

Memorandum of Understanding between the Financial Conduct Authority, Department for Work and Pensions and Money and Pensions Service

Interpretation

In this document, the following abbreviations are used:

“DWP”	Department for Work and Pensions
“FCA”	Financial Conduct Authority
“FGCA”	Financial Guidance and Claims Act 2018
“FSMA”	Financial Services and Markets Act 2000
“MoU”	Memorandum of Understanding
“MaPS”	Money and Pensions Service

Introduction and purpose

1. This MoU concerns the arrangements for co-operation and co-ordination between the FCA, DWP and MaPS in carrying out their respective roles and responsibilities under the Financial Guidance and Claims Act 2018, the Financial Services and Markets Act 2000 and other relevant legislation. Under the FGCA, MaPS is referred to as the Single Guidance Finance Body (SFGB).
2. The purpose of this MoU is to provide a framework for co-operation and co-ordination between the FCA, DWP and MaPS by setting out:
 - a. the respective roles and responsibilities of the FCA, DWP and MaPS;
 - b. standards that set out the principles and statutory obligations for MaPS;
 - c. arrangements for co-operation and the exchange of relevant information
3. Cooperation and coordination between the parties will help to ensure that:
 - a. each organisation is effective in achieving its statutory objectives;
 - b. the roles and responsibilities of the parties are clear to interested parties;
 - c. MaPS and FCA’s public communications on issues of common interest are appropriately coordinated.
4. The arrangements set out in this MoU are subject to what is permitted and required by law, including the obligation of each organisation to have regard to its objectives when considering each case to which the arrangements apply.
5. The MoU will be reviewed annually and updated in the light of new issues and priorities.

Roles and responsibilities of the FCA, DWP and MaPS

MaPS

6. MaPS roles and responsibilities are as set out in the FGCA.
7. MaPS is responsible for:

- a. delivering free and impartial information and guidance to members of the public relating to occupational and personal pensions;
 - b. delivering free and impartial information and advice to members of the public relating to debt;
 - c. delivering free and impartial information and guidance to members of the public relating to their understanding and knowledge of financial matters and their ability to manage their own financial affairs;
 - d. delivering the UK Strategy for Financial Wellbeing which will enable:
 - i. the financial capability of members of the public
 - ii. the ability of members of the public to manage debt, and
 - iii. the provision of financial education to children and young people
 - e. carrying out the consumer protection function in the Financial Claims and Guidance Act 2018;
 - f. development and delivery of a pensions dashboard to allow people to access their pension information in a single place online, in a clear simple form.
8. MaPS is responsible for setting and publishing standards which apply to it, and its partners' delivery of debt advice, money guidance, Pension Wise guidance and general pensions guidance. MaPS must monitor its own and its delivery partners' compliance with the standards.

Financial Conduct Authority

9. Under the Financial Services and Markets Act 2000, the FCA operates as the financial conduct regulator. Its strategic objective is ensuring that the relevant markets function well. Its operational objectives include:
- a. securing an appropriate degree of protection for consumers;
 - b. protecting and enhancing the integrity of the UK financial system,
 - c. promoting effective competition in the interests of consumers in the market for regulated financial services

It is answerable, through HM Treasury, to Parliament for the effective discharge of its functions.

10. Under the Financial Guidance and Claims Act 2018, the FCA's role is to:
- a. approve the MaPS' standards for delivering guidance and advice;
 - b. review the standards and how MaPS monitors and enforces them (at least once every three years);
 - c. impose a levy on firms to recover the cost of MaPS funding

Department for Work and Pensions

11. DWP is the sponsoring department for MaPS and has partnership responsibility for:
- a. key partnership decisions and sign-off around budgets;
 - b. the pensions general levy and instructing FCA in respect of the MaPS levy;

- c. oversight of MaPS' corporate plan and annual business plans;
- d. laying MaPS' annual report and accounts;
- e. approving the MaPS pay remit, in line with relevant guidance;
- f. setting remuneration levels and agreeing other allowances for the MaPS Chair, non-executives and other Board members, and
- g. other detailed responsibilities as set out in the Framework Document and agreed between MaPS and DWP

Framework for co-ordination and co-operation

12. Each organisation will appoint a senior executive responsible for the arrangements for co-operation and the exchange of relevant information.

13. To facilitate co-ordination and co-operation MaPS, FCA and DWP agree that they will:

- a. meet and communicate regularly at a working level;
- b. discuss and coordinate activities in relation to matters of mutual interest;
- c. consult one another at an early stage on any issues that might have significant implications for the other organisation and
- d. seek to achieve a complementary and consistent approach, so far as that is practicable and consistent with their independent roles

14. Senior executives of the FCA, MaPS and DWP will meet at least annually with regular working level engagement as determined by the areas of interest at any given time.

Information sharing

General

15. Subject to any restrictions on disclosure of information (confidential or otherwise) at law (and explained further in paragraphs 17 and 18 below), the FCA and MaPS will seek to exchange information on a broad range of issues, as appropriate and relevant to their respective roles and responsibilities. This information may include, but is not limited to:

- a. information and intelligence held by MaPS which gives rise to concerns or potential concerns about an FCA-authorized firm;
- b. information or intelligence held by MaPS or the FCA about emerging consumer risks, including information involving concerns about specific products or practices;
- c. consumer research and evaluation reports;
- d. information about funding requirements set out in the service level agreement between MaPS, FCA & DWP
- e. FCA-produced information and analysis held by the FCA which relates to:
 - i. regulatory changes;
 - ii. emerging consumer risks;

- iii. product features, particularly where any changes may give rise to opportunities or risks for consumers;
- iv. concerns about specific classes of products or practices, and
- v. firm or product news, health warnings and warning notices.

Legal gateways for sharing information

16. Subject to any restrictions on disclosure of information (confidential or otherwise) at law, under section 17(3) FGCA MaPS may disclose information to the FCA, and the FCA may disclose information to the MaPS, provided that the disclosure is for the purpose of:

- a. enabling or facilitating the exercise of a function of MaPS, or
- b. enabling or facilitating the exercise of a function of the FCA that relates directly to MaPS or is in a similar area to a function of MaPS.

17. MaPS must disclose information to the FCA where:

- a. the disclosure is for the purpose of enabling or facilitating the exercise of the consumer protection function (section 3(7) FGCA). The FCA will have regard to this information in giving effect to its consumer protection objectives.
- b. the FCA requests information for the purpose of a review of the MaPS standards (section 17 FGCA).

Procedure for sharing information – MaPS and FCA

18. Subject to any restrictions on disclosure of information (confidential or otherwise) at law, MaPS and FCA will seek to adhere to the following procedure when sharing information:

- a. a request for information will be sent in the format set out in Annex 1, including the details of the information sought, the reason for the request, and the legal gateways available to permit sharing as set out in Annex 1;
- b. the request may include a reasonable deadline for response, including an explanation of any urgency, and
- c. a response will be sent in the form set out in Annex 2.

19. MaPS and the FCA will provide Single Points of Contact who will:

- a. ensure that requests are appropriate and proportionate and made in accordance with section 17 of the Financial Guidance and Claims Act 2018, and
- b. retain records of all requests received and made.

Confidentiality and security

20. In accordance with relevant data protection legislation and section 348 FSMA, the FCA, DWP and MaPS will protect the confidentiality and sensitivity of all unpublished regulatory and other confidential information received from the other organisation. The parties agree to:

- a. only use the information for the purposes for which they have received it;
- b. keep the information secure;
- c. report data losses or wrongful disclosure to the points of contact;
- d. destroy information in line with applicable guidelines, and
- e. provide assurance that they have complied with these principles on request.

21. Where one organisation has received information from the other, it will consult with, and where required by statute obtain the consent of the other either before passing the information to a third party; or using the information in an enforcement proceeding or a court case.

22. The FCA and MaPS will liaise where relevant, to the extent permitted by law and having regard to their respective objectives, on responding to enquiries from the public, including Freedom of Information requests. FCA and MaPS will consult each other before releasing information originally belonging to the other.

Preparation of standards

23. Under the FGCA MaPS must set and publish standards to be complied with by persons providing pensions guidance, debt advice, or money guidance. These standards must be approved by the FCA.

24. When it approves the standards the FCA must have regard to the needs of people who are receiving, or may seek to receive, MaPS services.

25. Once every three years the FCA must carry out a review of whether the standards continue to be appropriate, and how MaPS is monitoring and enforcing the standards. The FCA will have regard to its 'Standards Review Framework' when carrying out a review.

Consumer information and advice

26. MaPS develops and maintains free and impartial information and materials aimed at consumers. Where these materials relate to areas within the FCA's expertise:

- a. MaPS will keep the FCA informed of significant changes to MaPS material and provide an opportunity for the FCA to comment.
- b. MaPS may approach FCA policy owners to review changes to relevant existing material or new material for technical accuracy.
- c. Where material forms part of or is referenced in the FCA rules, when making changes to these materials, MaPS will request sign off from FCA policy owners for technical accuracy.

27. The FCA's own consumer communications capability will seek to complement, and not duplicate, the work of MaPS. Where appropriate, when the FCA finds reason for the creation of new consumer information it will have a discussion with MaPS so that an appropriately co-ordinated response can be agreed.

28. Occasionally, the FCA and MaPS will publish information jointly, in which case full sign-off will be undertaken by both organisations in accordance with legislative requirements.

EU and international issues

29. The FCA, DWP and MaPS will share where relevant their respective views on relevant EU and international issues, including relevant policy developments, discussed by the European Supervisory Authorities and other international bodies, where appropriate.

30. The FCA and MaPS will also seek to co-ordinate their engagement with EU and international bodies on matters of common interest, so as to deliver effective representation and influencing. Where appropriate, MaPS will lead participation on financial capability, financial education and other matters within its remit.

Equality duties

31. Working together will also extend, where appropriate, to FCA, DWP and MaPS' duties under Equality legislation, particularly each organisation's duty to have due regard to the need to promote equality, eliminate discrimination and foster good relations.

Signed:

Date: 3 November 2020

Caroline Siarkiewicz, Chief Executive, Money and Pensions Service

Signed:

Date: 18 November 2020

Sheldon Mills, Executive Director, On behalf of the Financial Conduct Authority

Signed:

Date: 14 December 2020

Pete Searle, Director, Private Pensions and Arm's Length Bodies Partnership, On behalf of The Department for Work and Pensions

Annex 1

Standard format for a request for assistance

[insert date]

FROM

[insert name and legal address of the Requesting Party including contact details of the designated contact person]

TO

[insert name and legal address of the Requested Party including contact details of the designated contact person]

Dear [insert appropriate name]

In accordance with the Memorandum of Understanding on cooperation arrangements and information exchange between MaPS and the FCA, we would like to request the following information or assistance:

- a detailed description of the subject matter of the request;
- a detailed description of the purpose for which the information or assistance is sought and why it will be helpful to the Requesting Party
- a statement that the information is for the purpose of enabling or facilitating a function of the MaPS or a function of the FCA that (i) relates directly to the MaPS or (ii) is in a similar area to the function of the MaPS
- What information is required
- What it will be used for (and how long it will be kept for, any personal data should not be retained for longer than is necessary, for the specified purpose).
- Set out what protection there is to ensure that the data remains secure
- Confirmation that permission will be sought from the Requested Party if the intended use of the data will differ from the one described.

Annex 2

Standard format for a response to a request for assistance

[insert reference number]

[insert date]

FROM

[insert name and legal address of the Requested Party including contact details of the designated contact person]

TO

[insert name and legal address of the Requesting Party including contact details of the designated contact person]

Dear [insert appropriate name]

In accordance with the Memorandum of Understanding on cooperation arrangements and information exchange between the MaPS and the FCA your request dated [dd.mm.yyyy] with reference [insert request reference number] has been processed by us.

[Set out the information here or provide an explanation of how it will be provided.]

The information provided is confidential and is disclosed to [name of Requesting Party] pursuant to the [MMoU] [] and on the basis that the information shall remain confidential in accordance with S17 of the Financial Guidance and Claims Act 2018

[Name of Requesting Authority], within the remit of its competencies, shall use the information solely for the purposes of:

[Where applicable, provide information as to any additional conditions on the use of the information provided.]

Yours sincerely

[insert appropriate name]