

**PLSA RESPONSE: ADVICE GUIDANCE  
BOUNDARY REVIEW – PROPOSALS FOR  
CLOSING THE ADVICE GAP**

28 February 2024



## **ABOUT THE PENSIONS AND LIFETIME SAVINGS ASSOCIATION**

The Pensions and Lifetime Savings Association (PLSA) is the voice of workplace pensions and savings. We represent pension schemes that together provide a retirement income to more than 30 million savers in the UK and invest more than £1.3 trillion in the UK and abroad. Our members also include asset managers, consultants, law firms, fintechs, and others who play an influential role in people's financial futures. We aim to help everyone achieve a better income in retirement.

## EXECUTIVE SUMMARY

The PLSA welcomes the opportunity to respond to the FCA's Advice Guidance Boundary Review (AGBR). Our response focuses on support for pension and retirement decision-making, rather than general investment products, and covers considerations from our members who are both FCA regulated and those who are not, including trustees of occupational pension schemes.

### CONSIDERATIONS FOR TRUSTEES OF OCCUPATIONAL PENSION SCHEMES

- Trustees increasingly wish to offer their members more support with retirement decisions, including through decumulation solutions. The targeted support proposal would be useful for trustees to help achieve this. We urge the FCA to work with TPR to refine joint guidance to make clear how a solution such as targeted support might be applied by trustees.
- As per DWP plans, pension schemes will soon have an obligation to provide decumulation services on a default basis. Where schemes have a partnership arrangement to provide a decumulation service – and a transfer without consent would take place, possibly to an FCA regulated provider – this might constitute as arranging a regulated activity, which would breach FCA rules. The FCA must provide clear guidance explaining how trustees can provide decumulation services without breaking these rules, possibly through exemptions of approved retirement solutions.
- It could be beneficial for trustees to have access to information about the other pension entitlements of their members, particularly where the consolidation of multiple pots could lead to a better default solution. As it stands, this would constitute a more holistic form of advice, so consideration should be given to what information trustees could be allowed to access to best serve their members.

### CONSIDERATIONS FOR FCA REGULATED FIRMS

- Additional clarification detailing scenarios where FCA regulated firms might provide further guidance to consumers could be useful, though this is unlikely to “move the needle” in terms of encouraging firms to move close to the boundary.
- Targeted support would enable firms to broaden the support they provide to consumers, and PLSA members are in favour of this. It will be important to utilise targeted support for both wealth accumulation and wealth decumulation decisions. Additional clarification will be needed on how best to communicate this support to consumers, how to avoid product bias, and how to fund this without explicit charges to consumers (while avoiding risks associated with cross-subsidisation). Our members predominantly see targeted support as a service offered to customers within an existing product, e.g. guidance on contribution or withdrawal rates.
- Simplified advice is another viable tool that could help consumers make important financial decisions. While we agree that wealth accumulation products should be within the scope of simplified advice, we do not entirely agree that pension decumulation decisions should be excluded. Additional consideration for what might fall within simplified advice is necessary. Further, to avoid barriers to uptake, consumers should have the option to pay for this service from their funds under management, rather than incurring an explicit cash charge which they would need to pay up front.
- We're pleased that the AGBR considers interactions with the Privacy and Electronic Communications Regulations (PECR). It would be beneficial if under PECR the soft opt-in could be applied to auto-enrolled customers so that emails deemed as marketing could still be sent. It would also be beneficial for the direct marketing guidance of the Information Commissioner's Office (ICO) to be amended so that the definition of 'direct marketing' excludes certain forms of communication.

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## INTRODUCTION

It is well understood that many consumers are not seeking or receiving useful – and often straightforward – financial support that could benefit them. This “advice gap” could be happening for several reasons. Consumers may have concerns related to either the cost or the quality of the support they receive, or they may simply not know where to find help.

For firms, there is a wariness of unintentionally crossing over from “guidance territory” – which excludes personalised financial recommendations – into “advice territory,” which requires specific authorisation.<sup>1</sup> Without meeting the necessary regulatory requirements to provide advice, if a personalised recommendation is made, firms risk legal liabilities, regulatory sanctions, or reputational damage.

The FCA’s Advice Guidance Boundary Review (AGBR) is a welcome opportunity to revisit the supply side of this equation, so that firms can feel confident in providing support to consumers and, ultimately, help them achieve better financial outcomes.

The PLSA has previously called for greater clarity on the advice/guidance boundary to help pension schemes and employers have more confidence – both when giving guidance and in working with financial advisers – in [our response to the DWP's July 2021 consultation](#) and in [our resource for employers](#), which includes background information and case studies on what is currently possible within the boundary.

Although this AGBR is specific to FCA regulated firms, it also includes a section on considerations for pension scheme trustees. As members of the PLSA fall into both camps – some are FCA regulated and others are not – our response covers considerations for each.

Prompting individuals when ‘people like them’ might benefit from a certain financial action – as with targeted support – or offering straightforward, one-off advice in specific scenarios – as with simplified advice – are both strong proposals within the AGBR for closing the gap, if additional clarifications are made. We urge the FCA to consider how these solutions could also be applied by scheme trustees. Further, given that schemes will soon likely have an obligation to provide default decumulation options to their members – per DWP plans – this is an area of particular focus within our response.

Currently, without regulatory change, trustees will be required by law to do something that could breach FCA rules – like signposting members to FCA regulated drawdown products. In addition to clarification on this issue, we also request that the FCA provide further insight on partnership arrangements between trustees and FCA regulated third parties, including what could constitute commercial benefit for trustees.

Consumers – regardless of the regulatory umbrella that the firms and financial products they use may fall within – deserve the same level of financial support. Creating streamlined policy solutions across regulatory bodies is not only sensible, but also necessary to ensure that everyone – whether they fall within a trust-based pension scheme or not – have high-quality and equal support throughout both the accumulation and decumulation stages of their retirement journey.

Our specific responses to the questions posed in the AGBR are detailed in the following section. We suggest reading the remainder of our response in its entirety, while referring back to certain answers as necessary. Please contact Krista D’Alessandro, [krista.dalessandro@plsa.co.uk](mailto:krista.dalessandro@plsa.co.uk), and Ruari Grant, [ruari.grant@plsa.co.uk](mailto:ruari.grant@plsa.co.uk), with questions or concerns.

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<sup>1</sup> <https://www.fscs.org.uk/globalassets/industry-resources/research/fscs-consumer-research-attitudes-towards-financial-advice-jan-2023.pdf>

## CONSULTATION QUESTION RESPONSES

### CHAPTERS 2 & 3: THE ADVICE GAP & FURTHER CLARIFYING THE BOUNDARY

Q1: In your view, do any of the proposals outlined in this paper adversely affect different groups of consumers and why?

Q2: Is there a role for the three proposals (further clarifying the boundary, targeted support, and simplified advice) outlined in this paper? Could these work alongside existing forms of support? When responding, please include how the proposals would (or would not) work alongside each other.

Q3: Are there any other proposals that we should consider to help close the advice gap and how can we support the provision of more guidance? Please outline your proposal in as much detail as possible.

Q4: Do you think that further guidance would provide more clarity to enable firms to get closer to the boundary? What scenarios, if any, do you think could be set out in FCA guidance? Is guidance needed on the scenarios in Chapter 3? Would there be any appropriate cases for Handbook rules rather than guidance being used?

Q5: In your view, is there value in simplifying existing guidance? If so, what are the key relevant areas of PERG and other guidance that the FCA should focus on?

The discussion paper (DP) rightly includes a section related to trustee considerations for closing the advice gap. There must be equal consideration for consumers that fall within occupational pension schemes, and we encourage the FCA to work closely with the DWP in fleshing out these proposals to ensure positive outcomes for this group.

We agree that there is a role for the three proposals within the DP to help close the advice gap, not only for FCA regulated firms, but also as they could apply to trustees charged with overseeing occupational pension schemes (discussed under Q34 and Q35). Further consideration for technological interventions that could help lessen the advice gap should be developed.

The DP provides several examples of guidance that firms can offer consumers without straying into advice, which is positive. Further clarity on the distinction between the examples provided and targeted support – where there is overlap – would be helpful.

Further, PLSA members have indicated that additional guidance detailing scenarios where regulated firms might provide additional financial support could be useful. However, general feedback indicated that this type of clarity is unlikely to “move the needle” in terms of getting firms closer to the boundary. This type of guidance has been provided in the past without significant impact, as firms remain unwilling to move beyond the provision of basic guidance so that they do not unintentionally cross the boundary.

The proposals under targeted support and simplified advice could help move firms towards the boundary by allowing for prescribed, targeted outreach to consumers in specific instances; however, the FCA will need to provide additional clarifications on each for these to prove effective.

Finally, we are calling for specific clarification from the FCA on relevant areas of PERG. [PERG 8.28](#) clarifies that “simply giving information without any comment or value judgement on its relevance to decisions which an investor may make is not advice.” This would mean that providing certain information under targeted support (such as options for retirement products) would still fall under guidance as long as it is communicated in a way that does not apply judgement. Clarification from the FCA on examples of this communication would be helpful, to ensure that any options presented to a consumer are not in breach of this rule.

[PERG 8.23](#) applies certain parameters around regulated activities, specifically what constitutes a financial promotion. These, however, are set out regarding FCA regulated firms, so where occupational pension schemes partner with third-party providers to offer certain retirement products, it would also be helpful to clarify what does and does not constitute a financial promotion.

## CHAPTER 4: TARGETED SUPPORT

Q6: Do you support the concept of targeted support and do you support developing a regulatory framework to deliver it? If not, why not? Are there any key features (in addition to those discussed below) that you believe targeted support should include?

PLSA members are generally in favour of the concept of targeted support. The rationale for this proposal is evident, with the DP explaining clearly the need to address the advice gap that exists for most savers (or those that do not take holistic advice, which typically involves a cost and requires firms to have specific regulatory permissions).

Additionally, PLSA members are particularly interested in how this type of support could be offered by trustees of occupational pension schemes, which we discuss in depth in our response to questions 34 and 35.

The DP rightly notes that not only are firms in possession of a considerable amount of information on their customers, but technological innovations have improved their ability to use this to better understand an individual's financial circumstances. The concept of targeted support seeks to leverage consumer data, so that firms may make certain suggestions or recommendations specific to individuals, which in turn could improve their financial outcomes. However, it is important that consumers are aware of and allow for their data to be used.

Relatedly, it is worth noting the role that digital innovations will play in the future. If the real time, integrated data that firms hold on their customers is factored in – including, in some instances, across different financial products – the value of targeted support could be even greater. However, it is important to bear in mind both PECR considerations (further discussed in questions 31 and 32), which gives people certain privacy rights in relation to electronic communications.

A regulatory framework for targeted support will need clear parameters, for instance, defining what limited data can be used by the provider, both so that high standards are set and maintained and so that savers have confidence in this service. However, the level of understanding consumers would be expected to have needs clarification.

Paragraph 4.10 of the DP states that consumers “would need to understand what this new type of support is, and especially how it is separate and distinct from simplified and holistic advice.” While we agree that savers should be conscious that they are receiving targeted support (so that they know that this is distinctly *not* an individualised recommendation, but rather, more generalised information for ‘people like them’), it is unrealistic – and in most cases, unnecessary – for savers to understand the technical, regulatory differences between guidance, targeted support, and simplified or holistic advice. Our members have also suggested that targeted support might be of best use as the default option within products, without relying on customer choice, in which scenario a concise explanation of the nature of the guidance would be required at the outset.

The distinction between these terms is the domain of the industry and differentiation between guidance and advice is already poorly understood by savers themselves. Adding more terminology to this equation will only create additional complexity for savers, when the ultimate goal of this work is to make financial support easier to understand and access.

Where savers do want a personalised recommendation, they should be signposted to other, credible resources to access this, as this would not fall within the targeted support arena.

Q7: What types of firms do you think would be well placed to provide targeted support?

Q8: Do you think there should be restrictions on the types of firms allowed to provide targeted support, and why?

The primary firms that we consider will take advantage of the targeted support regime will be FCA regulated retail banks, life insurers, and platforms who operate on a direct to customer basis. It will also be of particular use to Self-Invested Personal Pension (SIPP) providers and other private pension providers offering investment pathways, as this may assist in designing those solutions. Some of our members have also suggested that targeted support may be a suitable service for charities providing debt advice and other quasi-financial welfare support.

Although occupational schemes would not be within the scope of FCA targeted support, defining a similar framework for them – as detailed in our response to questions 34 and 35 of the DP – would be highly beneficial as trustees seek to provide more guidance to their members.

The DP notes in 4.12 that “as it is important consumers understand targeted support is different from advice, it is not clear such a service could be provided by a financial advice firm.” Given the remit of regulated advice is similar to that of targeted support – though regulated advice typically has much greater detail and includes personalised recommendations – it may be that most advisers opt to stick to the former.

However, we do not agree that advisers should necessarily be excluded from offering targeted support, purely to clarify the distinction between the two. Some of our members have suggested that the two forms of support may fit well together and could be used in conjunction in certain circumstances, and now would be too early a stage to limit such offerings.

Should targeted support become available and permissible for SIPP providers and private pensions, which fall under the regulatory umbrella of the FCA, it would also make sense for a similar level of support to be offered through employers in occupational pension schemes, without trustees having the fear of straying into financial advice. If, for example, trustees are soon expected to provide default decumulation options for their members, it will be necessary for regulations across the FCA and TPR to not only align (as many decumulation products are likely FCA regulated), but also to clearly specify how these actions – and other actions that may qualify as targeted support – are permissible.

Q9: Do you agree that the scenarios outlined are appropriate for a new targeted support regime? Please suggest any other specific scenarios where targeted support might be appropriate and could benefit consumers.

In general, if saver harms can be lessened through nudges from firms based on limited information, this would prove beneficial. There are several scenarios outlined in the DP that would fall within this scope, including support to non-investors, support for wealth accumulation decisions, and support for wealth decumulation decisions. These scenarios are suitable for a targeted support regime, with each clearly addressing potential saver harms related to inaction. One additional scenario where further detail could prove useful is in the case of a saver who could benefit from personal tax advice.

### Supporting Wealth Accumulation Decisions

Scenario b.ii. (page 24) details the scenario where a customer is saving into their pension at a low rate, which could potentially result in an inadequate retirement income. We agree that accumulation nudges, including suggesting specific contribution rates for an adequate retirement income (based on, say, the PLSA [Retirement Living Standards](#)), would be a helpful service, as it could ultimately help savers both set their retirement objectives and reach them.



The scenario in the DP raises important questions about the specific data a provider might use to give this type of targeted support. Say, for instance, the saver has several pension pots, but only one of which is being considered in this assessment. Without access to this wider information, it will be difficult to assess the retirement outcome of that individual. However, if the limited data of that provider indicates that a consumer may be at risk, it is still important to notify them of this, caveating that they should consider any other retirement savings they may hold.

Scenarios b.i, iii and iv would be of similar value, and helping savers access better value options – as well as investment options better tailored to their general investment horizons – are areas firms would like to provide more guidance. However, we suggest that when viewed in conjunction with the Consumer Duty, there should be less need for scenario b.i, as questions would clearly be raised over why a firm might have a saver in a poor value product in the first place.

Finally, the FCA should consider other specific moments during the accumulation phase when a saver may be prompted to act (beyond inadequacy concerns), especially bearing in mind the needs of those with protected characteristics.

### Supporting Wealth Decumulation Decisions

Pension decumulation options are another specific focus for the PLSA, so scenario c.ii. (page 25) is also particularly useful. However, given the complexity of saver decumulation decisions – which the FCA acknowledges itself by excluding decumulation from the simplified advice regime – it will be important to clearly define what it is and what it is not, as well as what limited saver information may be considered. Decumulation decisions quickly become entwined into broader circumstances, including spending plans and other wealth. It will thus be important to prescribe what may and may not be factored into this support.

One example of a question that needs answering is whether pension pot consolidation prior to buying a retirement product is considered a decumulation decision. In many instances it will be beneficial for a saver to first consolidate pots, so unbiased nudges in this direction would seem a sensible inclusion, perhaps providing they do not seek to influence the destination for that consolidation.

While this – a decumulation decision that considers the broader circumstances of a saver – may initially appear to be classified as advice, according to [PERG 8.28](#), this would ultimately depend on how the information is presented (i.e. whether a course of action is recommended or whether implicit advice occurs when a given option is presented as ‘good’ or ‘bad’).

So, provided that the support is presented purely factually and impartially (and is based on ‘people like you’), would communications that factor in the wider circumstances of that saver still qualify as targeted support? Again, these clarifications would also be useful to the accumulation scenario discussed above.

Q10: Do you agree with the high-level minimum requirements for a proposed new standard for targeted support? Please explain your answer.

The proposed minimum requirements are sensible and clear on the key principle of producing support for a target market (rather than an individual). Their alignment with Consumer Duty requirements is also logical.

We would anticipate that in evidencing existing compliance of Consumer Duty requirements within that regime, many firms are already providing support that helps customers achieve better outcomes.

It also makes sense to align this regime with the target market model used for investment pathways, as detailed in 4.22 (page 26), though targeted support would be broader, with more potential scenarios (e.g. wealth accumulation), so the governance model would require further development.

In terms of challenges, as per our previous answers, it would be helpful to have additional guidance on what the limited datapoints would be, which would help give firms more confidence in fully embracing the targeted support regime.

Additionally, PLSA members have flagged the importance of considering this regime in the context of pensions dashboards post-view services. There could be certain risks involved in incorporating targeted support into direct, post-view sales journeys. Targeted support should not be used as a sales tool, so if dashboards are to be a widespread means for savers to view their pensions, the two need to work together in an impartial way, and it would make sense for the final rules for Qualifying Pensions Dashboard Services to reference the targeted support regime.

Q11: Are there any regulatory rules or guidance that apply to your firm which could impact on your ability – positively or negatively – to contact consumers and offer them targeted support? Please specify which rules and explain the impact.

The only existing rules which might impact a firm's ability to deliver targeted support would be the direct marketing rules within PECR, as the DP suggests, which we discuss in response to Q31 and Q32.

Separately, there will need to be consideration for the interplay between this regime and Consumer Duty, particularly for firms who decide not to offer targeted support. The inclination towards caution around advice and guidance may persist in some quarters, and so while we may prefer firms to offer this service, they must not fear being deemed negligent if they do not provide it.

Q12: Which of the three options for types of suggestions would be most impactful under targeted support, and why? Are there any other options we should consider?

Option 'a' – whereby a provider can suggest a course of action within a product the saver already has (e.g. investment choices, contribution rates or withdrawal rates) – could be considered the most straightforward and secure option to implement. It avoids risks around buying an unsuitable product or other associated harms, e.g. transfer risks. Options 'b' and 'c' (guidance on new product(s)) would require additional regulatory clarifications, to ensure that products are suggested in an impartial and effective way.

### Saver Information Overload

Options 'b' and 'c' – which point savers towards a specific product or products – may be useful when a saver is planning to make a larger financial decision, for instance an investment decision for large lump sums – and could benefit from seeing other product options available to them.

However, suggesting a list of products (as with option 'b') – even if that information is factual and unbiased – could lead to information overload, causing consumer confusion and possibly inaction. The FCA should use its own evidence of consumer behaviour – including how quickly consumers reach the point of 'information overload' and what leads to inaction in the face of certain information – to better engage individuals.

Option 'c,' which would suggest one specific product, may pose the opposite concern by oversimplifying the available options and creating a bias towards one specific action. In both instances, there are risks of poorer consumer outcomes, raising important questions related to Consumer Duty.

### Product Bias

Options 'b' and 'c' also create the risk of firms exhibiting bias towards their own products. Several clarifications would be needed to prevent product bias, including how a specific, suggested product is selected for a given saver and what limited data is used.

Other questions for the FCA to consider include: which firms have an existing competitive advantage? Will existing competitive advantages discourage market competition, resulting in poorer products – and ultimately, outcomes – for savers? As the FCA and firms consider issues such as these, Consumer Duty must remain at the core of how any specific product is chosen, and then presented and suggested to savers.

It may be more suitable for option 'b' to suggest a range of qualifying and high-quality products from across the market – or perhaps a certain category of products (e.g. drawdown products with a suggested withdrawal rate) – rather than solely offerings from one provider. However, determining which of these products are suggested to the saver, and how this is done in an impartial way, is a challenge. Further, in the case of option 'c,' if firms are able to suggest a single new product from their portfolio to existing customers, the risk of cross-selling is high, especially where the tendency towards inertia means many customers will take the path of least resistance and choose that product, even if better value alternatives are available.

Finally, and more broadly, it is hard to conceive of who would be providing information to savers on new product options under 'b' and 'c'. Unless someone is an existing customer of a firm – in which case an inertia bias likely exists – there is no clear entity that would step in to provide guidance on products from elsewhere.

Given these concerns, we recommend that a targeted support regime only extend so far as to suggest better decisions for savers within their existing product (option 'a'), rather than expand to other types of products beyond this. Guidance (or advice) on products themselves, would then, logically, remain the domain of holistic or simplified advice.

Q13: How should communications to consumers be framed so that they can effectively understand the targeted support they are receiving? Please give examples.

The framing of targeted support to consumers largely depends on the circumstances in which it is targeted and the ultimate purpose of the communications.

In pensions, providers often make use of significant life events as opportunities to contact savers at a point where they are more likely to engage, for instance, birthdays, pay rises, mid-life MOT, or other milestones such as five years to retirement. For targeted support within option 'a,' where a provider can suggest a course of action within a product the saver already has, a similar approach would likely prove effective.

Communication in these instances should be clear and concise, using straight forward, uncomplicated language that avoids more complex financial jargon. The communication should:

1. State clearly the reason they are being contacted (i.e. “you are five years away from retirement”);
2. Provide an updated summary of their financial situation within that product;
3. Explain that given their current financial status, ‘people like you’ (using straightforward language to define what this means) might take action in certain ways;
4. List the suggested course (or courses) of action, plainly outlining the associated risks of taking action versus maintaining the status quo, making clear that action is *not* required;
5. Detail resources where they might access more support and information on these suggested actions, such as a helpline where they might speak to an authorised individual with specialised knowledge;
6. Clearly detail what this support is *not* (i.e. this is not individualised, personalised advice, which typically comes with associated costs), the reasons why (for example, it doesn't take into consideration all their financial assets), and include signposting to resources that offer this type of support.

Again, in any communication provided, it is important to strike a balance between providing sufficient information to savers but remaining clear and concise. While there may be an urge to provide savers with ample information and options, both to help ensure positive outcomes

and so that firms may make clear what the targeted support is and is not, too much information runs the risk of confusing and overwhelming consumers.

Communication to consumers becomes more challenging for options 'b' and 'c,' where new products are being introduced. New products could, like with option 'a,' be suggested to savers when they have a significant life event. They could also be suggested when the limited data on that customer indicates that a new or alternative product might be more beneficial. In either case, there must be protections in place so that savers are not inundated with new product offerings, creating confusion and unnecessary financial activity (e.g. bearing in mind Consumer Duty).

Consumers also have the right to understand why those specific products were chosen for them, which again raises the issue of firm bias in product offerings. They should also know that the products being suggested to them are not only appropriate to their given circumstance but are also of high quality. In the pension's world, this could be further evidenced in future through the VFM framework.

Q14: Do you agree that targeted support should not necessarily be subject to explicit charges? If so, how should firms be remunerated, and why?

Q15: If you agree with Q14, what safeguards and disclosure requirements should be in place to manage any conflicts of interest arising from enabling targeted support to not be subject to explicit charges, and why?.

Yes, we agree that targeted support should not necessarily be subject to explicit charges. Given the generic nature of targeted support as compared to simplified or holistic advice, it should be offered without additional costs. Aligning targeted support to Consumer Duty would also mean firms have to provide this service so that it represents good value to their customers.

Several of our members have indicated that it is likely that most firms would offer targeted support without explicit charges to consumers, as an addition to their overall proposition (detailed as an option in paragraph 4.33.a of the DP). Within workplace pensions, DC schemes are already highly price competitive and would therefore be unlikely to raise charges, most likely absorbing these costs.

Further, there is a reticence from savers to pay for certain (especially online) services. We already know that few people would consider paying for holistic advice, and FSCS research indicates that only 31%<sup>2</sup> would pay for advice on retirement options, one of the most complex financial decisions a consumer may face. That number would be presumably lower for targeted support, which has less personalisation and lack a clear recommendation.

In addition, consumers are likely less likely to pay for additional support when it comes from a firm they already have an outstanding relationship with (as in option 'a' – whereby a provider can suggest a course of action within a product the saver already has).

We would, however, warn that the assumption that saver expectations would be set at the appropriate level for targeted support (paragraph 4.35), may be unrealistic. Most savers will likely still try to obtain a personalised recommendation, even if this is not the stated purpose of this service – the semantics and explanations of different categories of support must not be relied upon as a foolproof definition of this service.

### Cross-subsidisation

We do note the FCA's concerns – as well as the current restrictions that exist – on cross-subsidisation. However, in the case of targeted support, permitting limited cross-subsidisation may be appropriate.

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<sup>2</sup> <https://www.fscs.org.uk/globalassets/industry-resources/research/fscs-consumer-research-attitudes-towards-financial-advice-jan-2023.pdf>

The biggest danger of cross-subsidisation would be as it relates to targeted support on new products (options 'b' and 'c'), and the potential for cross-selling. This could be minimised if the scope of targeted support were limited to option 'a', or if under option 'b' (paragraph 4.28), firms offered a short list or range of new products according to certain criteria. For example, as detailed in our response to Q12, it may make sense for a range of qualifying and high-quality products from across the market be suggested to consumers. The risks associated with cross-selling in the case of option 'c' – where one product is suggested – are higher and would need to be carefully considered.

Q16: Do you agree that there should be no limit on product and investment range or monetary value limits (beyond those applying to the Review as a whole and in the retail distribution space more generally) applied to targeted support? If you disagree, what should the limits on product and investment range and monetary value be and why?

We do not feel that product, investment, or monetary limits should be necessary for targeted support. As we discuss elsewhere in our response, clear parameters should be put in place to specify the customer data and factors firms can use to provide this service, and there will likely also be clear rules over disclosure, communication and charging structures. These rules will, rightly, restrict the service in the best interests of minimising the risk of saver harm, so firms should have the latitude to decide how and where to apply targeted support within them.

Q17: Are there any other limitations which should be imposed on targeted support? Please explain your answer.

Our members have not suggested other limitations which should be imposed.

Q18: Do you agree with the disclosure objectives for targeted support? Are there other factors that consumers should understand when making decisions in relation to targeted support?

We agree this list of disclosures covers the key elements of the service. However, there is no guarantee that the provision of this information will mean people truly understand the distinctions between targeted support and other advice options.

The suggestion, at 4.47, that firms need confirmation of understanding would likely end up as a 'tick-box' exercise, similar to 'understanding' Terms and Conditions on forms that people will often not read. Therefore, this requirement in and of itself will not evidence good outcomes.

Indeed, given the amount of disclosure required, it may be sensible to split these into two categories: one with caveats that are *essential* the customer understands (e.g. it is not personalised and not a recommendation), and another which contains all the additional required regulatory information, which customers have available but do not necessarily require an in-depth understanding of.

It is also important that firms make clear the limited information used to provide consumers with the suggested targeted support. The use of personal data in this way has the potential to be in significant detail and intrusive, so should be done with complete transparency.



Q19: Do you consider an ‘outcomes based’ or ‘prescriptive’ approach to rulemaking most appropriate in underpinning disclosures for targeted support? If a prescriptive approach is thought more appropriate, please outline what detail you would like included and why?

Our members are largely in support of an outcomes-based approach. Given that these support proposals are in their early stages of development, too prescriptive of an approach might limit firms in what they might feasibly bring to market to help consumers.

## CHAPTER 5: SIMPLIFIED ADVICE

Q21: Do you think the scenarios outlined for consumers considering investing a lump sum or reviewing an existing investment are appropriate for a new simplified advice regime? Please suggest any other scenarios where simplified advice might be appropriate and could benefit consumers.

Q22: Do you agree that wealth accumulation products should be in scope of simplified advice, and why? Are there any wealth accumulation products that you feel should be included or excluded, and why?

Q23: Do you agree that pensions decumulation should be out of scope for simplified advice, and why?

The DP includes a list of three examples where simplified advice might be appropriate, including investing a lump sum, reviewing current investments, or investing an inheritance. The three scenarios are broadly appropriate for a new simplified advice regime. Notably, the three examples provided are ones where the impetus is on the consumer to enlist support, and additional scenarios where simplified advice is raised by a firm to a consumer would be helpful.

We agree that wealth accumulation products should generally be included in the scope of simplified advice. However, we do not agree that pension decumulation decisions be excluded, as this is a significant financial moment for consumers where simplified advice may help close the advice gap.

We recognise that decumulation decisions can be complex, and that simplified advice is narrow in scope, but with clear clarification, specified, narrow decumulation decisions could be included within simplified advice. For example, simplified advice on pot consolidation prior to deciding on a decumulation product could, arguably, be permitted, as could advice where the saver only requires consideration of a limited circumstances and products.

Q24: Do you consider that a cap of £85,000 is the correct investment limit for simplified advice? If not, please suggest an alternative limit, and explain why this would be more appropriate.

The previous FCA regime limited the value of this type of financial support to £20,000, which was considered too low. The DP has raised the cap to £85,000, which is the same as the limit for FSCS protection for investment advice. Overall, PLSA members have agreed that the £85,000 cap is appropriate. However, it was noted that IFAs typically require over £250,000 to offer holistic advice, which leaves a considerable gap between the two.

Q25: Do you consider that simplified advice should allow firms to provide repeated instances of transactional advice to a customer but exclude ongoing and periodic review services? Please state the reasons for your answer.

We are uncertain whether simplified advice, as proposed, would allow firms to provide “repeated instances of transactional advice” but exclude “ongoing and periodic review services,” as the differences between the two are unclear. Additional clarification would be helpful.

Perhaps targeted support – which prompts a consumer when ‘people like them’ might benefit from taking a specific financial action – could serve to “monitor” the performance of

that initial transaction following simplified advice. The interplay between these types of support should be explored further.

Q27: Do you have any suggestions for how to make it easier for consumers to pay for simplified advice, without undermining the changes made as part of the RDR?

The DP rightly raises concern for risks associated with cross subsidisation, including issues related to cost transparency as well as product bias. However, offering an explicit charge for simplified advice is a strong demand-side barrier to uptake of this form of support. In fact, several members have shared from direct experience that consumers are unwilling to pay even nominal fees (according to one example, even £25) for financial support, regardless of whether that support is specifically tailored to their individual needs, as with simplified advice.

Given this, and like our recommendation for targeted support (see Q14 and Q15), permitting limited cross-subsidisation may be appropriate to offer this support for “free” to consumers. Several of our members have suggested that they would like to offer both targeted support and simplified advice in this way, to help with consumer uptake. Of course, this would need careful consideration and regulation, especially to ensure that the main pillars of the RDR are upheld. For instance, it will be important for the FCA to engage with firms to establish that the costs of offering this support could be provided at proportionate level to make sure that any per member increase in product fee provides good value.

One additional problem – if an explicit charge is required – is where a consumer lacks the cash to pay for the service up front, which causes a barrier to uptake. One way to address this would be to charge the consumer’s pot directly. This could be done in a similar way to a “scheme pays” arrangement, as with annual allowance tax charges. So, the independent financial adviser offering the simplified advice would be able to bill that consumer’s pot, and the scheme administrator would handle this on behalf of the member.

This would ensure a straightforward transaction, without the individual having to part with any cash directly. Importantly, the cost must be communicated in a clear, upfront and transparent way before the consumer proceeds with any advice.

Given the likely (but still not yet clear) lower cost for simplified advice as compared to holistic advice, it makes more sense to charge this payment as a one-off lump sum, to avoid confusion for consumers that this support is not ongoing. A one-off, lump sum payment would also remove additional administrative burden.

Q28: Do you agree with our proposed T&C framework for simplified advice? Do you agree that firms and advisers wishing to provide simplified advice on more than one product type should comply with the same T&C standards as for holistic financial advice?

The Training & Competency (T&C) proposals outlined in the DP would require advisers to evidence competency standards only to the single area of advice or product upon which they advise *or* – where an adviser provides simplified advice across multiple products – the T&C framework for holistic advice. This proposal is sensible, so long as each adviser also receives a general qualification on how best to deliver any advice.

One area concern raised by members are potential disrupters to the market – including any future technological disrupters – that are looking to profit from the sale of simplified advice products. We support the FCA in maintaining suitably high barriers to prevent any nefarious activity in the market, including through upholding and enforcing the Senior Managers and Certification Regime (SM&CR).

## CHAPTER 6: OTHER ISSUES

Q31: What examples of consumer support do firms want to provide to consumers, particularly in light of our proposals, but feel they are unable to do so because of PECR direct marketing rules or other data protection rules? Evidence on the consumer outcome being sought and, where appropriate, reasoning for why direct marketing rather than other communications is necessary for delivering this outcome, would be welcome.

We are pleased to see that this DP considers interactions with PECR, given the overlap between these two policies. Our members seek to provide support to their members and customers at various stages, through both accumulation and decumulation, but these efforts can often be restricted through a combination of the ICO's marketing guidance and section 22 of PECR.

Paragraph 6.11 of the DP highlights the ICO guidance on how to frame communications such that they do not constitute direct marketing; however, in the context of firms providing a deeper level of support, and suggesting certain courses of action, this guidance does not cover all types of communication firms wish to send.

### Pot consolidation

As a result of AE, many savers have multiple pots. Consolidating these in certain circumstances can be beneficial to some consumers, both for efficiency of management and to make financial planning easier. Therefore, providers would often like to encourage savers to consolidate previous pots, but while this is beneficial to the saver, it would also benefit the provider, so would likely to be considered marketing regardless.

### Promoting pension tracing tools

Linked to the example above is the inability of firms to encourage the use of pension tracing tools. These are helpful for savers to locate old or lost pots, but given the direct link to consolidating, and the commercial benefit of that to providers, they can't promote such tools to auto-enrolled customers for whom they have no soft opt-in to direct marketing.

### Contribution rates

One of the proposed scenarios under targeted support is suggesting to a saver who is likely to have an inadequate retirement income – based on data the provider holds – that they increase pension contributions.

While this is possible at a basic level, if done completely impartially (as per ICO guidance), many firms would like to go further in their use of customer data to suggest contribution levels that would achieve an adequate pension for that individual's circumstances.

Again, this could very easily be perceived to be direct marketing, while any suggestion of increasing contributions is clearly also beneficial for the provider. As a result, firms steer clear of such communications.

### Access to financial advice

Some firms have a financial advice business, and as part of Consumer Duty, they are required to offer services and engage with customers to help them navigate their options and make better informed decisions.

For such firms, an obvious move would therefore be to signpost existing customers to their advice services. However, since this would be seen as marketing other commercial elements of their business, they are restricted from doing so, and therefore their only signposting tends to be to free guidance services, such as MoneyHelper or PensionWise.



Q32: What steps could be taken to provide reassurance about the electronic communications that firms can provide to give greater consumer support, in compliance with PECR direct marketing rules? Do you consider a similar approach to the joint FCA / ICO letter on savings rates may help provide additional clarity on this?

As the DP notes, the issue firms have with auto-enrolled customers is that they come through an employer, and there is no opportunity to gain the soft opt-in that would allow email communications which might constitute marketing. With the introduction of targeted support, as well as other efforts firms are already taking to further engage savers under the Consumer Duty, it would be hugely beneficial if under PECR the soft opt-in could be applied to auto-enrolled customers – this way, emails which are deemed as marketing, could still be sent.

Furthermore, it would be beneficial for the ICO's direct marketing guidance to amend the definition of 'direct marketing' to exclude certain forms of communication. This might include where a firm is contacting customers to satisfy a regulatory requirement, or where it is undertaking engagement aimed at improving the support and guidance to customers where they can demonstrate the link to improved outcomes through the Consumer Duty.

## CHAPTER 7: SPECIFIC CONSIDERATIONS FOR PENSION SCHEME TRUSTEES

Q34: How do trustees feel the advice boundary restricts the support they want to give, including around decumulation, taking into account DWP's proposals? Do any other regulated activities or regulatory requirements constrain the support trustees wish to provide? Please give examples.

Q35: Are there any considerations concerning the investment advice boundary for non-authorized persons you wish to raise?

The support trustees offer their members varies, and it is for this reason we support the work from DWP on Helping Savers Understand their Pension Choices. The decisions pension savers are faced with around how best to access their pensions in retirement are of both paramount importance and enormous complexity.

We are increasingly aware that trustees wish to offer their members more guidance to help them with retirement decisions, as well as providing retirement solutions. While this is not traditionally seen as part of the fiduciary duty, many schemes see the risk of bad outcomes resulting from a lack of support as greater than any risk from providing it. The trend for schemes to actively participate in retirement will only increase, once legislation is in place requiring trustees to not only offer retirement solutions, but to do so on a default, 'opt-out' basis.

This review provides some clarity over the considerations non-authorized persons – such as trustees – need to make. As paragraphs 7.2 and 7.3 note, trustees only require FCA authorisation to support members if they are providing guidance on FCA regulated products outside of the scheme and if they are receiving a commercial benefit from doing so.

Therefore, given the non-commercial nature of the trustee role, where trustees are offering retirement options in-scheme, this should provide reassurance they will not be overstepping any kind of regulatory boundary in fulfilling the new obligations government is placing on them. It would, however, be helpful to have further clarification on the application of the boundary to trustees in certain related circumstances, which may become more prevalent because of the current DWP decumulation policy. See also our answers to questions 7, 8 and 9 as this relates to targeted support, question 23 as it relates to simplified advice, and [our previous response to the DWP's 2021 consultation](#).

### Partnership arrangements and arranging activities

Most single employer trusts will not provide retirement products in-scheme but will partner with a third-party provider or master trust. Where that partnership agreement involves the provider building the products within the scheme, we consider the same exemptions above would apply, though this is very rarely the case.

Most partnership agreements we are aware of include trustees signposting members to a chosen provider, to which members need to transfer. Annex 1 of the DP raises the question of whether this would constitute a financial promotion or arranging a specified investment under PERG 8.23.

As it stands, trustees tend to be more wary of signposting members to an FCA regulated drawdown product or a self-invested personal pension (SIPP), which might be classified as a specified investment. This would breach FCA rules, whereas signposting to a retirement master trust with a drawdown may not be, as rights under an occupational pension scheme are invested by trustees. Most of these partnerships therefore direct members to a master trust, rather than FCA products. There are, of course, other reasons for the master trust preference too, including keeping members within the same regulatory universe. Either way, our understanding is that currently schemes steer clear of recommending members use a partnered provider, as all such arrangements require a with-consent transfer, and therefore simply present it as an option instead.

As per DWP plans, however, all schemes will soon have an obligation to provide these services on a default basis. The DP notes that where this is provided under the scheme (such as within a master trust) the boundary is not relevant; however, under a partnering arrangement, where a transfer without consent would take place, this could either be interpreted as advice (a recommendation), or it might constitute arranging a regulated activity, including if the destination scheme is a retirement master trust operated by a FCA regulated provider. Without any regulatory change, trustees will therefore be required by law to do something which breaches FCA rules.

Given this, there will need to be very clear guidance from FCA explaining the nature of how trustees can discharge this duty. This could be through an exemption for approved retirement solutions that meet minimum standards, and the basis for such an exemption may be related the 'commercial benefit' aspect of the agreement, which we discuss below.

### Commercial benefit

Where a master trust offers its members retirement options through another part of its business, e.g. insurance companies, further clarification over 'commercial benefit' would be helpful. While in this scenario the trustees themselves are not benefitting, it could be seen that the wider group does profit from this business, calling into question whether this constitutes crossing the boundary.

Additional clarification of 'commercial benefit' would also be helpful given that different organisations structure trustee companies in different ways, and there are clear differences between professional and lay trustees. While trustees will not receive direct payment for directing members to a specific solution, it could be argued that there are indirect financial benefits where trustee companies are structured underneath a wider commercial umbrella.

### Multiple pots

As part of their retirement support to members, it could be beneficial for trustees to have access to information about other pension entitlements members have and possibly consolidation of these pots. As it stands, this would constitute a more holistic form of advice.

However, where it could inform a better tailored default under DWP rules, it might be helpful if trustees had access to this type of additional information.

### Trustees and targeted support

The most useful aspect of the AGBR as it relates to trustees will be clarification around their roles and liabilities with respect to regulated activities, particularly any decumulation-related obligations following new government policy. As it stands, the targeted support and simplified advice proposed in the paper will be of less relevance to them but does come into play for partnered providers when savers are transferred into their products.

However, although the targeted support proposed applies only to FCA regulated entities, a similar form of support – where suggested prompts are provided to savers based on limited information – would be useful for trustees to offer their members. Trustee fiduciary duty prevents trustees from providing guidance or advice on an individual basis, so nudges based on limited information for the generality of membership would be better aligned with their role (and with DWP's proposed direction).

Developing certain prescribed statements for trustees to use when offering targeted support and simplified advice could be beneficial, pending further clarification on when trustees should provide this type of support.

We therefore urge the FCA to work with TPR to refine joint guidance to make clear how similar targeted support might be applied for trustees. The examples included in the targeted support section of the DP – which detail a range of scenarios within the scope of targeted support – would also be helpful for trustees, as this could provide them with confidence and reassurance regarding the boundary and their fiduciary duty.