

Transparency

Feedback on DP13/1

August 2013



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This Feedback Statement reports on the main issues arising from Discussion Paper 13/1 (Transparency).

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You can download this Discussion Paper from our website: www.fca.org.uk. Or contact our order line for paper copies: 0845 608 2372.

Abbreviations used in this paper

ABI Association of British Insurers

DP Discussion Paper

EEA- European Economic Area

FCA Financial Conduct Authority

FOIA Freedom of Information Act

FSA Financial Services Authority

GI General Insurance

MiFID Markets in Financial Instruments Directive

PICA Pension Income Choice Associations

S166 Section 166

1. Overview

Introduction

- 1.1** This feedback statement:
- summarises the feedback we received to the ideas in our Discussion Paper on transparency and sets out our response to that feedback
 - summarises new ideas proposed by respondents, and
 - sets out our timescales for carrying out more work/implementing the ideas.

Context

- 1.2** In March 2013, we published our Transparency Discussion Paper, DP13/01. It set out our approach to transparency and proposed ideas on how we could be more transparent about our organisation and our regulatory activities, and about how firms could be more transparent about their products and their performance or behaviour.
- 1.3** We set out nine ideas in three main categories:
- How the FCA could be more transparent
 - whistleblowing: saying more about what we've been told and the action we may have taken
 - publishing more about our enforcement activities, and
 - publishing more about supervisory activity.
 - Information we could release about firms, individuals and markets
 - transparency of our authorisations process
 - transparency of our thematic reviews and early intervention, and
 - transparency of the redress process.

- Information we could require firms to release about their products or their performance and behaviour
 - improved transparency of the annuity market
 - publication of claims data on insurance products, and
 - contextualisation of complaints data.

We invited feedback and new ideas and the period for submitting these closed in April 2013.

About the responses

- 1.4** We received 52 responses from a cross-section of stakeholders including regulated firms, consumer organisations, trade bodies, individuals and our independent Panels.¹
- 1.5** Appendix 2 lists those who responded, except those who asked for their responses to be confidential.

Key messages from responses

- 1.6** Respondents shared our view that we should only pursue transparency, in terms of our accountability or improving regulation, to achieve better outcomes. Several stressed that we need to thoroughly assess transparency initiatives, particularly those related to disclosure of information by firms, so we fully understand the impact - potential costs, benefits and unintended consequences.
- 1.7** On the transparency of the regulator, respondents were particularly positive about our proposals and offered helpful suggestions about the best way to achieve this.
- 1.8** Responses were more mixed about the ideas about information we could release about firms, individuals and markets. Views were divided on our idea to publish redress information. Consumer organisations were strongly in favour, while trade bodies' and firms' views were divided.
- 1.9** There was limited support for our ideas about information we could mandate firms to release. In particular, there was considerable scepticism among firms and trade bodies that disclosing information about annuities and insurance claims data would affect consumer behaviour in a beneficial way. However, on both annuities and claims ideas, some industry voices were more enthusiastic and highlighted practical challenges to consider. Consumer organisations supported both the ideas, saying they would help consumers make better choices.
- 1.10** Further concerns were raised around maintaining confidentiality of individuals or firms and how best to contextualise information. Many respondents expressed strong views about the need to mitigate the risk of misinterpretation and misuse by explaining information.
- 1.11** Respondents provided suggestions about other things we could do to improve transparency. These are largely about us being more transparent and include:

¹ The three statutory panels: the FCA Practitioner Panel, Small Business Practitioner Panel and Consumer Panel responded to the DP. At the time the DP was published (which was before we became the FCA), the new FCA Markets Practitioner Panel had not been established). More information about the panels can be found here: www.fca.org.uk/about/governance/who/statutory-panels

- *Section 166 reviews*: saying more about how we use these powers, including the number of investigations each year, costs and resources.
- *Policy process*: being more open about our timetable for policy work and any changes.
- *Governance and decision-making*: being more open about how we make decisions and publish more about our executive committees and their terms of reference.
- *Value for money*: being more open about value for money of activities and how fees are used. Respondents were positive about our intention to publish a value for money strategy.
- *Performance*: reporting on performance measures, outcomes and delivery against these.
- *Wholesale markets*: making them more transparent by mandating disclosure of specific information.

Key messages from our response

- 1.12** The DP marked the start of the FCA's work to improve its accountability and to improve regulation through transparency. We are continuing to identify new ways to increase transparency and to assess whether and how we may take forward the ideas set out in the DP and the other ideas respondents offered.
- 1.13** We said in the DP that our approach is informed by the guiding principle that the presumption should be towards transparency unless there are compelling regulatory, legal or other reasons to the contrary.
- 1.14** We have to strike the right balance between disclosing information (where we are legally able to do so) where the public has a legitimate interest in knowing about a particular matter, and refraining from disclosing information where it would be unfair to a particular firm or individual or where it could harm the public interest. We need to be aware of the implications of disclosure on competition and whether disclosure will encourage competition or lead to detrimental effects e.g. collusion.
- 1.15** Our Transparency Framework (which is published on our website) sets out what we will do to appraise new ideas, on a case-by-case basis, before deciding whether to take them forward. The time from identifying to implementing a new idea will vary, depending on what is involved, who it might affect and the potential impact. For ideas that are complex and require significant changes such as new rules, we will follow our standard policy process.
- 1.16** This section sets out the key messages from our response to the feedback received. Appendix 1 provides more detail and sets out the feedback and our response for each idea in the DP.

How the FCA could be more transparent

- 1.17** We are pleased that respondents support our ideas to improve transparency of the regulator. We have already started reviewing our internal guidance on handling whistleblowing incidents. We have reviewed the content of our Annual Enforcement Performance Account in line with the suggestions in the DP and we will continue to do so, building on the feedback we have received. There is further work for us in taking forward the suggestions from respondents about information they would like us to publish about our supervisory activities.

1.18 Respondents were keen that we say more about a Skilled Persons Review (section 166 reviews (s166))² e.g. how we use these powers. We already publish the cost and number of s166 reviews and our Handbook (of rules and guidance) sets out the factors our supervisors consider when deciding to use this tool. As each review is based on one firm and one specific set of circumstances, we believe publishing more information even in aggregate form, would offer little insight to the issues we identify and evidence we use, and be of little value to our stakeholders.

Information we could release about firms, individuals and markets

1.19 We are pleased that respondents supported our ideas to publish more about our authorisations process and thematic reviews. We are reviewing the performance information we collate about our authorisations process and will consider respondents' feedback about extending the idea to include the Approved Person's process. We have already started work to improve the transparency of our thematic reviews and we are encouraged by respondents' enthusiasm for this proposal.³

1.20 We want to engage more with industry about our thematic reviews and work to do so is already underway. We will look at responding to and publishing 'frequently asked questions' on our website and doing road shows to encourage more discussion. We will also look at our work on early intervention and what we might say about this in future.

1.21 We understand respondents' concerns about publishing redress information, however we feel there are strong benefits from greater transparency. We expect full openness on redress as part of any future agreements. Where there is redress as the result of an enforcement case, we intend to disclose more details about the redress scheme in the public notice, in order for the public to be aware of our expectations of firms. We also hope to encourage firms to publish information about redress from supervisory action, where they have voluntarily agreed to provide redress, as we believe this will help us get the best deal for consumers as quickly as possible and in the best way. We need to weigh up the costs and benefits and therefore, before proceeding further with publishing redress information that is not the result of an enforcement case, we will undertake further work to establish the most cost efficient and effective way of doing so.

1.22 Since we published the DP, we have been working on our data strategy and, in future, there will be greater opportunities for us to make better use of the data we hold and to publish aggregate data where we think it would be beneficial and contribute to our objectives.

² A Skilled Person Review is one of the regulatory tools the FCA can employ under FSMA as amended by the 2012 Act. More information about these can be found on our website: www.fca.org.uk/about/what/regulating/how-we-supervise-firms/reports-by-skilled-persons

³ We use a thematic review to assess a current or emerging risk related to an issue or product across a number of firms within a sector or market. It can be focused on both discovering what is going on and on how we suggest the issue is tackled. We also refer to this as 'issues and products' or 'cross-firm' work. More information can be found on our website: www.fca.org.uk/about/what/regulating/how-we-supervise-firms/thematic-reviews

Our vision for data

Our vision is to improve our ability to harness data and to gather integrated and accessible data that will enable us to take action and help us to meet our objectives.

We are committed to using the data we collect as effectively and efficiently as possible. This will mean that the data we collect will undergo greater scrutiny and analysis than previously under the Financial Services Authority (FSA). This will enable us to ask more searching questions based on firms' returns, to trace the source of problems, identify risk sooner and ensure that firms are behaving in a way that focuses on good conduct. We have developed a data strategy that will help us deliver our vision and we expect to publish this in the Autumn.

- 1.23** We have published guidance on how we will approach our three objectives of consumer protection, integrity and competition (the section 1k guidance).⁴ It provides information on our approach to competition, including how we intend to carry out market studies. Market studies will be a key element of our competition mandate and we will publish more at the start of a market study about what they will involve, engage early with stakeholders and publish our draft conclusions and final reports.

Information that we could require firms to release

- 1.24** We are keen to look at the ideas about transparency of the annuities market and publishing insurance claims data further. Building on the feedback we have received, we will continue to engage with industry to understand its concerns. We are already carrying out related work on both of these areas. Before deciding whether and how to take these ideas forward, we will wait to consider the findings of the first phase of our annuities thematic project and will wait to assess the evidence from our thematic review on consumers' experiences of claiming and our market study on low value add-on general insurance.
- 1.25** We are keen to pursue our idea to improve contextualisation of complaints data. We think now is the time to enhance the publication, to ensure it sends appropriate messages to consumers and to industry about relative performance.
- 1.26** There are difficult questions about how to provide context so that comparisons can be meaningful, accurate, and easily understood. But we think these can be overcome, if there is a genuine will amongst stakeholders to come up with workable solutions. We will feed back to stakeholders shortly on how we propose to take this forward.

Wider issues

- 1.27** We welcome the ideas (1.11) that respondents identified for improving transparency and it is worth saying that we already have plans to do more in those areas. For example:
- We agree that we should publish details about our executive committee structure and terms of reference for committees.
 - Later this year we will publish our approach to performance and our value-for-money strategy.

⁴ This can be found on our website: TO BE INSERTED ONCE 1KG PUBLISHED

- We will look at ways in which we can say more about our policy process.
- We will consider further the ideas provided about improving transparency of wholesale markets.

1.28 Respondents were concerned about maintaining confidentiality where it is critical to effective regulation, and we agree that this must not be compromised, where relevant, in pursuit of transparency. There are instances where we are legally bound to protect the anonymity of individuals and firms and to be diligent about the release of confidential information and this will continue.

1.29 Appendix 3 sets out our timetable of further work including, where known, the timescale for implementing ideas.

Appendix 1

Summary of feedback to each idea and our response

1. This appendix sets out summary feedback to each of the questions in the DP and our response.

Whistleblowing: saying more about what we've been told and any action we have taken

2. Respondents supported our idea on whistleblowing but on the condition that confidentiality of the whistleblower will not be compromised. They said that any risk to confidentiality would outweigh the benefits of greater transparency.
3. Firms and trade bodies were concerned that, if not handled correctly, greater transparency may act as a barrier to potential whistleblowers. A small number said this would only be effective if we have systems in place to ensure published information is accurate and that whistleblowers receive the updates they want.
4. The information respondents said would be helpful to publish includes:
 - the number of whistleblowing incidents by firm type and sector
 - the type of issues raised
 - the number of incidents that are found not to be an issue
 - trends and themes
 - whether whistleblowers used internal procedures before they contacted the FCA
 - details of investigations
 - overview of action taken/proposed, and
 - evidence of improved consumer confidence.
5. Consumer organisations and the Panels who responded to this idea suggested we could go further by:
 - looking at the prevalence of whistleblowing policies in financial services and issuing guidance to ensure consistency
 - requiring firms to report annually on the extent of internal whistleblowing, and
 - taking enforcement action where firms have inadequate whistleblowing policies in place.

Our response

We agree that confidentiality of the whistleblower is paramount. As we say in the DP, we will only contact those who agree to being contacted, via a secure point of contact. Any data we publish will not identify individual whistleblowers.

We acknowledge that we need to have systems and resources in place to implement this idea and to do so in a way that will not compromise the integrity of whistleblowing. We have started to review our current way of working and identify any changes that we will need to make to ensure whistleblowing data is fully recorded on our secure data management systems and that reports can be easily generated. We welcome the suggestions about which information it would be helpful to publish and will consider these further as part of this review.

We will look at how we currently liaise with whistleblowers and update our operating guidance so that we ask them whether they wish to be informed of any outcome; i.e. when enforcement action is taken. Where they do, subject to legal, regulatory and other constraints, we will ensure that this happens. There will be a role for our assurance functions to check whether we are adhering to these changes in practice.

The suggestions made to extend our work on whistleblowing to mandate firms to have policies in place would require new rules. We will consider these further. Before issuing new guidance or rules, we would need to gather further evidence of the costs and benefits of these ideas and to carry out a public consultation. Our work on whistleblowing will also need to take into account the recent report by the Parliamentary Commission on Banking Standards, Treasury recommendations and any other related projects.

Publishing more about our enforcement activities

6. All respondents supported this idea in principle, saying they would find the information useful, especially information about themes and the reasons for focusing on particular issues. They said the main benefits in publishing this information would be a greater insight and understanding of our priorities, activities and the decisions we make to focus on particular issues and how these align to our statutory objectives. They also said that it would provide reassurance and has the potential to act as a credible deterrent.
7. A small number of firms do not support our idea to publish more about feedback meetings and stress the need to maintain anonymity of those involved. They felt that we should avoid publishing information that might easily identify firms.
8. Several respondents said that publishing figures without explanation or context would be of limited value and that doing so might result in information being misconstrued or misused by the media and other interested parties.
9. In the DP, we said we could publish more about our work such as the average length and cost of investigations, our allocation of resource by sector and some of the challenges we face. Respondents said this would be helpful, but a small number said the average length and cost would be of limited value and that estimated and actual costs would provide better insight.

10. They suggested other information to publish including:
 - the number of referrals to enforcement
 - allocation of resource by sector and by type of activity
 - outcomes of each case, and
 - fine calculations and how fines compare to revenues of firms.
11. One consumer organisation would like us to name firms and individuals that are subject to enforcement investigations.
12. While respondents consider the enhanced performance account is a good idea, one respondent would like us to review the document to ensure that adding more information does not make it difficult to follow, and another would like us to consider other ways of communicating, for example, through *Dear CEO* letters i.e. when we write to firms' chief executives.

Our response

We think that expanding the annual enforcement performance account in the way we suggested in the DP may help our stakeholders gain a better understanding of the work we do and the decisions we make. As we said in the DP, there are a number of factors that we must consider when pursuing enforcement action – which means it is difficult to compare cases easily. We will try, where possible, to publish contextualised information and provide explanations to try to mitigate the risk that information is misconstrued or misused.

Since publishing the DP, we have been working on identifying those performance measures that could be included in the enhanced performance account. Our Annual Enforcement Performance Account, published in July 2013, took account of some of the changes suggested in the DP and those suggested by respondents to the consultation⁵. We will continue to consider the feedback from respondents about the information they would find useful and will consider this when compiling our next Annual Performance Account in July 2014.

Publishing more about our supervisory activities

13. Respondents said this would be helpful and agreed that the benefits may outweigh the costs or potential unintended consequences. Most respondents also felt we could go further.
14. Learning more about our supervisory activities and supervisory approach is important to respondents who said it would give them a good point of reference and better insight into how we carry out our work and prioritise activities. A minority expressed reservations about how much value this would add. One said that it should be taken forward only if the benefits

⁵ You can find this on our website: TO BE INSERTED ONCE KNOWN

outweigh the cost of producing the information; another said that it might lead to firms focusing on areas that do not represent risks for them.

- 15.** Additional information respondents said we should publish includes:
- an assessment of the effectiveness of supervisory actions
 - details of our horizon scanning and how we identify areas of focus
 - resource allocation by sector
 - average cost and length of thematic reviews
 - staff time (hours) spent with firms, and
 - regional breakdown of supervisory activity.
- 16.** Saying more about section 166 reviews is important to a number of respondents. Firms, trade bodies and consumer organisations requested that we go further than publishing cost information and say more about:
- how we decide to commission a section 166 review and the evidence we use in making these decisions
 - how we commission section 166 reviews, including the rationale for using externally commissioned resources
 - the number of section 166 reviews per year, and
 - the outcomes of section 166 investigations.
- 17.** Firms and trade bodies who responded expressed concern about the additional cost to firms of section 166 reviews. They said that if the FCA is going to commission more of these than the FSA did, then it would be helpful to have more information about their use.

Our response

We already publish information about supervisory activity and outcomes and we agree that we can go further. We will now take forward the proposals we set out in the DP and in doing so, we will examine whether we can expand these to include the information respondents said they would find helpful.

We tend to focus on outcomes of what our supervisory work has achieved and we will look to add to this by publishing aggregate information on the effectiveness of our actions. Similarly, we could publish aggregate information about our resource allocation by sector and we may be able to publish the percentage of time our supervisors spend at firms across the various categories. Publishing the average cost and length of thematic reviews may be misleading given the different nature of each review. We will look at this in more detail and consider what we could publish e.g. time taken on specific activities or phases of the review rather than the whole review.

We do not record supervisory activity by region. But we may be able to say in which areas of the UK we have hosted firm specific or general communications events.

Our annual *Risk Outlook* report sets out how we horizon scan and identify our areas of focus. Our *Business Plan* also does this but in less detail.

We understand respondents' interest in section 166 reviews. Once a quarter, we publish on our website the number of Skilled Person Reviews commissioned by business type. We also publish the total costs, highest and lowest costs and other relevant cost information once a year. In the past, we received many FOIA requests asking for this information and since we have published it routinely, the number of requests has dropped significantly.

Our Handbook sets out the factors that supervisors consider when deciding to use a Skilled Person Report and details of the appointment process including what we consider when approving or appointing a skilled person. It includes examples of when we might use the tool, including circumstances when we might directly contract resources.

Given the nature of s166 reviews, making a further statement about the issues we identify and evidence we use in making decisions to commission a review would be very general. Every review is different and driven by different circumstances; by their very nature, they are firm specific and we are unable, under section 348 of FSMA, to publish this information on a firm-by-firm basis. We also believe this information, even in aggregate, would be of little value given the specific nature of each review and each firm's circumstances.

In a similar way, the outcomes of reviews vary in each case and we cannot publish the outcomes of individual cases due to confidentiality restrictions. We think publishing a report on aggregate outcomes would provide very little insight.

We note firms and trade bodies are concerned that we will commission more s166 reviews than the FSA and that this will lead to increased costs for firms. We believe it is a more efficient use of our limited supervisory resource to require firms to commission and pay for the s166 review of areas of concern we identify within their business. By adopting this approach, the cost of the review work is paid for by the firm where the issues exist, whereas if we were to use FCA staff to carry out these reviews the cost would be borne across the whole industry – which we do not believe is a fair and equitable use of our limited resources.

We cannot predict on an annual basis, how many reviews will be required as they are driven by practices and behaviours we find in firms. We identify the need to commission a review through our ongoing work with firms and we will only use this tool where we have been given cause to do so.

Transparency of our authorisations process

18. Overall, respondents supported this idea and said it would be helpful. They said it would assist firms by enhancing their understanding of the authorisations process and the time it takes, and our expectations of them. They told us which information would be most helpful and provided suggestions about how we could improve the idea.
19. In the DP, we proposed to publish in anonymous, aggregated form the average length of time it takes to authorise firms in the context of the statutory time limit for dealing with applications, and to split this by sector and regulatory activity. Views were mixed about the value of publishing the average length of time taken. Suggestions for alternatives included the distribution of time taken for different types of application, and the actual time taken. Publishing the reasons for any delays was felt to be important.
20. Respondents agreed that publishing the broad reasons for withdrawals from the authorisations process and for refusals would help new entrants understand our process better. There were some concerns about firms being identified and information being published without contextual information.
21. It was suggested that we could further enhance the authorisations process by clearly stating our requirements of firms. A number of respondents felt the proposed publication should be extended to cover all authorisations including Approved Persons.

Our response

As we said in the DP, we think we could publish more information to help stakeholders understand the processes we operate and the authorisation outcomes we are seeking to achieve.

We are currently reviewing our existing reporting of authorisations performance information and working to identify information that stakeholders might find helpful. We will consider respondents' feedback about publishing the average time for applications and their suggestions to expand the published performance information to include the approved person's process.

We expect to complete this and publish enhanced information about our authorisations processes in early 2014.

Transparency of our thematic reviews and early intervention

22. There was strong support for this idea among most respondents; however, some expressed reservations about the consequences of publishing this information, including that it might lead to rules being set outside of the Handbook, and that third parties might use it for potential gain. A few firms felt that there was potential for the information to be misunderstood and asked how helpful it might be for consumers.
23. Respondents expressed strong views about the timing of publications and engagement and communication with industry.

24. Knowing more about our thematic reviews at an earlier stage was felt to be most useful with several respondents commenting that timeliness of publication is critical. There was criticism about the time it has taken us previously to issue findings of thematic projects and one suggestion that where new guidance is required, we should publish the thematic findings first and indicate that guidance will follow, rather than wait until the guidance is ready to publish both.
25. It was suggested that increased engagement with industry as a means of gathering practical knowledge, before and during thematic projects, would be beneficial.
26. Firms and trade bodies were keen that we consider communicating findings of our thematic work in a different way. They said we could do this by publishing frequently asked questions and answers about specific projects, and hosting road shows that they could attend to discuss specific issues. Being consistent in approach and ensuring communications on thematic work are sector specific were also said to be important.
27. As with the other ideas, there were also concerns about maintaining anonymity. Respondents said that we should be particularly cautious to ensure publications do not easily identify firms by their size and customer base; aggregating the results was considered essential.
28. We asked what information respondents would like to be made available. For each thematic project, they said that we should publish:
- background – risks identified, relevant rules
 - objectives and scope
 - methodology and timescales
 - data collected
 - findings
 - action taken or proposed
 - our expectations of actions firms should take
 - outcomes, and
 - examples of good and poor practice.

Our response

We are encouraged by respondents' enthusiasm for this proposal. We would like to reassure respondents that publishing this information will not lead to rules (including the Principles of Business) being set outside of the Handbook. We do not always know at the start of a thematic review whether guidance will be needed. We agree that we should always be clear whether we intend to develop and publish guidance and when. If we do find that new rules or guidance is needed then, when developing these, we must follow our existing policy framework.

As part of our commitment to be more open, we intend to engage more with firms, trade bodies, practitioner panels and other stakeholders when we start new thematic work on issues and products. We have started to review our approach to how and when we communicate with industry about the problems we are investigating, and how we intend to carry out the work.

As examples of our changing approach, we held a roundtable with all trade bodies to update them on an online tool we will be using for the financial incentives products and to discuss the direction of the finalised guidance. We also held an event for firms involved in motor legal expenses insurance to present the findings of the review and the outcomes of our consumer research before we published the results.

There are instances where we cannot say very much or communicate widely with stakeholders in advance, because of market sensitivity. Bearing this in mind, we may need to tailor our communications approach to individual thematic reviews and be guided by the issues and sector affected.

To date, we have focused our review on methods of communication and hope that over time our stakeholders will feel we are being consistent. As part of our review, we will consider respondents' suggestions that we should publish frequently asked questions and answers and host roadshows and will look at how we might do this on a routine basis.

We recognise from the responses that there is key information about thematic projects that stakeholders would like us to publish and we will consider these. We always endeavour to maintain firms' confidentiality and to publish information in aggregate.

We are also keen to say more about early intervention and we are currently working on this.

Transparency of the redress process

29. Views were divided about the proposal to publish, with consent, how much a firm has paid out in redress and to disclose more details about the redress scheme in the public notice. Consumer organisations supported the idea and while a small number of trade bodies and firms also supported it, most did not.
30. Given the voluntary nature of disclosure, there is considerable scepticism about how useful this information might be. Respondents requested greater clarity about the rationale for publishing redress information and the definitions of redress.
31. Some respondents were concerned that by agreeing to us publishing this information, firms may be affected disproportionately and reputations damaged. Some felt that the information could be misleading, cause unnecessary concerns among consumers and, if misunderstood, may negatively influence consumer confidence in unaffected markets.

32. Those who support the proposal said it has the potential to inform consumers about the scale of an issue, incentivise firms to change their behaviours and to motivate them to remedy situations more quickly.
33. Respondents said that if we do publish this information it must be contextualised and we should publish the principles behind the redress payments as well as the amounts.
34. They suggested we publish:
- a description of the scale and nature of redress payments
 - details of instructions we provide firms
 - redress calculation
 - number of payments made
 - discounts and reasons for discounts, and
 - total number of redress payments as proportion of a firm's customer base.
35. A number of respondents said publishing a description about the nature of redress payment was important, in order to distinguish between payments made voluntarily, or payments made as the result of an enforcement investigation.

Our response

We said in the DP that where there is redress as the result of a settlement in an enforcement case, we would intend to disclose more details about the redress scheme in the public notice and that we would expect full openness on redress as part of any future agreements. We intend to proceed with this idea.

Where redress is not the result of an enforcement case, we understand the concerns raised about publishing this information by voluntary undertaking, particularly the concern that some firms may openly publish, or give us consent to publish, the details about how much they pay out and others may not. We hope that by encouraging firms to publish this information it will help us to get the best deal for the majority of consumers as quickly as possible and in the best way. We would expect firms to share this objective; we see it as a clear demonstration to consumers that firms have them at the focus of their business and that they wish to be transparent about the payment of redress when things go wrong.

Before proceeding further with publishing redress information that is not the result of an enforcement case, we will undertake further work to establish the most cost efficient and effective way of doing so and weighing that up against the potential benefits. We wish to ensure that while the approach implemented provides a degree of transparency for consumers, it would not result in significant costs to our organisation, for example, by having to put in place significant dedicated resource to monitor the publication and updating of the redress information on a firm's website.

Improved transparency of the annuity market

36. Views are divided about our proposal to improve transparency in the annuity market. Consumer organisations, independent Panels and individual respondents support it; while firms and trade bodies are split. We received many substantive responses received about this and set out the main points here.
37. Those who indicated support for the idea emphasised that greater transparency could help to mitigate the losses from not shopping around, yet those who do not support the idea said that the main obstacle to shopping around is consumer inertia, which they say transparency will not change. There were suggestions that in assessing this further, we should draw on our behavioural economics work.
38. Many felt that improving consumers' ability to compare products is a good idea. Several said that consumers are often unaware that they are able to take the open market option, so clear data on take up would be useful. There were suggestions that consumers should also be encouraged to seek advice so that they could consider all options available to them.
39. We asked what information would be helpful and respondents suggested clear, regularly updated tables showing annuities rates and data on retention rates.
40. A small number of respondents agreed that transparency of the annuity market could be improved but were uncertain whether we should have a role in this and what that role should be. They suggested that we should work with others, including the Association of British Insurers (ABI) and the Pension Income Choice Associations (PICA), who are doing work in this area.
41. Several respondents referred to the ABI's Code of Conduct on Retirement Choices. They suggested that we assess the effectiveness of this before deciding whether further work is needed. Views were divided, however, about whether the Code goes far enough to ensure firms act appropriately across the whole industry and across the full range of pension products.
42. There was a strong message from firms and trade bodies that we should not over simplify the annuities market and that any initiative to improve transparency should first seek to understand the complexity of annuities. Consumer education was also considered to be a factor and a small number of respondents suggested we work with our partners, including the Money Advice Service, and focus on this rather than on the publication of annuity rates.

Our response

Many of the consumer groups' responses, and a number of industry responses, made clear that the process of buying an annuity can be difficult for consumers. Consumers are often unclear about what options are available and how to go about getting a good deal. They agreed that greater transparency could help.

However, other industry responses were less keen, preferring to focus on consumer inertia and identifying education as the solution. We do not accept that the inertia consumers may demonstrate is innate, nor do we think education alone can change outcomes.

We are aware that the ABI has taken a proactive lead in improving transparency around annuities, both through its Code and through its consultation on

annuity rate transparency. Some respondents suggested its work was sufficient or that we should monitor the progress of its work before intervening.

Equally, some responses suggested the Code does not go far enough as it does not cover the entire market and is not sufficiently enforced to deliver the outcomes intended. We are aware of the potential weaknesses of industry self-regulated codes. Without effective oversight, clear leadership and proactive enforcement against those firms who breach the rules, industry self-regulated codes can fail to achieve what they set out to do. We will monitor the ABI's work – both on improving the information given to consumers, but also their transparency initiative – to assess whether it meets consumer needs.

In the DP, we said we are independently undertaking our own review of annuities. We want to estimate the financial losses consumers might suffer as a result of purchasing an annuity from their existing pension provider rather than using the open market option, and whether particular firms pose greater risks to consumers. We are also conducting a high-level assessment of the profitability of new annuity business to understand whether profits in this market are high. Through this work, we are seeking to build a comprehensive picture of the market, and to establish whether further regulatory interventions could help consumers make the most of their income in retirement.

This work is complex but necessary in order to ensure any intervention we make is targeted appropriately. To support this work, in July we issued information requests to annuity providers. We expect to report on our findings early next year. The findings will also inform any further work we intend to do.

We intend to invite representatives from industry and consumer organisations to participate in a roundtable on transparency in the annuity market. We will feed back the initial results from the thematic review, and discuss what further work may be required from us or stakeholders, to ensure we are maximising the consumer experience.

If this work does lead to new rules on firms, these would be developed in line with our policy framework. We would consult on the issue so stakeholders would have another opportunity to provide input.

Publication of claims data on insurance products

43. Views were divided among respondents. Firms and trade bodies were mostly sceptical about this idea. Most disagreed with our view that publishing claims data could make the market work better for consumers. A small number indicated support for the idea in principle, but had reservations about how it might work in practice; they said they would only support the use of specific matrices for specific products. Some firms said they already publish this data and supported the idea so that others would do the same.
44. Several respondents urged that we do not oversimplify claims data, saying it is very complex and that any effort to publish claims data would be successful only if there are clear definitions to allow useful comparisons. They said we should define many aspects of claims including what a claim is and what a refusal is.

45. Overall, those who were sceptical about this idea said that we must carry out a considerable amount of further research. In the DP, we made suggestions about which data could be published and we received detailed responses about each of them including how feasible it would be to gather the data as well as suggestions for alternatives. Overall, the feedback on these suggestions is mixed.
46. Several respondents suggested that we should work closely with industry to understand what the issues are. If we decide to proceed with this idea, a small number suggested we should pilot the publication of data for one product and assess its effect on consumers.
47. Some said that publishing claims data is just one aspect of quality and that publishing more about product design and customer satisfaction would help consumers make better choices for their specific circumstances.
48. Those who were less keen on publishing claims data considered consumer education important. They said that education would offer an alternative approach to achieving the same outcome.

Our response

As with the annuities idea, responses to this were mixed – consumer organisations were positive and industry was divided. Some were strongly opposed, not accepting the premise that disclosure of any information around claims would be beneficial. However, there was some enthusiasm from certain parts of the industry, with some firms having committed to publishing such data themselves.

We are keen to pursue this idea. Complaints about insurance products are on the rise, they are more frequently being upheld in favour of the customer, and the large majority of such complaints are directly related to claims.

We believe transparency is likely to be beneficial in addressing the possibility that policy holders may be receiving poor customer service, facing unnecessary delays, or having perfectly valid claims unfairly declined – often at times of particular stress in their lives.

But there is plenty of work to do before we get to publication. Even those keen for us to proceed were quick to emphasise the need to get it right – the matrix, the sectors chosen and the contextualisation. We agree, and in the first instance, we will work with the ABI and others on ensuring that the definitions are clear and useful, and comparisons are viable. In their responses to the DP, the ABI and many of its members were keen to work with us to pilot the idea and we thank them for taking the initiative. We will ensure that ideas are tested and piloted appropriately.

We are also undertaking a thematic review looking at consumers' experiences of claiming and a market study looking at low value add-on general insurance (GI). The review into consumers' experiences will help to ensure we learn so that ultimately we measure, record and compare what is important to consumers at the point of claiming. The market study into low-value add-on GI will seek to better understand the market dynamics in those sub-sectors of the insurance market where we consider greater transparency could be most effective. The initial phases of both these pieces of work will complete in early 2014.

We will then work with firms across the insurance sector and consumer groups to consider how best to benchmark claims data in a way that is accurate, meaningful to consumers and improves outcomes. In doing this we will take account of other factors including EEA passported firms and limitations to what we can do under MiFID.

Contextualisation of complaints data

- 49. Responses about this idea were less detailed than those about annuities and claims data.
- 50. Most respondents indicated that, in principle, contextualisation of complaints data would be helpful but several were not keen on a mandatory matrix. There were concerns about adopting a 'one size fits all' approach and the difficulties of agreeing a matrix, especially as previous attempts have been unsuccessful. Respondents appear split on whether the proposal will bring sufficient benefits relative to the costs involved and a small number said that enough had already been done in relation to complaints data.
- 51. Those in favour provided suggestions about which matrices to use. A popular suggestion was that matrices should be set at 1,000 complaints and there should be different matrices for different types of complaint. A small number said that payment protection insurance (PPI) should be excluded. Some respondents suggested a more limited methodology e.g. complaints as a proportion of total number of accounts or only recording those complaints that are upheld.
- 52. Respondents said we should consult further with industry in developing our approach further.

Our response

We are keen to pursue this idea and we will feed back to relevant stakeholders shortly on how we propose to take it forward. There are difficult questions about how to provide context for comparisons so that they are meaningful, accurate and easily comparable. But we think these can be overcome, if there is a genuine will amongst stakeholders to come up with workable solutions.

Following the review on the effectiveness of complaints data publication, we have a solid evidence base on what works and what doesn't. And we think now is the time to enhance the publication to ensure it sends appropriate messages to consumers and to industry itself about relative performance.

New ideas

- 53. We were keen to hear further suggestions about transparency from our stakeholders.
- 54. Respondents provided substantive ideas for how we could be more transparent as a regulator and about our regulatory activities. There were limited ideas about firm disclosure.

55. In addition to saying more about the use of section 166 powers (as described in paragraph 17 of this appendix), respondents made suggestions about the following:
- *Policy process*: being more open about timetable for policy work and any changes.
 - *Governance and decision-making*: being more open about how we make decisions and publish more about what executive committees there are and their terms of reference.
 - *Value for money*: being more open about value for money of activities and how fees are used. Respondents were positive about our intention to publish a value for money strategy.
 - *Performance*: reporting on performance measures, outcomes and delivery against these.
 - *Wholesale markets*: making them more transparent, for example by mandating disclosure of conflicts of interest by asset management firms, having greater transparency of policies of institutional investors, and mandating disclosure of voting activities.

Our response

Policy process – we publish our policy milestones in our *Business Plan*. We will look at how we can build on this and further improve communications about our policy work.

Governance and decision-making – we agree with respondents' suggestion that we should publish more about our governance and decision-making. We established a new governance structure when we became the FCA. We are now reviewing this to assess how well it has been working in practice. Once this is complete, we will publish our new committee structure and a description of the roles and responsibilities of our executive committees on our website.

Value for money – we are currently developing our value for money strategy and will publish it later this year once it has been considered and approved by our Board.

Performance – we have been developing our approach to measuring performance against our statutory objectives. It has been shaped by executive and Board-level discussions and by market research interviews with external stakeholders. We have translated our statutory objectives into outcomes and indicators, against which performance can be measured. We are now working to identify the information sources we need to measure the FCA's performance. In many cases, this means looking at what industry uses to measure elements of its performance. We will shortly publish our approach to performance on our website.

Wholesale markets – we welcome the specific ideas that we received about improving transparency in the wholesale markets. We will consider each of these ideas in turn and will provide a further update on whether and how we might take these ideas forward later this year.

56. As well as the specific suggestions above, respondents made a number of other points.

57. They told us that contextualisation is critical and that all published data, including data that we publish needs to be contextualised, in order to be meaningful and helpful for the audience.
58. In pursuing transparency, many respondents were keen that we review our communications approach and consider targeted communications that draw out messages that are relevant to the audience. They said that greater engagement with industry would be welcome and asked that we consider carrying out more roadshows, publishing more frequently asked questions and answers on individual topics and continue to use speeches to convey high level messages. They requested that we do not rely on our website as the main method of communication. Several said it is not easy to find information on our website.
59. Respondents commented heavily on the presentation of information related to each of the ideas set out in the DP. They also made general points about presentation. Some said that a significant improvement would be to make information more widely accessible to the public while others said that like communications, it would be more effective to tailor information to certain audiences.
60. A small number of respondents talked about the European Union and the need to ensure that any transparency initiatives do not conflict with EU policy or rules. They also requested that we are more transparent about our engagement with the EU.

Our response

Contextualisation: we agree that providing explanations about published data is important and will consider this when preparing new publications. In developing our data strategy we are considering how best we use the data we hold and what we could publish in aggregate form.

Our communications approach: we are continually seeking to improve the way we communicate and to work with our stakeholders to understand their needs. We will therefore take account of the feedback we have been given.

Keeping abreast of EU Rules: it is vital that any initiative we produce in the UK does not contradict rules emanating from the EU, for example, on rules for product disclosure. We will remain abreast of any developments through our existing channels and as part of assessing any initiative, we will consider what proposals are likely to emanate from the EU.

Appendix 2: List of (non-confidential) respondents

| | |
|---|--|
| ABI | LIIBA |
| AFME | Liontrust Fund Partners LLP |
| Age UK | Lloyds |
| AMI | Lloyds Banking Group |
| Association of Financial Mutuals | Consumer Council Northern Ireland |
| Association of Professional Advisers | Lloyds Market Association |
| British Bankers Association | LV |
| British Building Societies Association | Ovation Finance Ltd |
| CFA | Partnership Assurance |
| Citizens Advice | PICA |
| Council of Mortgage Lenders | RBS |
| Darlington Building Society | Aviva |
| Financial Services Consumer Panel | Scope |
| Group Risk Development | Share Action |
| HISCOX | Standard Life PLC |
| Informa | The Association of Private Client Investment Managers and Stockbrokers |
| Institute and Faculty of Actuaries | |
| International Underwriting Association | The Investor Relations Society |
| Investment and Life Assurance Group Ltd | Which? |
| Just Retirement | FCA Practitioner Panel |
| | FCA Small Business Practitioner Panel |

Appendix 3: Implementing the ideas in the DP: timeline

| TRANSPARENCY INITIATIVE | July – Sept 2013 | Oct – Dec 2013 | Jan – Mar 2014 | Apr – June 2014 | July – Sept 2014 | Oct – Dec 2014 | Jan – Mar 2015 | Apr – June 2015 | July – Sept 2015 | Oct - Dec 2015 | |
|---|--|------------------------------------|---|--|--|---------------------------|----------------|-----------------|------------------|----------------|--|
| Whistleblowing: saying more | <i>Internal review</i> | | Regular reporting starts | | | | | | | | |
| Publishing more about enforcement activities | EAPA published (July '13) | <i>Further reviews and changes</i> | | | | EAPA published (July '13) | | | | | |
| Publishing more about supervisory activities | <i>Review of data/prepare publication</i> | | | | Regular reporting starts | | | | | | |
| Transparency of our authorisations process | <i>Review of service standards</i> | | | | Annual performance reporting starts | | | | | | |
| Transparency of our thematic reviews and early intervention | <i>On-going improvements and revision of communications & publications</i> | | | | | | | | | | |
| Transparency of the redress process | <i>On-going</i> | | | | | | | | | | |
| - Publish more about redress as a result of enforcement | | | | | | | | | | | |
| - Publish more about redress as a result of supervisory action | <i>Examination of costs, benefits practicalities</i> | | Decision to proceed or not with publishing more | | | | | | | | |
| Improved transparency of the annuity market | | | <i>Phase 1 Thematic Completes (April '14)</i> | <i>Decision to proceed or not with transparency idea (May '14)</i> | <i>If decision to proceed, CBA completed & Consultation Paper issued in line with policy process (timings to be confirmed)</i> | | | | | | |
| Publishing insurance claims data on insurance products | | | <i>Phase 1 Thematic Completes (Mar '14)</i> | <i>Decision to proceed or not with transparency idea (May '14)</i> | <i>If decision to proceed, CBA completed & Consultation Paper issued in line with policy process (timings to be confirmed)</i> | | | | | | |
| Contextualisation of complaints | <i>Development & testing of matrices & engagement with industry</i> | | | | | | | | | | |

Financial Conduct Authority



PUB REF: 003272

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