

Financial Services Consumer Panel



**Annual
Report
2016/2017**



An independent voice for
consumers of financial services

Who we are

The Financial Services Consumer Panel (the Panel) is a statutory body set up under the Financial Services and Markets Act. It:

- Is independent of the Financial Conduct Authority (FCA).
- Advises the FCA on how its strategy and policies affect UK consumers of financial services.
- Helps the FCA to improve its effectiveness in meeting its consumer protection and competition objectives.
- Looks at the impact of the wider regulatory landscape on consumers, including at EU level.
- Commissions research to support its own independent projects

Panel members are recruited through open competition. Areas of members' expertise include: consumer advocacy, law, economics, market research, financial services, public policy, communications and retirement planning.

What we do

Our main job is to advise the FCA. We also influence financial services policy and legislation, whether this is generated by UK Government departments, or the EU. These are our 'business as usual' activities, described in Sections 1.2 and 1.3. We also select a small number of projects every year, described in Section 1.1. Our aim with these is to stimulate debate and influence policy in areas where there are risks for consumers that are not being addressed, or gaps in understanding of how financial services affect consumers.

How we do it

Panel Members meet twice a month – once in full Panel meetings and once in one of two Working Groups (except for the month of August). Separate EU and Communications working groups meet 5-6 times a year. FCA staff regularly present to Panel and Working Group meetings and the Panel reports monthly to the FCA Board. The Panel also works with a diverse range of stakeholders, is represented on ad hoc bodies in the UK and EU, and works with EU and international institutions and consumer groups. We use our small research budget to gather evidence to support our projects.

More details of Panel members' activities during the year are at the end of this report.

How we measure our impact

We keep an 'impact log', which details how we have influenced the FCA and others. Most of our impact is 'behind closed doors' – we are most useful to the FCA when the regulator involves us early in the development of policy. Sometimes we can trace a clear line from a Panel position to a new or changed policy, but the exercise is essentially subjective. Every two years we survey our stakeholders to understand what they think about the way we work and our influence. Both exercises help us to determine how we can influence better on behalf of consumers.

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The Panel in March 2017.

For a list of the 2016-2017 Panel members see Appendix 1.



Foreword by the Chair

The vote to **leave the European Union** has brought uncertainty for financial services firms and consumers. The immediate negotiations are likely to focus on maintaining the UK as a global financial centre. The Great Repeal Bill will ‘lift and shift’ existing EU legislation and make it workable in a UK context. However, many questions need to be answered. Absent the European Commission, where will new policy proposals come from? What should be the respective roles of Parliament and the FCA? To what extent will the UK be a ‘taker’ of EU regulation in order to sell into European markets? How can consumers who have bought products and services in other EU countries be protected? And the biggest question of all, how can we ensure consumers are at the heart of the answers to all these questions, and more? The Panel looks forward to working with the Government and FCA to deliver better consumer outcomes from Brexit.

In our response to the **Mission** statement, we urged the FCA to take a more preventative approach to regulation. We said it should do more business model analysis – knowing how firms make their money can be a powerful indicator of potential consumer detriment (PPI being the prime example). We said the FCA should make better use of consumer intelligence to spot problems early on. We pointed out that being vulnerable isn’t just about characteristics such as low income, disability or age. Illness or bereavement, for example, can make everyday financial decisions seem impossible. People struggle when they make big and unfamiliar decisions, such as taking out a first mortgage or investing a pension pot or a windfall. However, the large information asymmetries between providers and consumers in financial services markets mean that all consumers are vulnerable to exploitation and poor outcomes. This should be the starting point for the FCA as it develops its ‘approach to consumers’.

The Panel began to get support for the idea that there should be a legal **duty of care** on financial services firms, and the FCA promised a Discussion Paper on this in its Mission. We have a very long list of examples where the ‘treating customers fairly’ principle hasn’t worked, or hasn’t been enforced. We have called for a duty on firms to act with reasonable care towards their customers to ensure they do not suffer unreasonable harm or loss. This already exists in other sectors. It would act as a preventative measure, prompting firms to adapt their business models.

Firm culture continued to be a concern. Despite the banks' protestations, this is not a historical issue. The Banking Standards Board published its first review for the year 2016-2017 and highlighted that one in eight bank employees believe it to be difficult to progress their careers without 'flexing ethical standards'. The FCA drew a line under **PPI mis-selling** by setting a deadline of August 2019 for complaints. The Panel opposed the deadline, but the FCA took on board some of our suggestions for making it fairer for consumers. The regulator now needs to communicate the deadline clearly, especially to people who have an individual deadline earlier than August 2019.

Technology continued to gather pace in the financial services sector. **Open banking** has the potential to revolutionise consumers' experience of financial services, and (perhaps) to increase competition. However, the Panel raised concerns about data privacy and consumer consent. In the rush for technological solutions, important issues are being neglected, such as whether consumer consent can be limited or partial (ie access to certain types of data only), and what happens when someone wants to withdraw their consent. It is also imperative that the FCA should ensure that consumers who can't, or won't, be part of the technological revolution are not at a disadvantage.

We also raised the issue of **big data** and the potential for demutualisation of risk in insurance and credit markets leading to new forms of financial exclusion.

The Panel has long argued for greater transparency in investment costs and charges, so we were pleased to see that the FCA's **Asset Management Market Study** interim report had picked up some of our earlier recommendations. We still believe a single charge is the best way to eliminate conflicts of interest and enable greater competition, but the FCA's work is a huge leap forward in tackling an industry that has long needed reform.

We were less pleased with the FCA's work on the **credit card market**, which fell a long way short of addressing the poor practices that leave millions of people in persistent and expensive debt. Under the FCA's proposals, people can be paying £2.50 in interest and charges for every £1 in capital they repay over a long period. This cannot be right. We urged the FCA to treat all forms of unsecured credit in the same way. This means requiring proper affordability checks, sharp incentives on firms only to lend affordably, and – if necessary – price caps.

Panel members sat on the Financial Advice Working Group set up following the 2015 **Financial Advice Market Review**. Among other things, this looked at advice and guidance. The upshot was not to change the terms – which we know consumers don't understand – but to 'label' them so that people know what they are getting. Unfortunately, the descriptions don't distinguish between genuine, impartial, guidance and product push. Selling dressed up as guidance does nothing to close the so-called advice gap. We firmly believe guidance that is intended to sell a product should be

labelled 'sales' and that firms should make it clear to consumers the protection they are losing by buying products this way.

The **FCA Register** remained an issue for the Panel. The register doesn't do what it is supposed to do, which is help consumers decide whether they want to do business with a firm. The FCA urges firms to communicate clearly with their customers; it does not do so itself. Explanations of jargon are yet more jargon, for example, 'authorised' is defined as 'permission to sell regulated products and services'. For many EEA firms, consumers are advised to 'contact the firm directly' to see if FSCS compensation applies, entailing a long-distance call quite possibly in a foreign language. The Panel understands that the FCA needs a legally watertight register. Consumers need something very different, in language they understand, with meaningful measures such as complaints, mis-selling and other fines, claims ratios. We will continue to encourage the FCA to produce this.

Finally, I would like to thank Panel members and the FCA secretariat, who have all worked tirelessly to improve consumer outcomes in financial services; and to welcome Angela Roberts, who joined the Panel in March 2017.

A handwritten signature in black ink, appearing to read 'S. Lewis', is centered on a light grey rectangular background.

Sue Lewis

7 July 2017



The Panel's work in 2016 – 2017

I.1 Projects

In 2016 – 17 the Panel's projects were: the **impact of 'Brexit'** on consumers of financial services, consumers' understanding of **robo-advice**, enshrining a formal **duty of care** by financial services firms towards their customers, measuring the **FCA's effectiveness** as a regulator, **the role of consumers in driving competition** in the retail financial services market and ensuring the consumer voice was incorporated into the **FCA's Mission**.

Brexit

Much of the commentary around Brexit in the financial services sector has focused on how the UK's withdrawal will impact on firms. To bring the consumer perspective to light, the Panel commissioned research and published a position paper looking at areas where consumers could benefit from regulatory sovereignty as well as potential risks associated with Brexit.

The Panel concluded that while membership of the EU had, in general, benefitted UK consumers, as the UK takes control of its financial services legislation there is an opportunity for Government and regulators to improve consumer outcomes. EU legislation is often 'clunky' and not coherent across different dossiers and the UK has often gone further than EU provisions when it comes to consumer protection and redress.

The Panel also warned against industry pressure to deregulate under the pretext of curbing Brussels "red tape". To maintain its global competitiveness, the Panel highlighted how the UK should continue to be a leader in consumer protection, keeping pace with changes brought by technology and innovation. Consumers are at the heart of the UK's overall economic performance and the Panel said it is crucial that Government takes account of the impact on consumers throughout the Brexit negotiations.

Looking forward, the Panel will continue to work closely with the FCA, the Government and other stakeholders to ensure consumers of financial services are not disadvantaged by the UK's withdrawal from the EU. It will be vital to get the regulatory framework right, and to ensure consumer rights are not eroded.

FCA Mission

In its response to the Mission consultation, the Panel called for the FCA to take a more preventative approach, including imposing a duty of care on firms and undertaking more business model analysis.

Some of our proposals were:

- A Discussion Paper on Duty of Care;
- A proposal to restrict firms' ability to market complex products to retail customers where this is justified by the scale of the potential harm;
- A recognition of the advantages of redress schemes that are easy to understand and improve access to compensation. The FCA will consider whether voluntary schemes achieve these aims and take appropriate action if they do not;
- Clarity about why the FCA chooses to intervene by communicating the harm identified, stakeholders affected, the proposed intervention, the causal steps which connect the intervention with the intended outcome, and measures of success

As the Mission developed, Panel members attended consultation meetings and engaged with a wide range of stakeholders within the FCA to ensure the Mission reflected the consumer perspective.

Online investment services

The so-called 'robo' advice sector has grown dramatically in recent years. To understand the consumer experience with online investment and advice services better, the Panel commissioned research and published a position paper.

The research concluded that many online investment firms failed to:

- Communicate clearly whether they were providing regulated advice or guidance;
- Disclose costs and charges in a way that allowed consumers to understand how much they would be paying and for what;
- State clearly whether consumers would have recourse to the Financial Ombudsman Service (FOS) or the Financial Services Compensation Scheme (FSCS) should things go wrong; and
- Use language that consumers understood.

The Panel recommended that:

- The FCA clarifies and enforces existing rules designed to address the problems identified in the research, whether or not regulated advice is being provided;
- The FCA leads an industry and consumer working group to develop simpler, more consumer friendly, language to be used consistently across the sector; and
- The FCA should ensure firms quoting all-in fees are complying with the rules on costs and charges.

Panel members subsequently discussed the findings with some of the firms involved in the research. Many of these volunteered to make changes to their websites,

notably on clarity of service and explanation of costs and charges. However, other firms continue to use misleading figures and explanations that give them an unfair advantage when different services are compared.

Duty of care

A duty of care for financial services firms has long been a priority for the Panel. In a position paper published in early 2016, the Panel again proposed that the Financial Services and Markets Act (FSMA) should be amended to require the FCA to make rules specifying what constitutes a 'reasonable' duty of care that financial services providers should owe towards their customers.

The current FSMA principle that firms should "treat customers fairly" (TCF) does not remove conflicts of interest and does not deter firms from mis-selling products and services. This is further weakened by the principle that consumers should 'take responsibility for their decisions' and fails to take into account the imbalance in power between firms and their customers as well as information asymmetries.

The Panel set out in its paper how a duty of care could engender long-term cultural change in financial services providers. It would bring much-needed clarity to the rules governing the relationship between firms and their customers. Properly supervised and enforced, an obligation for banks and other financial institutions to act in their customers' best interest would help prevent mis-selling and other poor behaviour towards customers.

Following the Panel Chair's appearance before the House of Lords Select Committee on Financial Exclusion, the Committee's final report supported the Panel's call for a duty of care and recommended that FSMA be amended accordingly. The FCA announced in its Mission that it would publish a Discussion Paper to explore the issue further.

Competition

The Panel commissioned consumer research and a 'think-piece' to stimulate debate on the role of consumers in driving competition in retail financial services markets. This will form the basis for a position paper, which the Panel will publish in 2017-18.

The research concluded that placing the onus on consumers to shop around and drive competition means that regulators and competition authorities overlook policy options that might be more effective. They also fail to recognise that lack of switching, even when it appears advantageous, might be rational once a wider range of factors is taken into account.

The real test of effective competition that works in consumers' interests is whether consumers switch to a better deal when they do choose a new product or service.

The Panel will continue to argue that competition remedies should be tested against this measure, rather than simply the amount of switching that occurs.

FCA Effectiveness

The Panel wants the FCA to develop better ways of measuring its success in meeting its statutory objectives. In its 2016-17 Business Plan and 2015-16 Annual Report, the FCA took some welcome steps towards identifying external sources of data that could be used to evaluate its performance. Separately, the National Audit Office (NAO) consulted on a good practice guide on Performance Measurement of Regulators and the Panel supported its recommendations.

This is a complex area but the Panel would like to see FCA strive to be best-in-class amongst UK regulators in its adoption of the NAO's guidance. As a statutory panel charged with holding the regulator to account on behalf of consumers, the Panel would benefit from additional data in fulfilling its own performance monitoring role.

Better performance measurement was one of the Panel's recommendations in the response to the FCA Mission consultation. The Panel will support the FCA on this issue as it implements its Mission.

1.2 'Business as usual' activities

1.2.1 Cross-cutting issues

Advice and guidance

Panel members sat on the Financial Advice Working Group, which took forward three of the recommendations of the **Financial Advice Market Review (FAMR)**. These were: developing an employers' guide; publishing a shortlist of potential new terms to describe 'guidance' and 'advice'; and designing a set of rules of thumb and nudges with the aim of increasing consumer engagement.

The Financial Advice Working Group recommended retaining the terms 'advice' (to mean regulated advice) and 'guidance' (everything else), arguing that change would not help consumers understand whether they were getting regulated advice or not. They advocated instead simply labelling the services at the point of use. The Panel argued strongly that this would not help to close the 'advice gap'. Instead, regulated firms will be able to dress up product sales as guidance, so long as the consumer makes the decision about which product to buy. This is a risk for consumers, who may not understand that by buying a product 'execution only' they lose consumer protection rights. It also risks eroding trust in genuinely impartial financial guidance services.

In its response to the joint HM Treasury and Department for Work and Pensions (DWP) consultation on a **Single Financial Guidance Body (SFGB)**, the Panel argued that

there has never been a greater need for a public-facing, impartial, sales-free, single source of money guidance for people of all ages and that the new body should work closely with the FCA. The Panel also called for the SFGB's remit to be extended to include the self-employed and microbusinesses.

The Panel also argued that the SFGB should take ownership of the national financial capability strategy and pick up the baton from the Money Advice Service by providing public facing and impartial resources.

Accessibility and transparency

Responding to the **House of Lords Select Committee inquiry on Financial Exclusion**, the Panel argued that while financial exclusion particularly affected people on low incomes, it could affect people across the income range.

The Panel outlined how access issues evolve over time so that people who have previously been financially included find themselves marginalised or excluded: because their personal circumstances change; because of a change in the way firms operate; or because of wider trends such as the digitalisation of financial services.

The Panel also responded to the Treasury Select Committee's call for evidence on access to basic retail financial services. Some issues fall into a black hole between the financial regulator's objectives and the government's responsibility for public policy, and the Panel set out how, as a result, they continue to cause consumer detriment. To overcome this 'responsibility vacuum' the Panel wants to see a stronger access and inclusion statutory objective for the financial regulator, together with clear Ministerial responsibility.

The Panel was disappointed to see the industry discontinue its work on **simple products** this year. The Panel sees significant benefits for consumers in straightforward products and questioned the industry's reasons for abandoning the initiative. The Panel raised its concerns with industry, setting out how simple financial products would help cut through the confusion consumers feel, and go some way to addressing some of the complexities, such as lengthy terms and conditions and hidden fees and charges.

The Panel has continued to argue that **Section 348 of FSMA** is at odds with the FCA's ambition to be an open and transparent regulator. In its response to the FCA Mission, the Panel called on the FCA to publish a Discussion Paper reviewing its current transparency framework and how it has been applied in practice.

There is more the FCA could do to make full use of its powers within the existing framework. It has failed to use a new power given to it by the Financial Services Act 2012 to publicise when it takes action to require a firm to remove or amend a financial

promotion. Instead, anyone reporting a misleading promotion to the FCA is told that “for legal reasons we cannot tell you what action we have taken as a result”.

Redress and compensation

The Panel continued to urge the FCA to be more proactive in the use of its powers under **Section 404** of the Financial Services and Markets Act. Under a Section 404 redress scheme, the firms involved must proactively contact all potentially affected customers, reducing the risk of consumers failing to claim, and the risk of claims management companies taking a large slice of any compensation due.

The FCA has pushed ahead with the introduction of a time-bar for Payment Protection Insurance (PPI) complaints, with the cut-off date set at August 2019. The FCA reflected positively on some of the Panel’s recommendations and will now require firms to write to previously rejected complainants who are eligible to complain as a result of the *Plevin* judgement, to ensure they understand that they may be able to complain again. However, it would have been far simpler for consumers if the FCA had used its powers under Section 404 to develop a proactive redress scheme for as many consumers as possible impacted by the *Plevin* judgement.

The FCA has also excluded from the deadline complaints about future rejected claims on PPI by consumers who still hold policies. Throughout 2017-2018, the Panel will work with the FCA on its **PPI communications campaign** to raise awareness that consumers should file complaints before the deadline. The Panel has said that the campaign must address the issue that over 5 million consumers have an earlier deadline than 2019. We also said that banks should improve their PPI complaint handling processes and the FCA should take enforcement action against the individual executives responsible if consumers were treated unfairly.

Small businesses as users of financial services

Existing consumer protections often treat individual consumers of financial services differently from small business consumers. There appears to be an assumption that a consumer, merely because he or she is engaged in business, is in some way more financially literate or sophisticated and thus less deserving of protection than an individual consumer. The Panel believes that deeming a small firm to be ‘sophisticated’ is not appropriate.

In its response to the Mission, and following on from work on SMEs as users of financial services we carried out in 2015, the Panel urged the FCA to carry out a segmentation of SMEs, like its segmentation model of individual consumers. This would look at the differences between businesses of different sizes, and whether there are specific consumer protection issues relating to different ways of conducting business (e.g. sole trader, partnership or limited company).

Technology and data

The Panel responded to several consultations on Big Data and Open Banking.

The Panel acknowledges that digitalisation can offer some customers enhanced access, especially where the products or services involved are straightforward, non-complex and readily understood. However, the Panel is concerned about how use of online data could lead to discrimination, exclusion, and overplay the impression of consumer empowerment.

In the insurance market, for example, the increased use of Big Data to inform risk and pricing strategies could lead to some people paying much higher premiums than they otherwise would have and to some people having no access at all. The same logic applies to the consumer credit market.

The Panel also said in its consultation [responses](#) that as Big Data and technology in the financial services sector further develop, regulators will need to ensure they have the right supervisory and enforcement tools to protect against consumer detriment. As an issue that crosses regulatory boundaries, there must be effective joint working between the relevant bodies.

1.2.2 Panel activities by sector

Payments

The Panel responded to the Treasury's consultation on the revised EU Payment Services Directive (PSD II) which will come into force in January 2018. In this, we argued strongly for the FCA to be given rule-making powers to ensure there is a level regulatory playing field for all payment services providers.

The Panel also supported the introduction of an open Application Programming Interface (API) standard that would allow consumers to access their information simply. However, there are significant security and privacy issues. It is not clear how consumers will consent to share their financial transactional data with third parties, nor who will be responsible for governing the way people consent to share their data, how that will be supervised or enforced, and who will be responsible if something goes wrong.

The Panel also engaged with the FCA and the Payments System Regulator on the Which? super-complaint on consumer safeguards for authorised push payments. The Panel is concerned that when consumers are tricked into transferring money to a fraudster via a push payment, there is no appropriate level of protection compared to other types of payments. The Panel will continue to monitor this issue throughout 2017.

Pensions and retirement products

The Panel responded to the FCA's consultation on proposed rules to implement prompts in the annuity market. FCA consumer research has consistently shown that individuals are far more likely to act on information when it is personalised, and provided in a clear, simple format, and when the advantage of taking action can be clearly demonstrated. The Panel therefore welcomed the proposal to require firms to show the difference between the provider's own quote and the highest guaranteed quote available on the open market.

The Panel provided input to the joint HM Treasury and DWP consultation on pension scams. We supported the proposal to ban pension cold calling, but argued that the Government should go a step further and consider a blanket ban on all investment promotions and advertisements that refer to a specific rate of return.

In its response to HM Treasury's consultation on introducing a pensions advice allowance as recommended by the Financial Advice Market Review, the Panel argued that the pensions advice allowance should only cover regulated advice and that the Government should investigate the market further before deciding what the allowance should be.

Savings & Investments

The asset management industry has long been of concern to the Panel, particularly given its importance for the financial well-being of consumers in later life. The Panel was heavily involved in discussions on the FCA's **Asset Management Market Study**, reflected in its response to the interim report.

The Panel believes the FCA will need to introduce supply-side measures to force the asset management sector to control costs and deliver better returns for the millions of consumers who rely on their investments for all or part of their livelihood. Among these changes are tougher and more independent governance, a duty of care towards investors and, potentially, the introduction of a single charge to increase cost transparency and eliminate hidden charges. The Panel raised these issues in its input and was encouraged by the FCA's response.

The Investment Association launched a public consultation on the standardisation of disclosure for charges and transaction costs in the asset management industry. This was one of the Panel's recommendations to the FCA's asset management market study, based on our 2015 research.

Recent European legislation, notably the **PRIIPs Regulation** and the **second MiFID Directive**, will oblige both manufacturers and distributors of retail investment products to be more transparent about the cost of their products. There is more work needed to ensure retail investors have a clear idea of the costs and charges they face.

The Panel responded to the FCA's **post implementation review of the crowd-funding rules**. It was positive that these firms were improving competition and increasing the overall volume of loans available to SMEs. However, some P2P platforms appear to be expanding into quasi-banking services and are taking assets that are correlated, risky and illiquid and making claims to consumers that the returns are diversified, safe and liquid. The Panel reported to the FCA a number of promotions for P2P platforms which it considered to be misleading.

Consumer credit

The Panel has consistently argued for a more level playing field in the regulation of unsecured credit. In responding to the FCA's call for input on a high-cost short-term credit price cap, the Panel argued that the FCA should not only focus on 'traditional' high-cost products (payday loans, rent to own, home credit, logbook loans, etc.) but also credit cards; other forms of higher-cost credit such as instalment loans; and guarantor loans.

Responding to the FCA's interim findings in its **Credit Card Market Study**, the Panel called for a greater focus on supply-side remedies including tougher affordability tests, an increase in the lower limit for minimum repayments, a debate on a total 'per person' unsecured credit limit, and a requirement that any increase in credit limit should always be explicitly requested by the consumer. The Panel called on the FCA to demonstrate that the proposed demand-side measures would have the intended impact, through extensive consumer testing.

The CMA's retail banking market investigation failed to tackle excessive **overdraft charges**. The Panel said that the Monthly Maximum Charge, as set by the individual banks, would do little to reduce the impact of unfair 'unarranged' overdraft charges, which are largely borne by more vulnerable customers. It encouraged the FCA to consider an 'opt-in' rule similar to the US Overdraft Protection Law. Under this law, consumers must request an overdraft facility, and agree the terms up front. The Panel also urged the FCA to consider a cap on unarranged overdraft charges, set at the level of net additional administrative costs.

General insurance

The FCA published its general insurance (GI) value measures scorecard as part of its GI value measures pilot. These data include claims frequencies, claims acceptance rates and average claims pay-outs by insurer for four general insurance products (home insurance; home emergency insurance; personal accident insurance sold as an add-on to motor or home insurance; and key cover sold as an add-on to motor insurance). The Panel hopes that consumers, consumer groups and market commentators make use of the pilot data.

In late 2015, the European institutions agreed the new **Insurance Distribution Directive (IDD)**, on which the Panel had lobbied actively in Brussels since it was first

proposed in 2013. As the IDD is now being transposed into UK law, with a deadline of early 2018, the Panel began to work with HM Treasury and the FCA in 2016 with the aim of ensuring that consumer protection is retained and enhanced through this new piece of legislation. The IDD introduces a new general principle that firms act in the best interests of their customers which the Panel strongly supports. We have argued that the FCA cannot rely on TCF principles to deliver 'best interests': TCF does not go far enough and clearly does not compel firms to act in their customers' best interests.

Retail banking

As the Banking Standards Board second annual review evidenced, there is still a long way to go before the promises consumers hear from bank CEOs translate into genuine, customer-focused change. According to the Financial Ombudsman Service, banking is still one of the sectors across the economy most likely to be penalised as a result of misconduct.

In its response to the CMA's retail banking report, the Panel also called for a renewed analysis of the costs and benefits of the "free if in credit" model. It urged the CMA to give much greater consideration to supply-side remedies, for example by capping fees for unauthorised overdrafts.

The Panel responded to the FCA's consultation on the Payments Accounts Regulation. Implementation of the Directive gives consumers a clear legal right of access to a basic bank account. We supported the introduction of the voluntary agreement between the banks on the provision of "free-of-charge" basic bank accounts, although concerns about the lack of cost transparency remain.

The Panel has also continued to press for banks to communicate more effectively with their retail customers. The **change in sort-codes** which will result from ring-fencing could be disruptive for consumers and it will be important for banks to communicate the changes effectively to their individual and small business customers, and to act to prevent fraud arising from the changes.

Mortgages

In the mortgage sector, some consumers encounter problems if they want to switch to a new provider, as stricter affordability checks mean that they effectively become "**mortgage prisoners**", at the mercy of their current provider. This has meant that some consumers did not benefit from the cut in the Bank of England base rate in August 2016. This problem will be exacerbated if interest rates rise or house prices fall.

The Panel responded to the FCA's Guidance Consultation on the fair treatment of mortgage customers in payment shortfall: impact of automatic capitalisations. While recognising that consumers had not been deliberately exploited, there is a chance that a small number of consumers will have suffered consequential detriment out of all

proportion to the sums involved. Consumers may have had to pay more at a time of financial stress than they should have done, which could have led to them taking out other forms of debt or forgoing other important expenditure.

1.3 EU engagement

At least until the UK leaves the EU, UK legislation governing a range of financial products and services will continue to be derived to a large extent from EU legislation, and Panel members have continued to engage in the development of EU legislation. The Panel Chair was a member of the European Commission's Financial Services User Group and other Panel members sat on some of the European Supervisory Authorities' stakeholder groups.

In addition, the Panel continued to engage with consumer groups at European level, notably the European Consumer Organisation BEUC, of which the Panel is an affiliate member, FinanceWatch and Better Finance.

The European Commission published its **Consumer Financial Services Action Plan**. With a focus on innovation and technology, the Panel hopes that this project will drive progress towards a more integrated market for financial services that delivers better consumer outcomes throughout the single market.

The Panel's EU work for the year ahead will focus mainly on making sure that the financial services consumer perspective is taken into account in the Brexit negotiations, that consumers do not lose valuable protections and that UK lawmakers take the opportunity to improve consumer protection regulation.

1.4 Publications, meetings and events

Between 1 April 2015 and 31 March 2016, Panel members:

- Submitted **50 consultation responses** to bodies including the FCA, HM Treasury and the European Commission.
- Published **3 position papers**, on Duty of Care, online investment platforms and on the impact of Brexit on consumers of financial services.
- Published **1 Discussion Paper** on investment costs and charges.
- Met with **124 different external organisations** to discuss a range of issues such as the duty of care principle, debt advice, Brexit, technology and investment costs.
- Spoke at **50 seminars and other third-party events**.

1.5 Media coverage of the Panel's work

The Panel is the only consumer group in the UK that has a sole focus on financial services. As a result, the Consumer Panel features frequently in the media. Over the course of last year, between April 2016 and March 2017, the Panel was mentioned in over 58 articles across the major daily and Sunday newspapers, as well as the trade press for the financial services sector.

The topics the Panel was most often referenced on were: Brexit, asset management fee disclosures, investment platforms, the duty of care principle, retail banking and pensions.



The Panel's priorities for 2017-2018

The Panel will continue to advise and challenge the FCA and work to ensure the consumer view is integrated into the FCA's culture and ways of working.

The Panel will continue to press for a duty of care; will develop its projects on competition in the financial services sector; and will continue to measure the FCA's effectiveness. In addition it will look at data consent and governance and develop a holistic view of consumer debt. The Panel will also develop projects on the protection market and releasing equity from property.

As the process of withdrawal from the EU speeds up, the Panel will also work with the FCA, Government and other stakeholders to ensure consumers are not negatively impacted.

2.1 New projects

Data consent and governance

The Panel will look at the rights and responsibilities of consumers with regards to sharing financial data and consider how governance should operate in the interests of consumers.

Consumer debt

The Panel will consider what a debt market that works well for consumers looks like, building on the FCA's work in this area.

The Panel is concerned that the regulator considers the impact debt products have on consumers in too narrow a way. Looking at a single product in isolation fails to identify wider consumer detriment that a particular product causes. This year, the Panel will be examining evidence on the role unsecured debt products play in the financial position of consumers, to encourage a more holistic regulatory approach to the credit market.

The protection gap

The Panel will look at how the protection market could deliver better outcomes for consumers.

Releasing value from property.

The Panel will look at the options consumers have for releasing equity from their property, and consider whether these deliver good outcomes. This will include a consideration of issues causing concern in the equity release market.





Appendix I:

Panel members



Sue Lewis – Chair (Re-appointed as Panel Chair 1st July 2016)

Attendance at full Panel meetings: 11/11
Attendance at Working Group meetings – 14/22



Liz Barclay

Attendance at full Panel meetings: 10/11
Attendance at Working Group meetings: 10/11



Caroline Barr

Attendance at full Panel meetings: 11/11
Attendance at Working Group meetings: 10/11



Mark Chidley

Attendance at full Panel meetings: 11/11
Attendance at Working Group meetings: 11/11



Sharon Collard

Attendance at full Panel meetings: 11/11

Attendance at Working Group meetings: 11/11



Teresa Fritz

Attendance at full Panel meetings: 10/11

Attendance at Working Group meetings: 9/11¹



Jennifer Genevieve

Attendance at full Panel meetings: 11/11

Attendance at Working Group meetings: 11/11



Dominic Lindley

Attendance at full Panel meetings: 11/11

Attendance at Working Group meetings: 11/11



Pamela Meadows

Attendance at full Panel meetings: 11/11

Attendance at Working Group meetings: 10/11

¹ Absent due to attendance at external meeting on behalf of the Consumer Panel



Faith Reynolds

Attendance at full Panel meetings: 10/11²
Attendance at Working Group meetings: 10/11



Jeff Salway

Attendance at full Panel meetings: 11/11
Attendance at Working Group meetings: 10/11



Doug Taylor

Attendance at full Panel meetings: 11/11
Attendance at Working Group meetings: 10/11³



Kitty Usher

Attendance at full Panel meetings: 11/11
Attendance at Working Group meetings: 10/11



Angela Roberts (joined Panel 1 March 2017)

Attendance at full Panel meetings: 1/1
Attendance at Working Group meetings: 1/1

² Absent due to attendance at external meeting on behalf of the Consumer Panel

³ Absent due to attendance at external meeting on behalf of the Consumer Panel

Appendix 2: Expenditure

The FCA Board agrees a Budget for Panel members' fees, expenses and any consultancy or research work it commissions. The Panel is supported by a Secretariat of 5 FTE staff.

Actual expenditure in 2016-2017 was £395,000.

	Actual April 2014– March 2015 (£000)	Actual April 2015– March 2016 (£000)	Actual April 2016– March 2017 (£000)								
Panel Members' fees and expenses¹	338	298	287								
Other Expenditure²	201	194	108								
Total	540	492	395								
<p>1. The fees exclude employers' National Insurance Contributions paid by the FCA. The fees payable to Panel Members during the year from 1 April 2016 to 31 March 2017 were as follows:</p> <table> <tbody> <tr> <td>Panel Chair</td> <td>£60,000</td> </tr> <tr> <td>Working Group Chairs (55 days)</td> <td>£26,000</td> </tr> <tr> <td>Members whose minimum commitment is 45 days a year</td> <td>£18,000</td> </tr> <tr> <td>Members whose minimum commitment is 32.5 days a year</td> <td>£13,000</td> </tr> </tbody> </table>				Panel Chair	£60,000	Working Group Chairs (55 days)	£26,000	Members whose minimum commitment is 45 days a year	£18,000	Members whose minimum commitment is 32.5 days a year	£13,000
Panel Chair	£60,000										
Working Group Chairs (55 days)	£26,000										
Members whose minimum commitment is 45 days a year	£18,000										
Members whose minimum commitment is 32.5 days a year	£13,000										
<p>2. Other expenditure includes recruitment and research.</p>											

Appendix 3:

Meetings with external stakeholders

Between 1 April 2016 and 31 March 2017, members of the Financial Services Consumer Panel met with the following external bodies:

ACCA

AEGON

Association of Investment Companies (AIC)

All-Party Parliamentary Group on Credit Unions

All-Party Parliament Group on Crowdfunding and non-bank finance

All-Party Parliamentary Group on Debt & Personal Finance

Association of Professional Financial Advisers (APFA)

Association of British Insurers

B&CE

BACS

Banking Standards Board

Barclays

A J Bell

Bestinvest

Better Finance

Bureau Européen des Unions de Consommateurs (BEUC)

British Insurance Brokers' Association (BIBA)

British Bankers Association

Birmingham University

Boring Money

Bristol University

Brunel University

Building Societies Association

CASS Business School

Centre for Social and Financial Innovation (CSFI)

Chartered Banker

The Chartered Insurance Institute (CII)

APPENDIX 3: MEETINGS WITH EXTERNAL STAKEHOLDERS

Citizens Advice

City UK

Collaborate Research

Competition & Markets Authority

Complaints Commissioner

Consumers International

Council of Mortgage Lenders

Department for Business Innovation & Skills

Department for Work and Pensions (DWP)

Dutch Pensions (APEP)

Equity Release Council

Essential Services Access Network

European Banking Authority (EBA)

European Central Bank

European Commission

European Insurance and Occupational Pensions Authority (EIOPA)

European Retail Financial Forum

European Securities and Markets Authority (ESMA)

Fairbanking

Fidelity Investments

Financial Conduct Authority (FCA)

Finance & Leasing Association

Finance Innovation Lab

Financial Services Compensation Scheme (FSCS)

FISC Working Group

Financial Advice Working Groups

FISC CWG

Financial Services Compensation Scheme

Gleneagles Advisory Board

Group of 30

Hargreaves Lansdown

HM Treasury

Ignition House

Imperial College

Information Commissioner's Officer

Investment & Life Assurance Group

Investment Association

Jaitly LLP

J P Morgan (Gleneagles)

Law Commission

Legal Services Consumer Panel

Lending Standards Board

LV

Lloyds Banking Group

Meteos & Leader's Quest

Money Advice Service

Money Advice Trust

Moneyfarm

Money on Toast

National Audit Office

National Employment Savings Trust (NEST)

Nat West

Nationwide

New City Agenda

Nutmeg

Organisation for Economic Co-operation and Development (OECD)

Open University Business School

Payments UK

Payments Systems Regulator Panel

Pay Plan

Peer to Peer Conference Finance Association

Pensions and Lifetime Savings Association

Pensions Policy Institute

Pension Wise

Personal Finance Society

Prudential Regulation Authority

Reading University

Reform

Resolution Foundation

APPENDIX 3: MEETINGS WITH EXTERNAL STAKEHOLDERS

Retirement Leaders Annual Summit

Scottish Financial Enterprise

Scottish Widows

Share Action

David Severn

Chris Sier

Social Market Foundation

Standard Life

Stepchange

Taiwanese Financial Ombudsman Institution

Tax Incentivised Savings Association (TISA)

TD Direct

Tech UK

Tesco Bank

TPAS (The Pensions Advisory Service)

The Pensions Regulator

The Thinking Partnership

Toynbee Hall

Transparency Task Force

True Potential

TUC

Young Enterprise Board

Wealthify

Wealth Horizon

Westminster Business Forum

Which?

UK Cards Association

Virgin Money

Appendix 4:

Panel Members' participation in events

April 2016

Open University Launch of Managing My Financial Journey (Sue Lewis)
ACCA roundtable: Research Looking at Britain's Consumer Debt (Mark Chidley)
INFE OECD Conference (Sue Lewis)
FCA TechSprint Event (Faith Reynolds)
FCA Asset management Market Study Roundtable (Sue Lewis)
Retail Financial Services Conference (Sue Lewis)

May 2016

MSMEs conference in Jakarta (Sue Lewis)

June 2016

FCA Secondary Annuity Market (Doug Taylor)
TSC Hearing on CMA Report into retail banking (Caroline Barr)
Capital Markets FinTech Beyond the Hype (Jeff Salway)
BBA Retail Banking Conference (Sue Lewis)

July 2016

Transparency Task Force Event with DWP (Sue Lewis)
Payments Innovation Conference (Sue Lewis)
FCA Roundtable – Protecting Old People and Facilitating Third Party Access to Money (Teresa Fritz)

August 2016

HMT Roundtable: Pensionwise Guidance Provision (Teresa Fritz)

September 2016

Payments UK: Open Banking API Standard (Faith Reynolds)
ESAs Joint Consumer Protection Day (Sue Lewis)

October 2016

FCA/Imperial College Conference on Consumer Choice in Mortgage Markets (Pam Meadows)
Money Advice Services Roundtable on How Big is the Gap? (Kitty Ussher and Liz Barclay)
FCA Retirement outcomes Review Workshop (Teresa Fritz)
BBA Conference on Future of Payments (Faith Reynolds)
PSR Innovation Roundtable (Faith Reynolds)
Westminster Business Forum Seminar: (Caroline Barr)

Getting Personal: How can Government Stamp out Personal Injury Fraud and Help Get a Better Insurance Deal for Consumers (Liz Barclay)
Pensions Dashboard Infrastructure Prototype (Doug Taylor)

November 2016

Essential Services Access Network Conference on How Can the Consumer Voice Be Better heard in Regulated Sectors (Sue Lewis)
PLSA Making pensions and Savings Markets Work for All Stakeholders (Doug Taylor)
Financial Times Value for Money: Delivering Returns for Members in a Low Growth World (Doug Taylor)
Financial Ombudsman Institution of Taiwan Conference (Sue Lewis)
Westminster Employment Forum Seminar (Doug Taylor)

December 2016

RBS Sustainable Banking Committee (Mark Chidley)

January 2017

Westminster Business Forum: FinTech in the UK (Jeff Salway)
New City Agenda Event: Open banking (Faith Reynolds)
FCA Third Party Access Roundtable (Doug Taylor)
FCA Senior Managers Regimes in Practice Roundtable (Caroline Barr)
FCA Asset Management Market Study roundtable (Doug Taylor, Teresa Fritz, Jeff Salway)
Which? Roundtable on Brexit Outcomes for Consumers (Doug Taylor)
Banking Futures Roundtable for Policy Makers (Mark Chidley)

February 2017

FCA Review of High Cost Credit (Sharon Collard)
HMT Pensions Dashboard Challenge Panel (Teresa Fritz)
FCA Smarter Communications Roundtable (Sue Lewis)
Personal Finance Society Conference on Robo Advice (Teresa Fritz)

March 2017

PLSA Investment Conference (Teresa Fritz)
All Party Parliamentary Group on Crowdfunding & Non-Bank finance (Pam Meadows)
Payments UK – Unlocking the Power of Data (Faith Reynolds)
Tesco Bank/Social Market Foundation Millennial Finances Research Roundtable (Dominic Lindley)
FCA InsurTech forum on Access to Insurance and Innovation (Sue Lewis)

Appendix 5:

Publications, research and responses to consultations

Position Papers

December 2016	Online Investment and advice services – the consumer experience
January 2017	Duty of Care
February 2017	Brexit

Discussion Papers

March 2016	Investment costs and charges: where are we now?
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Responses to Consultations

May 2016	The Payments Accounts Regulations 2015: Draft Handbook changes and draft guidance
May 2016	TPR consultation on draft DC guides – value for members draft guide
June 2016	TR 16/2 Fair Treatment of Long-Standing customers in the Life Insurance Sector
June 2016	Public Financial Guidance
June 2016	CMA Retail banking market investigation: provisional decision on remedies
June 2016	ABI Consultation on simplifying language on retirement options
June 2016	CP 16/12 Secondary Annuity Market – proposed rules and guidance
July 2016	Options to Refine the UK Competition Regime
July 2016	Proposed Implementation of the Enforcement Review and the Green Report
July 2016	UCITS V Level 2 Regulation, SFTR and consequential changes to the Handbook
July 2016	Help to Save: consultation on implementation
August 2016	EBA Discussion Paper on innovative uses of consumer data by financial institutions
August 2016	FCA Consultation on capping early exit pension charges
August 2016	DWP consultation on capping early exit charges for members of occupational pension schemes
September 2016	FCA Retirement Outcome Review – Terms of Reference
September 2016	Post-implementation review of the FCA's crowdfunding rules
September 2016	Payment Strategy Forum's draft strategy consultation
September 2016	House of Lords Select Committee on financial exclusion

October 2016	Pension Wise Standards: Changes for Secondary Annuity Market Guidance
October 2016	EIOPA Consultation Paper on Technical Advice on possible delegated acts concerning the Insurance Distribution Directive
October 2016	Rules and Guidance on Payment Protection Insurance Complaints: feedback on CP15/39 and further consultation
October 2016	EIOPA Consultation on Implementing Technical Standards on a standardised presentation format of the Insurance Product Information Document (IPID) under the Insurance Distribution Directive (IDD)
October 2016	HMT's consultation on introducing a pensions advice allowance
November 2016	CMA Market Study on Digital Comparison Tools: Statement of Scope
November 2016	DWP consultation on valuing pensions for the advice requirement and introducing new consumer protections
November 2016	HM Treasury's consultation on amending the definition of financial advice
December 2016	Revised proposed guidance on guarantor loans
December 2016	DWP Consultation on the advice requirement and overseas pension transfers
January 2017	The fair treatment of mortgage customers in payment shortfall: impact of automatic capitalisations
January 2017	Overall responsibility and the legal function
January 2017	Applying conduct rules to all non-executive directors in the banking and insurance sectors
January 2017	Transaction cost disclosure in workplace pensions
January 2017	MIFID II Implementation – Consultation Paper III
January 2017	Handbook changes to reflect the introduction of the Lifetime ISA
January 2017	FCA Mission
February 2017	Industry Working Group's Consultation on Improving Pension and Investment Transfers and Re-Registrations
February 2017	Financial Ombudsman Service's Business Plan and Budget 2017/18
February 2017	Money Advice Service 2017/18 Business Plan
February 2017	Access to Basic Retail Financial Services
February 2017	Call for Input: High-Cost Credit and Review of the High-Cost Short-Term Credit Price Cap
February 2017	Joint HMT and DWP Pension Scams Consultation
February 2017	Joint HMT and DWP Public Financial Guidance Review: Consultation on a Single Body
February 2017	Regulatory reporting: retirement income data
February 2017	Implementing information prompts in the annuity market
February 2017	Draft legislation: the Registered Pensions Schemes (Authorised Payments)(Amendment) Regulations 2017
March 2017	Asset Management Market Study, Interim Report

Mach 2017	HMT implementation of the revised EU Payment Services Directive II
March 2017	FSCP Response to EBA Consumer Trends Report 2017
March 2017	ESAs Joint Committee: Use of Big Data by Financial Institutions

Research Papers

October 2016	Research: The implications of Brexit for UK consumers of financial services: a think piece
December 2016	Report: Assessing online investment and advice services by Boring Money on behalf of the Financial Services Consumer Panel

Appendix 6:

Panel members on other Bodies

EBA Stakeholder Group

Dominic Lindley

ESMA Stakeholder Group

Faith Reynolds

EIOPA Insurance and Re-Insurance Stakeholder Group

Teresa Fritz

Financial Advice Markets Review Expert Group

Sue Lewis

Financial Services User Group

Sue Lewis

Insurance Fraud Taskforce

Liz Barclay

Money Advice Service Stakeholder Groups

Jennifer Genevieve

Kitty Ussher

Payment Strategy Forum

Faith Reynolds

Payment Systems Regulator Panel

Pam Meadows

PFS Consumer Insight Panel

Sue Lewis

Terms of Reference

1. The Financial Services Consumer Panel ('the Panel') was established by the Financial Conduct Authority ('FCA') under the Financial Services and Markets Act 2000 to represent the interests of consumers.

Scope

2. The Panel represents the interests of all groups of financial services consumers.
3. The Panel provides advice and challenge to the FCA on the extent to which the FCA's general policies and practices are consistent with its general duties, as required under the Financial Services and Markets Act 2000.
4. The Panel focuses on the FCA's strategic and operational objectives, together with the expectations on the FCA to discharge its general functions in a way which promotes competition in the interests of consumers and to have regard to the regulatory principles.
5. The Panel operates independently of the FCA. The emphasis of its work is on activities that are regulated by the FCA, although it may also look at the impact on consumers of activities that are not regulated but are related to the FCA's general duties.

Membership

6. The FCA Board appoints Panel members, with HM Treasury's approval required for the appointment or dismissal of the Chair.
7. The FCA may appoint to the Panel such consumers, or persons representing the interests of consumers, as it considers appropriate.
8. The FCA must secure that membership of the Panel is such as to give a fair degree of representation to those who are using, or are or may be contemplating using, services other than in connection with business carried on by them. Members of the Panel are recruited through a process of open competition and encompass a broad range of relevant expertise and experience. Panel members will normally serve a maximum of two three-year terms.

The Panel's Duties

9. The Panel will:

- 9.1 Meet regularly and be available for consultation by the FCA on specific high-level issues.
- 9.2 Be active in bringing to the attention of the FCA issues which are likely to be of significance to consumers.
- 9.3 Commission such research as it considers necessary in order to help it to fulfil its duties under these terms of reference.
- 9.4 Request access to information from the FCA which it reasonably requires to carry out its work.
- 9.5 Request regular access to the FCA Chairman, Board, Chief Executive and senior executives of the FCA.
- 9.6 Give the FCA sufficient prior warning of new consumer issues that the Panel is putting in the public domain ("no surprises").
- 9.7 Maintain the confidentiality of information provided to the Panel by the FCA.

FCA Duties

10. The FCA will:

- 10.1 Consult the Panel throughout its deliberations on policies and practices that have a consumer impact.
- 10.2 Consider representations made to it by the Consumer Panel, and must from time to time publish in such a manner as it thinks fit, responses to the representations.
- 10.3 Provide a secretariat to support the Panel to enable it to operate effectively.
- 10.4 Agree with the Panel an annual budget sufficient for the Panel to fulfil its duties under these terms of reference.
- 10.5 Provide the Panel with prompt access to all information which the Panel reasonably requires in order to fulfil its duties.
- 10.6 Give the Panel reasonable access to the FCA Chairman, Board, Chief Executive and senior executives of the FCA.

10.7 Give sufficient prior notice of new consumer issues that the FCA is putting in the public domain (“no surprises”).

Accountability

11. The Panel will publish an annual report on its work, which will be presented to the FCA Board.
12. The Panel may speak out publicly when it wishes to draw attention to matters in the public interest.
13. The Panel will report informally on its work to HM Treasury and other stakeholders.

Financial Services Consumer Panel

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