeholder pensions understandable and affordable to their original target market not just the more sophisticated investors or higher earners.
5. Thirdly for some of the target group saving for a pension may be unsuitable even if a potentially well managed stakeholder scheme is on offer. The draft decision tree partly recognises this (in terms of income) but takes no account of other circumstances that may also have an effect on suitability, e.g. level of indebtedness, number of dependant children etc.

## Paragraph 11

6. The Panel recognises that the Government believes that its proposed regulatory split between Opra and FSA is correct but has a number of concerns regarding this division of responsibilities and its potential implications for consumers. Firstly, the need to ensure that clear information is given to members as to which regulator is responsible for

which area cannot be over-stressed. Pensions are confusing for many consumers at the best of times and any unnecessary complications must be avoided. It is incumbent upon both regulators to ensure that they have clear and effective communication channels between each other and just as importantly to ensure that the information to the public about roles, responsibilities and particularly the different complaints handling arrangements is clear.

7. It must also be recognised that the regulatory approach of Opra and FSA are fundamentally different. In so far as the activities of the one may expose actual or potential problems within the other's scope, it is important that they share relevant regulatory information including that which may otherwise be commercially confidential. The Panel considers that the gateways for sharing such information must be included within the legislation.
8. Furthermore, the Panel considers that this regulatory split means that either there should be provision for joint investigation between the FSA and Pensions Ombudsmen, or for the appointment of a leading ombudsman to deal with aspects where a complaint raises issues concerning both. Consumers should only have to deal with one complaints body.
9. There may also be value in considering whether the role of OPAS could or should be widened so it can provide advice regarding problems with stakeholder schemes, or whether the FSA's role in providing information should also encompass Opra's governance arrangements. It is vitally important that wherever the public tries to access the regulator, they are given clear information and not passed from pillar to post.

## Paragraph 19

10. The Panel welcomes the Government's commitment to enable individuals to make decisions in relation to stakeholder pension schemes that take full and proper account of their circumstances and to ensure that they are properly informed about any scheme they may consider joining.

## Paragraph 25

11. It would be helpful in principle to specify the advice and other services that the standard stakeholder charge should cover. Indeed there is a need for clear disclosure requirements to enable comparisons and ensure that

those who solely have access to execution only arrangements have sufficient information to make a reasoned decision.

### Paragraph 27

12. The Panel considers that all of the information listed here should comprise the *basic* requirement of what each and every stakeholder scheme should provide for prospective members and that the rules should reflect this. It is unacceptable, and potentially confusing for consumers, to leave it to the scheme providers to interpret the phrase “typically include”.

### Paragraph 28

13. Unfortunately, in spite of what this paragraph says, the current version of the decision tree does not help people decide how much to contribute. The Panel also feels that the current decision tree is so basic as to be of little use other than for those who should not be contributing at all. The decision tree needs considerably more work before it could be considered a useful tool for consumers with a wide range of differing personal circumstances. However, the Panel welcomes the intention to conduct further research regarding the usability of an enhanced design amongst consumers.

### Paragraph 29

14. The Panel strongly endorses the concern in the second bulletpoint (*“a risk that the decision tree would over-simplify issues, leading some people to make an inappropriate choice”*) which it highlighted in its original response to the Green Paper proposals. Indeed, the draft tree included in the consultation brief looks as if it has fallen into this trap.

### Paragraph 31

15. The Panel has the following suggested improvements and comments regarding the draft decision tree.

- Firstly, the tree needs to be supplemented by more detailed tables which help people assess what they can afford to contribute, and from where to obtain information about any other pension arrangements they may have.

- The tree should also give far more emphasis to an individual's *overall* circumstances, e.g. level of savings, level of indebtedness etc, rather than concentrating solely, as at present, upon their current level of income.
- The sign posting to seek advice is weak, since those on low incomes are unlikely to have an adviser and will be unlikely to afford independent financial advice. Schemes should be required to make advice available in some form. The end boxes of the tree should be linked to more specific options, i.e. names and telephone numbers of where to go for further information or advice, otherwise it is unlikely that consumers will have the interest to find out for themselves how to progress.

### Paragraph 32

16. The Panel considers that there must be standardisation of the basic information on all trees defined in rules otherwise a proliferation of different styles and formats are inevitable. However, companies should be allowed to supplement the basic information with relevant scheme specific information subject to existing laws on advertising – i.e. legal, honest, truthful and not misleading. This must be backed up with a threat of regulatory action if companies obfuscate the key information.

### Paragraph 35

17. The Panel welcomes the proposal that the cost of additional information should be included within overall scheme charges.

### Paragraph 40

18. The Panel considers that this proposal has the potential to lead to scheme providers charging for all aspects of advice and is therefore not acceptable.

### Paragraphs 42-44

19. On balance the Panel considers that all-inclusive arrangements for advice are preferable because the target group customers are of limited means and will not be able to afford additional fees. It also feels that without inclusive arrangements there is a serious risk of mis-selling to those on

very low incomes as there will be no incentive to give appropriate advice to these people.

20. On the other hand, provided the legislation states clearly what generic information and specific advice must be provided within the charge limit, it could be left to competition to determine the level of fees for personalised advice above and beyond this. The Panel also recognises that the margins on stakeholder schemes may be so small that it may not be economic to provide any advice even if based on focussed fact finds and simplified suitability tests.
21. The Panel considers that the inclusive option would be more easily understood by consumers and safer for both firms and customers but recognises that it may not be feasible for all providers to deliver within the proposed charging structure. In order for the stakeholder concept to be successful there has to be a critical mass of providers and schemes willing to participate in the market. In the end the Government needs to decide which of the two options to adopt based upon the likely impact upon the numbers of schemes made available to consumers. If the inclusive option is likely to result in a critical mass of schemes being available then it should be adopted.

### Paragraph 45

22. The Panel welcomes the proposal that if it is felt necessary to allow separate charges for additional advice they should be in the form of fees. However, having welcomed the principle, the concern remains that low earners are unlikely to be either willing or able to pay the fees that an IFA would normally charge. Will scheme providers be willing to partly subsidise the cost of specific advice?

### Paragraph 46

23. It is unclear whether this paragraph envisages appointment of promoters other than the scheme providers. If so, this seems at odds with the proposals contained in the stakeholder consultation brief on governance, which expects providers to start-up and trustees to follow.

### Paragraph 48

24. The Panel reiterates a point made in our initial response to the Green Paper, that it is undesirable for employers to act as “introducers” because of the potential conflicts of interest that arise. There may well be

monitoring, enforcement and cost-effectiveness challenges for FSA to be faced in the light of this.

## Paragraph 51

25. Finally, the Panel welcomes the proposal to extend the “cooling-off” period to include those who join stakeholder schemes on the strength of information and generic advice.

## Conclusion

26. By way of conclusion the Panel would reiterate its concerns expressed in the opening paragraphs of this response:

- that the difference between information and advice will not be readily understood by the target market;
- that some of the proposals seem to ignore the nature and circumstances of the target group, i.e. largely unsophisticated investors with little spare cash;
- that one of the principle aims of the proposals must be to make stakeholder pensions understandable and affordable to their original target market not just the more sophisticated investors or higher earners.
- that for some of the target group saving for a pension may be unsuitable even if a potentially well managed stakeholder scheme is on offer. Any decision tree should take account of a range of personal circumstances that may have an effect on suitability, e.g. income, level of indebtedness, number of dependant children etc.

## About the Financial Services Consumer Panel

The Financial Services Consumer Panel was established by the Financial Services Authority (FSA) to advise the FSA Board on the interests and concerns of consumers and to report on the FSA's effectiveness in meeting its consumer protection and public awareness statutory objectives. There are eleven members of the Panel representing a broad range of consumer interests. The Panel is independent of the FSA – it can raise its own concerns, initiate its own research and publish its own reports.

### Who is on the Panel?

#### Barbara Saunders (Chairman)

Barbara is a public interest member of the PIA Board. She is an independent consumer consultant and past Chairman of the Council of the Insurance Ombudsman Bureau. Among other public and professional appointments she is a Non-Executive Director of the St Albans and Hemel Hempstead 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 is Chairman of the Advisory Committee on Telecommunications for Disabled and Elderly People that provides advice to the telecommunications regulator, OFTEL, and 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 has been 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 former member of the Human Fertilisation and Embryology Authority.

### **Noel Hunter**

Noel is County Trading Standards Officer for Warwickshire. A National Council member of the National Consumer Council, he also chairs the Management Board of the Institute of Trading Standards Administration and is an adviser to the Local Government Association.

### **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, the PIA Training Advisory Group 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.

## **How to contact the Panel**

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