

Annual Report

2021/22



FCA

Practitioner Panel

Practitioner Panel Annual Report 2021-22

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This report covers the period from April 2021 to March 2022. I took over as Panel Chair on 1 March 2022, and I would like to thank Paul Feeny, my predecessor in the role, for his commitment and enthusiasm.

Last year Paul commented in his opening remarks on the global challenges of the coronavirus pandemic, how the economy would emerge from the crisis, and the effects of the UK's departure from the EU. We are still some way from knowing how the implications of the pandemic will affect the world in general, and the UK financial services industry in particular, and this year we have had additional focus on the increasingly urgent issue of climate change and political instability following the Russian invasion of Ukraine.

The Panel has had, as its first area of focus this year, the immediate issue of navigating the short to medium term, as the regulator transforms and adapts to significant changes in external risks. In addition, it has considered the future of regulation as the UK government reshapes the post-Brexit regulatory landscape, a focus on data and technology as the enablers of better regulation, and the shift in the balance of responsibility as the new consumer duty is shaped and moves towards implementation, bringing with it challenges and opportunities for the industry and the regulator.

In responding to HM Treasury's Future Regulatory Framework Review we emphasised the role of critical friend which the Panels provide, a role which is unlike that of any other body or industry forum in that the Panels offer a cross-sectoral view at an early stage of policy making, helping the Financial Conduct Authority (FCA) to make better decisions. I would like to thank the FCA teams for their openness and constructive engagement with the Panel throughout this time which is vital to the Panel's effectiveness.

The annual report describes the work the Panel has undertaken throughout the year. Before turning to that I would for a moment like to look forward. There are some very particular challenges for the FCA and Panel's focus in the following key areas:

- A more agile approach to risk, working with the FCA to maintain a live view of macro risks and to maintain a list of 'hot spots' through the lens of potential customer harm. This could be a result of policy challenges, perimeter issues, external circumstances and could be used to help with prioritisation calls.
- A continuing focus on helping ensure that policy is designed well and will challenge how FCA policy relates to its objectives.
- Providing guidance on the practicalities of implementing policy
- The Panel will also aim to support the FCA with its transformation agenda, offering insight from our experience of leading transformations across

financial services where this is of help, and bringing to life what we are seeing on the ground with supervision to give the FCA teams a window on progress.

- The Panel will review FCA performance relative to its objectives by reviewing its metrics and use of data as they evolve so that it can steer focus areas for the future.

I would like to thank all the Panel members for their time, expertise and enthusiasm over the past year. And finally, I would like to express my gratitude to Charles Randell who stepped down this year as FCA Chair. Charles was always actively engaged with the Panels and we appreciated his openness and willingness to share his views. We look forward to working with his successor and to supporting the work of the FCA actively during the next year.

Penny James
Chair, FCA Practitioner Panel
July 2022



Introduction

The FCA Practitioner Panel is a statutory panel for the FCA. It is one of a number of panels which the FCA is required to establish by the Financial Services and Markets Act 2000. Alongside the Smaller Business and Markets Practitioner Panels it represents the interests of practitioners and provides advice to the FCA on the extent to which its policies and practices are consistent with its general duties. The Panel is very unusual in that it consists of very senior people from across the breadth of retail financial services and as such brings a wealth of experience and strategic input to the FCA.

The Panel meets on a regular basis to provide senior-level industry input into the FCA's policy and regulatory development, with membership selected to reflect the major sectors of the UK financial services industry. It focuses predominantly on issues with a strategic cross-sectoral impact and provides advice and feedback directly to the FCA Board and Executive.

The Panel supports the FCA in its work to improve diversity, and in its objective of seeking diversity in all its forms to be represented across the Practitioner Panel itself.

The Panel had an overall priority for the year of working together to build public confidence in, and engagement with, financial services. Within that overall priority it focused on:

1. Navigating the short to medium term – managing the off-ramp of crisis measures and the likely conjunction of coronavirus-related challenges, hard Brexit and possible recession;
2. Future of regulation – considering how the FCA and industry can work together on the future of regulation;
3. Data and technology – harnessing data for the benefit of consumers and focusing on operational resilience;
4. Balance of responsibilities – consumer engagement and the boundaries of responsibility between an individual, a firm and the regulator.

1

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Navigating the short to medium term

FCA strategy

In April 2022 the FCA published its vision and ambitions for the next three years, and how it will measure its performance, to improve, adapt and deliver in the interests of consumers, markets and the economy.

The Panel supports the direction of travel of the FCA's consumer and markets strategy. It agrees with the outcomes-based approach which represents a major change in the way the FCA engages, prioritises and allocates resources. A key element in implementing the strategy will be to communicate the vision which the strategy aims to achieve, in clear and simple terms, both to internal and different types of external stakeholders.

The Panel was concerned to emphasise the importance of identifying clear priorities given the wide FCA mandate. That is particularly so with the scale of change at the FCA, changes in the regulatory system following Brexit, and changing global economic conditions.

Joint FCA and Panel Survey

In 2021 the FCA and the Panel carried out their regular joint survey of authorised firms. Conducted between May and July, it was the first since 2019, giving firms and the regulator an opportunity not only to review the work of the FCA over the last two years but also to reflect on lessons learned during the COVID-19 pandemic.

It was encouraging that overall the survey showed a relatively stable set of results. The regulator's performance during the pandemic was viewed positively, particularly among the larger, fixed-portfolio firms. There were, however, some concerns that the FCA has a reactive attitude to risk, some specific concerns about communication with smaller firms, including the way data is requested from them, and issues relating to the efficiency of the authorisations process. The Panel is pleased that going forward the joint survey is being used to provide metrics to assess whether outcomes in the Business Plan are being delivered, and is keen to help in developing other metrics as the FCA's data strategy matures.

FCA transformation

The markets which the FCA oversees are changing rapidly and the organisation is transforming how it can operate to respond to this and prepare for future challenges. The FCA's ongoing investment in its people, technology and capabilities, along with evolving its culture, will enable it to deliver its commitments. Some of the specific work involves becoming a data led regulator, streamlining decision-making and governance, focusing on diversity and inclusion and developing a national location strategy.

The Panel supports the FCA in this hugely ambitious project and agrees that this is a longer-term project which will take some years to complete, while expressing concern about the ability to do everything on the regulatory agenda and particularly the stretch of the senior team. It has been involved from the start and has encouraged the FCA to be explicit externally and internally about its focus and prioritisation, and to ensure that policy and supervisory objectives are aligned. It has stressed the role of culture will be key, has shared learnings from Panel members' own experience of cultural transitions and encouraged the use of short-term milestones to communicate how the organisation is changing.

Responding to significant changes in risks

The Panel provides input to the FCA Board identifying key risks to the regulator's objectives. Previously an annual exercise, during 2022 the Panel has agreed a more dynamic process working with the FCA on an ongoing basis to maintain a live view of macro risks and to maintain a list of 'hot spots' through the lens of potential customer harm.

In early 2022 the Panel raised the issue of the current economic and geopolitical risk environment, including the heightened tensions in Ukraine, increased energy prices and multiple pressures on consumer finances. In the first days of the pandemic, the FCA reprioritised its work quickly and effectively, and the Panel encouraged it to be prepared to do so again, learning from its previous experience, as the external environment could change, again, quite suddenly. The Panel also recommended that the FCA also needs to keep in close contact with the industry to keep in touch with what actions it is taking and what actions should be prioritised by the regulator.

Ukraine

Following the Russian invasion of Ukraine the FCA published a range of guidance for firms on the application of sanctions, as well as points that firms should consider regarding their firm's operational and cyber resilience.

In its discussions with the FCA on the situation in Ukraine and Russia and the impact on the financial services industry the Panel emphasised the willingness of the industry to help, particularly in calling out any information on cyber attacks and evidence of attempts to evade sanctions. It encouraged the FCA to help facilitate cross-sectoral information exchange and to signpost clearly where and how firms should report their concerns, ideally to a central pool, including making full use of the Financial Sector Cyber Collaboration Centre (FSCCC) for cyber issues. Members of the Panel participated in regular calls with the FCA, the Markets Practitioner Panel and Listing Authority Advisory Panel to provide feedback from the industry during the early days of the crisis.

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Future of regulation



HM Treasury's Future Regulatory Framework (FRF) Review: Proposals for Reform

Following a consultation earlier in the year, in November 2021 HM Treasury published a further consultation on a review of the future regulatory framework to determine how the framework should adapt to the UK's new position outside the European Union, and how to ensure it is fit for the future. Both consultations considered the role of the FCA's Panels.

The Panel responded to both consultations, supporting the view that following the implementation of the FRF Review there will be increased opportunity for the regulators to consult their panels and that the way forward is to build on the strengths of the existing arrangements, especially the role of 'critical friend', and was fully supportive of a clear and transparent process for appointing members to ensure membership reflects the full diversity of stakeholders.

A competitiveness objective for the FCA is, in the view of the Panel, necessary to support a greater focus on competitiveness as part of the regulatory framework and necessary to support the ability of the UK financial services sector to compete internationally and continue to contribute to the UK's economic prosperity. Although a secondary objective, the Panel sees this as fundamentally important to the operation of the Prudential Regulation Authority (PRA) and FCA and we

strongly support the government's plans to require both regulators to report on their performance against their growth and competitiveness objective on an annual basis.

The Panel welcomed emphasis on ensuring that the cost and benefit of regulatory changes would receive even greater scrutiny, providing support to the FCA's outcomes focus.

Scope of regulation in the current world

The Panel strongly supports the view that technology providers should take responsibility for the information presented on their platforms. In a world where legislation and regulation were in many areas not designed for the current infrastructure it has encouraged the FCA to work with the government and other agencies to improve those, in the area of online business and elsewhere, to ensure they are appropriate for the current and coming environment.

Compensation Framework Review

In December 2021 the FCA launched a discussion as part of its review of the compensation framework, with the objective of continuing the framework to provide an appropriate level of protection for consumers while being funded in a fair and sustainable way.

The Panel welcomed the review of the compensation framework as it views this as an area that is not working either for customers or for firms. It encouraged the FCA to be more ambitious in its

objectives in this area, given that it is reinforced by the consumer investments work which also seeks to reduce consumer harm and therefore the need for the FSCS to step in.

The Panel views the amount of the FSCS levy as still unsustainably high. The UK has one of the most permissive environments for the range of products and investments that consumers can access and also one of the most generous compensation schemes, which has resulted in the current levies which are not aligned with risk. The Panel has urged the FCA to address how to encourage good behaviour whilst making those firms which are the greatest source of harm pay for the harm they cause. It has recommended the transparent use of data to show where the problems are arising as a good start to ensuring that any solutions are fair.

Appointed Representatives (AR) Regime

In December 2021 the FCA consulted on improving the AR Regime, having identified a wide range of harms across all the sectors where firms have ARs.

The Panel supported the premise of the changes in the consultation to ensure that principal firms appropriately oversee their appointed representatives. However, it encouraged the FCA to reflect on the amount of time that will be required to make system and process changes to comply effectively.

Claims management companies (CMCs)

In January 2021 the FCA consulted on restricting CMC charges for financial products and services claims. In November 2021 it announced new rules to protect consumers against excessive charges. The Panel responded to the consultation. The FCA also consulted in May 2021 on preventing phoenixing (the reappearance of an individual connected with a wound-up financial services firm in connection with a claims management company).

In discussing the claims management sector with the FCA the Panel was pleased to see the significant work the regulator has been carrying out to drive good behaviour in this market and prevent those who are not behaving appropriately from continuing in business. However, Panel members have highlighted that firms are continuing to see substantial numbers of subject access requests where a very low percentage translate into claims, tying up a great deal of customer service resources. In addition, firms are also seeing requests for documentation dating back many years, which firms are not able to provide, even though they met all the regulatory requirements at the time.

Environmental, Social and Governance (ESG) issues

The Chancellor's remit letter to the FCA in March 2021 stated that it should have regard to the Government's commitment to achieve a net-zero economy by 2050 when performing its functions as a regulator. During the COP26 summit in Glasgow the FCA released its new strategy for positive change, with themes of building trust in the market for ESG products and ensuring transparency along the value chain.

The Panel acknowledges that the FCA's role in supervising firm transition plans to net zero will be an important one, but we appreciate this will be a challenge for the regulator, on top of its other priorities, and that at least initially a flexible approach will be required.

Diversity and inclusion

In July 2021 the FCA, PRA and Bank of England published a joint discussion paper on how they could accelerate the pace of meaningful change on diversity and inclusion in the financial services sector, looking at what role they could most usefully play to support this change.

In its response to the Discussion Paper the Panel welcomed it as addressing a defining issue of a generation, both in a moral as well as a business context, and that it is vital that the regulators should be involved in driving progress forward. There has been a fundamental

shift globally towards social justice but there are questions about whether industry can respond to the challenge on its own. The Panel believes that having the regulators driving change will help to move the whole sector, rather than just the larger firms, and the tone should begin with an absolute assumption that diversity and inclusion are the right way forward, rather than requiring or using a financial 'business case' to justify the focus.

Given the huge societal shift involved, the Panel argued that it is a long-term project, and needs to have appropriate timescales attached to its objectives, as well as encouraging the regulators to think broadly about how they address this issue, and to think beyond the current regulatory toolkit.

In July 2021 the FCA consulted on diversity and inclusion on company boards and executive committees to require in scope companies to disclose publicly in their annual financial report whether they meet specific board diversity targets relating to gender and ethnicity on a 'comply or explain' basis.

The Panel welcomed the aims and direction of travel of these proposals, albeit with some reservations around the level of prescription in the regulator's approach and seeking to ensure its recommendations focus on the macro-outcomes. It recommended against using regulation to enforce a link between remuneration and the achievement of diversity targets,

believing this to be counterproductive to the cultural change required to build inclusive businesses and instead recommended an update to the Corporate Governance Code.

Sustainability Disclosure Requirements and investment labels

In November 2021 the FCA published a discussion paper seeking initial views on new sustainability disclosure requirements for asset managers and FCA-regulated asset owners, as well as a new classification and labelling system for sustainable investment products.

Overall, the Panel was supportive of the FCA's stated aims with regards to this consultation, and agreed that it was extremely important for the regulator to take steps to underpin the integrity of the offering customers can access by taking steps to improve transparency and clarity. When determining the best consumer-facing disclosures to utilise, it stressed that simplicity is of the utmost importance and was therefore very supportive of the FCA's plans for consumer engagement before consulting on a final set of rules.

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Data and technology

Use of data

As part of its Transformation programme the FCA has created a new Data, Technology and Innovation division and during the year the new Executive-level Chief Data, Information and Intelligence Officer took up her role.

The creation of the new Data, Technology and Innovation division was welcomed by the Panel, given how critical they are to the FCA's work. The Panel has encouraged the FCA to continue developing the strength and depth of its data capabilities and has recommended that a key focus should be to use data to develop a more targeted approach to interventions to avoid the unintended consequences which can follow from a blanket approach.

Fraud and Cyber Crime

The FCA's view is that stopping financial crime requires a collective effort from the regulators, from regulated firms, Government and law enforcement. Its aim is to measurably reduce financial crime and the risk of financial crime.

The Panel supports the FCA's efforts, in conjunction with other government bodies, industry groups and media, to address current higher levels of fraud and cyber-crime targeting financial service and in particular supports the FCA continuing to recognise this as a key strategic priority.

Authorisations

Given the expansion of the scope of the FCA's responsibilities in this area Authorisations has been under considerable operational pressure. The Panel has been pleased to see progress being made in this area and strongly supports the use of machine learning/AI to improve the efficiency of the authorisations process. As part of this it has recommended developing a process where firms can feed back their experiences of authorisation to create further improvements, as well as reducing pressure on the FCA by requiring firms to take responsibility for ensuring that their own entries on the Register are up to date.

Open Finance

The revised Payment Services Directive mandated the right of access to payment account data to increase innovation and competition in the payments sector. Together with open banking, it enables customers to consent to third parties accessing their payment account information or to make payments on their behalf. Open finance could build on this by enabling similar access to a wider range of financial products.

The Panel supports the FCA taking the lead role in driving the Open Finance work. Its feedback has focused on the need for symmetry and sustainability in the market. It would be highly unusual to open services to technology companies at no cost to them, as this would result in an unsustainable business

model as a result of a disconnect between cost and risk. The Panel has encouraged the FCA to push the government to make clear what its aims are for addressing the incumbent power of the big technology firms in order to maintain a level playing field and a competitive and sustainable market.

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Balance of responsibility

A common theme running through many Panel discussions has been the balance of responsibility between the consumer, the firm and the regulator. The proposals for a new consumer duty have the potential to move the dial substantially towards the firm in terms of responsibility. The work on Consumer Investments, on the other hand, seeks to improve the mass market by developing a non-advised sales regime for lower-risk investments, which requires an element of consumer responsibility if it is to be practical for firms to offer. The Panel believes strongly that the FCA should consider more broadly where the balance of responsibility should lie, and then be clear about its expectations and consistent in its application.

New Consumer Duty

The FCA consulted twice in 2021 on proposals to set a higher standard of consumer protection in retail financial markets, where firms compete vigorously in the interests of consumers. The FCA expects to confirm any final rules by the end of July 2022. Parliament has also called strongly for a change to the standard of protection for consumers, and the work underway meets the FCA's obligations under the Financial Services Act 2021.

The Panel feels strongly about the need to ensure good consumer outcomes and welcomes the FCA's desire to focus the sector on consumers and improving their experience of financial services. In its view, this work is one of the most important initiatives to be undertaken

by the FCA, to formulate regulation which will underpin the activity of the entire financial services industry for years to come.

The Panel was concerned that some of the proposals in Consultation Paper CP21/13 would create increased regulatory risk, resulting in a series of additional compliance costs on firms, and that the expected behavioural responses risk imposing an additional set of costs on customers. The combined impact of these changes may have wider macroeconomic and policy implications which are as yet unquantifiable. The consultation considered two alternative wordings, whether the new consumer duty should be that firms should seek to deliver "good outcomes" for customers, or that firms should act in their customer's "best interests", both underpinned by a requirement for firms to take all reasonable steps to avoid causing foreseeable harm and to enable customers to pursue their financial objectives and could be accompanied by a Private Right of Action. The Panel was pleased to see that in the following consultation the FCA took on board the very serious concerns of the Panel, and those of the broader industry, that some of the proposals as worded could have resulted in very serious unintended consequences for consumers.

The Panel's focus has now moved to pragmatic implementation of a significantly higher standard of conduct for firms. It has highlighted the issue of the proposed timescale for implementation of what, for many

firms will be a substantial piece of work, being carried out alongside many other regulatory changes. As it is principles based, to be successful the implementation will require the development of examples of good practice to educate both supervisory teams and firms and to drive consistency of approach. This will require considerable changes in both firms and regulator which needs reflecting in the implementation timeline.

General Insurance Pricing Practices

A market study by the FCA on general insurance pricing practices found that in the home and motor insurance markets, prices for renewing customers were often higher than for equivalent customers who were new to the insurer, penalising loyalty. It consulted on a package of measures to improve competition and ensure firms offer fair value products in the future. Final rules on pricing, auto-renewal and reporting came into effect on 1 January 2022, with a transitional provision for the rules on pricing and auto-renewal disclosure.

During the consultation process the Panel stressed that this was a bold intervention which was far-reaching, affecting every policyholder's price, not just those of long tenure or in the pricing tails. Rather than simply tempering the specific issue of price walking, it explained that it would potentially transform how the market operates and urged the FCA to be clear how it would monitor for unintended

consequences. Given the complexity of the change, the Panel worked extensively with the FCA to ensure it had visibility of where the guidance required greater clarity and consistency. It also raised the broader issue of the FCA's general approach to market readiness and contingency planning post implementation. Given the scale of the market change in this instance, and the very short timescales for implementation, the Panel encouraged the FCA to share how it would assess market readiness before the implementation date and its intentions for market monitoring and supervision actions. The Panel has requested a post implementation review so learnings can be applied to other significant interventions such as the consumer duty. It encouraged the regulator to learn from the process and apply it to other significant market interventions.

Pensions Consumer Journey

In May 2021 the FCA published a call for input to understand consumer behaviour at key points in the pension saving journey to improve pension outcomes.

The harms identified in the consumer journey work are, the Panel believes, the correct ones as transfer of risk to consumers has happened – they did not ask for it and in many cases do not understand it. Although the tax regime is not within the FCA's remit, it has argued that reducing the complexity of the regime is the key to improving consumer engagement. Within that constriction, the Panel has encouraged

the FCA to work with other relevant bodies to segment the market and use targeted case studies to help consumers understand what could happen if they engage, or more importantly do not engage, with the retirement planning process.

Driving Value for Money in Defined Contribution (DC) Pensions

In September 2021 The Pensions Regulator (TPR) and the FCA published a joint discussion paper on Driving Value for Money (VFM) in Defined Contribution Pensions inviting views on developing a holistic framework and related metrics to assess VFM in all FCA and TPR regulated DC pension schemes (workplace and non-workplace).

The Panel responded to the consultation, welcoming the focus on customer service and oversight as a contributor to the quality of a scheme. The view of the Panel, however, is that this should be wider than just service and instead focus on client outcomes, and it would expect to see more consideration concerning the behaviour of clients, the key planning decisions and the understanding of what drives "good" decision-making. It also wanted to see more explicit coordination with the new consumer duty work, as there is a risk of multiple overlapping regulations that might not lead to the same actions from firms or outcomes for consumers.

Consumer Investments

In September 2021 the FCA published its consumer investments strategy to explain the work it would be doing to ensure consumers can invest with confidence.

The Panel very much supported the FCA's consumer investments work, and in particular the framework and quantification of outcomes. It encouraged the regulator to go even further in its targets and seek a substantial reduction in the FSCS levy. It encouraged a clear and ambitious call to action for the market for each of the outcomes.

High risk investments regulatory strategy

In January 2021 the FCA consulted on proposals to strengthen its financial promotion rules for high-risk investments, and for authorised firms which approve and communicate financial promotions. It also launched the InvestSmart campaign to help consumers make better-informed investment decisions and become smarter investors.

The Panel discussed the application of financial promotions rules being applied to non-regulated investments and believes this is appropriate. The FCA's research into consumer behaviour when investing in high-risk products illustrates both the widespread lack of financial literacy amongst those participating in this sector and the lack of clarity about where the regulatory perimeter

lies. The FCA's InvestSmart campaign is a good start, but the Panel encouraged the FCA to be as loud as it can, and take action as quickly as it can, to highlight what are and are not regulated products and the risks of investing in those which lie outside the perimeter.

List of Practitioner Panel members

Paul Feeney

Chief Executive Officer
Quilter plc
Panel Chair to 28.02.22

Penny James

Chief Executive Officer
Direct Line Group
Deputy Chair from 1.3.21
and Chair from 01.03.22

Amanda Blanc

Group CEO
Aviva plc

Debbie Crosbie

Chief Executive Officer
Nationwide Building Society
Member from 27.6.22

Suvro Dutta

Partner Financial Services
KPMG LLP

Joe Garner

Chief Executive Officer
Nationwide Building Society
Member until 30.4.22

Sean Hagerty

Managing Director
Vanguard Europe

Matt Hammerstein

Chief Executive Officer
Barclays UK
Deputy Chair from 1.3.22

Alasdair Haynes

Chief Executive Officer
Aquis Exchange plc

Christopher Hill

Chief Executive Officer
Hargreaves Lansdown

Susan McInnes

Non-Executive Director of LV
Member until 6.7.21

Vim Maru

Group Director Retail Bank Lloyds
Banking Group
Member until 31.7.22

Andy Mielczarek

Chief Executive
Chetwood Financial
Member and Chair of Smaller Business
Practitioner Panel from 1.6.22

Julie Page

Chief Executive Officer
Aon UK Ltd

Michelle Scrimgeour

Chief Executive Officer
Legal and General Investment
Management

Marlene Shiels

Chief Executive
Capital Credit Union
Member and Chair of Smaller Business
Practitioner Panel until 31.5.22

Steve Treloar

Chief Executive Officer
LV= General Insurance Group

Panel diversity statement

The FCA has collected information on diversity across all Independent Panels. It is working to improve the data it holds and to be able to provide figures for individual Panels (where relevant) for next year's Annual Reports. Based on the information held as of 31 March 2022, this shows that across all the Panels:

- 36% of all Panel members were women
- 43% of the senior Panel positions across all Panels were held by women
- 7% of all Panel members were from a minority ethnic background

The Panel supports the FCA in its objective of improving diversity in the appointments it makes to all the independent Panels.

Practitioner Panel

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Practitioner Panel

