PENSIONS AND LIFETIME SAVINGS ASSOCIATION

PLSA RESPONSE: ADVICE GUIDANCE BOUNDARY REVIEW – PROPOSED TARGETED SUPPORT REFORMS FOR PENSIONS

13 February 2025

ABOUT THE PENSIONS AND LIFETIME SAVINGS ASSOCIATION

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

EXECUTIVE SUMMARY

The PLSA appreciates the opportunity to respond to FCA consultation paper (CP) 24/27 on its proposed reforms for targeted support. We are supportive of a shift towards more widely available support to savers across the pensions space and are largely supportive of a targeted support regime. We recognise that targeted support as proposed may need to iterate following additional analysis regarding its feasibility and operational delivery, and we look forward to supporting the FCA in this work.

The PLSA previously responded to FCA DP 23/5 on its initial proposals for closing the advice gap, which also included recommendations related to simplified advice and clarifying the advice guidance boundary. We will also continue to engage with the FCA on these topics.

Given the PLSA's cross-cutting role across the industry as the voice of workplace pensions, we would like to start by highlighting our previous position: the importance of the FCA and Treasury working closely with the DWP and TPR to find a targeted support solutions for savers of all kinds, including those that fall within trust-based schemes. It is important that consumers across the industry – regardless of whether they save within a non-FCA regulated trust-based scheme or an FCA-regulated contract-based scheme – should have access to same level and quality of support.

We would also like to call forward our recommendation that, as a first step, the FCA run a pilot of certain targeted support scenarios, including additional details from the FCA about minimum firm data usage. As a process, we think this will help the FCA work out an effective balance between prescribing specific regulatory parameters – to provide firms the assurance and comfort they need to apply targeted support – and regulatory flexibility – to allow firms to innovate and provide the best possible service to their members. Our response to CP 24/27 also provides certain recommendations to the FCA's specific targeted support proposals, which are summarised below:

Creating a Threshold

- PLSA members agree that there should be a threshold in place for firms to determine whether to deliver targeted support. The threshold should be centred around the principle that a consumer will achieve a better outcome than if the support was not provided, as the FCA has recommended.
- However, PLSA members note that the FCA will need to provide specific guidance on how the threshold is applied for certain scenarios, to help firms determine if and when to deliver targeted support. We suggest that the FCA pilot targeted support for a few, key scenarios, so firms can test and develop a threshold in specific scenarios.

Data Usage and Clarifying Consumer Segments

- The FCA proposes three steps for delivering targeted support. Where PLSA members saw the most risk for firms within these three steps related to data usage for determining consumer segments and the verification process within this.
- There is a need for additional clarity from the FCA on the data granularity used to: 1) determine a consumer segment and 2) verify that a consumer should be provided

with a ready-made solution (based on the threshold that they would achieve a better outcome than if the support was not provided).

- The FCA should also provide clarity as to what level of data would constitute a level of personalisation to qualify that support as advice (versus targeted support). Again, a pilot for certain targeted support scenarios, with details regarding the minimum level of data firms would need to form/ verify consumer groups, is recommended.

Consumer Understanding of Service and Disclosures

- PLSA members noted that targeted support should not be an extra service offered to customers, but rather, a standard part of a consumer journey. If there is too much friction along the journey, it is likely many consumers will drop out. The FCA should therefore avoid introducing long or confusing disclosure statements within the targeted support journey.
- PLSA members also stressed the importance of clearly distinguishing between targeted support and advice (where there would be a cost to the consumer), noting that this explanation should be simple and easy for consumers to digest. Additional consumer testing could help with this.

Conflicts of Interest

- PLSA members noted that conflicts of interest should be addressed via Consumer Duty for FCA-regulated firms. However, firms will need specific guidance on examples of potential instances of conflicts of interest, for example, when sending a solution to a consumer from its own product book.

Costs and Charges

- A free, up-front service is likely to make targeted support accessible for the maximum number of consumers, and PLSA members widely agree that this is the best option for this form of support. PLSA members also understood that a firm may seek to recuperate costs from the rest of its business, effectively cross subsidising targeted support to make it available to all. Limited cross subsidisation to allow for this free service is reasonable, if firms abide by the proposed conduct standards.

Complaints and Redress

- Targeted support would not operate at an individual level, but rather by consumer segments. Given this, there may be some consumers who don't achieve an "optimal outcome" via targeted support. This risk of redress, particularly the risk of bulk claims in the future, could prevent firms from taking up targeted support. Therefore, the FCA should work closely with the Financial Ombudsman Service (Finacial Ombudsman) to ensure it understands the need for and purpose of targeted support

Direct Marketing Rules

- PECR and other data protection laws could make it difficult to provide targeted support to consumers, and pension providers would be unable to use the 'soft opt-in' rule to provide targeted support. The FCA should work to get an exemption for workplace pension providers to be able to use the soft opt-in rule.

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Trustees & Targeted Support

The distinction between a contract-based scheme and a trust-based scheme is highly unlikely to be appreciated by the consumers who need access to financial support and should absolutely not affect their access to such support. A new, mass market option like targeted support should not be limited to consumers with pensions within FCA-regulated firms. Instead, it should reach consumers across the pensions industry, regardless of which type of scheme they fall within.

The current, open consultation makes no mention of the FCA's intention to work with TPR to determine ways for trustees to also deliver targeted support. Given this, the PLSA would like to re-emphasise our previous position to encourage the FCA and Treasury to work with the DWP and TPR to consider this topic and produce updated Joint Guidance for trustees.

- The FCA and Treasury should immediately work with the DWP and TPR on targeted support.
    - The DWP is in the process of introducing reforms to enhance the level of support trust-based schemes can offer their members. As the fiduciary duty of trustees is to act in the best interest of their savers, they are well placed to implement a form of guidance resembling targeted support. However, if targeted support is only introduced to savers within contract-based schemes, a guidance gap will emerge.
    - The FCA should immediately work to join up – and sequence any forthcoming regulation – across regulatory bodies, so savers across the pension space do not suffer the consequences of differing levels and quality of support.
- Issues regarding "*Arranging an investment*"
    - In DP 23/5, the FCA made clear that trustees could have the ability to provide a form of targeted support already "when they are providing support to members of their occupational pension scheme about the options available to members solely under their scheme" (paragraph 7.2). In other words, when trustees are providing members with in-scheme solutions.
    - However, there is a concern that once the government legislates for all trust-based schemes to provide a default decumulation solution, if a scheme partners with an FCA regulated provider to do so, it would inadvertently be "*Arranging an investment.*" This is considered a regulated activity and would thereby breach FCA rules. Further clarity is urgently needed from the FCA, to avoid a scenario where schemes are legally obliged to, effectively, transfer members into an arrangement *without consent,* which would breach the FCA's regulatory perimeter.
    - A solution for this may be found via the 'financially benefitting' and 'by way of business' clauses, i.e. trustees could discharge their duties providing they do not personally benefit. Further guidance from both the FCA and TPR would be needed here, and we would gladly work with regulators on this.
- *Trustees should not have to seek new, FCA authorisation to offer targeted support.*
    - There is a view that trustees of schemes which are not FCA authorised – i.e. AE master trusts and single employer trusts – would need to seek FCA

authorisation to offer targeted support. Many PLSA members expressed concern that a new form of authorisation would prevent trust-based schemes from offering targeted support at all. Given those schemes are already authorised and supervised by TPR, it would be more reasonable to expect TPR to supervise this activity. This would enable a level playing field of support for pension savers, rather than cementing a two-tier regime. The FCA and TPR will need to work together to map how targeted support offerings meet Consumer Duty and Fiduciary Duty, so there are no substantive gaps across scheme types.

- *Access to data*
  - For trustees to make the best possible decisions for savers (i.e. where the consolidation of multiple pots could lead to a better default solution), it could be beneficial for them to have access to information about the other pension entitlements of their members (perhaps, for example, through receiving the export information that is available to savers dashboards). In some instances, this could constitute a more holistic form of support where trustees have the appetite to provide such a service. Additional consideration would be needed as to what data trustees could be permitted to access and consider before that support would be regulated advice. This consideration should also extend to FCA-regulated firms.
- *Consumer Duty versus fiduciary duty*
  - FCA-regulated firms are bound by Consumer Duty, whereas trustees of trust-based schemes are bound by fiduciary duty. Although both Consumer Duty and fiduciary duty are obligations broadly intended to protect consumers, there are distinct differences between them. As the FCA and TPR work together to determine how to apply targeted support to all savers, it is important that they consider these distinctions so that savers do not receive different qualities and levels of targeted support based on their scheme type.

Chapter 2: The Wider Context

Question 1

The consultation seeks to consider equality and diversity. The FCA has identified that there may be a specific risk to consumers with certain protected characteristics not receiving targeted support because of a firm's verification process.

PLSA members stressed that determining consumer segments using firm data remains one of the largest challenges in designing targeted support. Firms will need clarity on the granularity of data used to: 1) determine a consumer segment; and 2) verify that consumers within that segment qualify to receive targeted support based on the threshold.

If consumer segments are too broad, firms run the risk of creating “winners” and “losers” within a consumer segment, by not optimising for a specific group effectively. However, if a consumer segment is too specific, and a firm starts optimising for too narrow of a segment (thereby screening out whole ‘types’ of savers with specific characteristics), firms run the risk of discriminating against certain consumers. The FCA should provide guidance to firms to help strike this balance, paying particular attention to those consumers with protected characteristics.

Further, this has important implications related to consumer redress. If there is a risk of large portions of consumer segments submitting complaints to the Financial Ombudsman Service that they did not achieve an optimal outcome, firms may shy away from providing this form of support. We discuss this further in our response to chapter 10.

Chapter 4: Proposed Parameters for Targeted Support

Questions 3-4

Targeted support threshold

PLSA members agree that there should be a threshold in place for firms to determine whether to deliver targeted support. However, specific guidance will be needed for how a threshold is applied to certain scenarios.

While in certain scenarios it may be quite clear when the threshold has been met – for example, providing targeted support to a consumer planning to cash in their pension all at once, possibly risking their retirement savings – other scenarios will require additional thought and clarification from the FCA.

As a start, the FCA could pilot certain targeted support scenarios, determining a set of more prescriptive guidelines for firms to abide by. A pilot could help assess the level of prescriptiveness needed to determine if the targeted support threshold is achieved in each scenario, allow the FCA to adjust this for any finalised regulation, so that firms have the flexibility to innovate in these early stages.

Delivering better outcomes versus avoiding poor outcomes

PLSA members largely agree that the FCA should take on the proactive stance of "delivering better outcomes" in the application of targeted support, particularly as avoiding harm and providing risk warnings are already well integrated into Consumer Duty.

However, PLSA members also noted that "avoiding poor outcomes" should not be completely excluded from targeted support. Where there are clear instances in which an intervention could benefit a consumer – for example, if a member is drawing down their pension at an unsustainable rate and is at risk of running out of money – targeted support could be beneficial.

Further, PLSA members noted that targeted support could be an opportunity to instil confidence in consumers, both in their own financial standing as well as in the financial services industry at large. If specific consumers within a certain segment are "on the right path" – let's say, for example, saving at a strong contribution rate during accumulation, maximising employer matching – targeted support could be used to notify that consumer of this. In this scenario, targeted support wouldn't necessarily be used to "deliver a better outcome" or "avoid a poor outcome," but rather, to provide comfort to that that saver that they are on the right track.

Questions 6-9

PLSA members agree that firms should have flexibility in determining the scenarios and consumer segments for which they provide targeted support, to allow for innovation across the market.

However, PLSA members also noted there should be a level of consistency and uniformity across the industry, both to ensure high standards across the provision of targeted support, and to avoid confusion among consumers due to different targeted support offerings across providers.

Three-steps

PLSA members also largely agreed with – and understood the flow of – the proposed three steps for delivering targeted support. Several noted that determining targeted support scenarios is a logical first step – rather than determining consumer segments – given that there are countless ways to cut firm data to form consumer groups.

As noted in our response to questions three and four, there is a need for clarity on the data granularity used to create a consumer segment. Consumer segments should be broad, but not so broad that firms do not learn enough about the group of individuals to provide value.

For larger firms where consumers may have multiple products, questions arise as to how much of their data they are expected to use for a given consumer, including both structured and unstructured data (i.e. information gathered from customer conversations). If firms are expected to use all their data, this could become costly and create a barrier to uptake.

It also raises questions about how much data is needed – and which data should be used, particularly data related to consumer health, which has longevity implications – to verify that a customer appropriately fits within a consumer segment and should be provided with a ready-made solution. Although AI could help with navigating these data challenges in the future, at present, it remains a challenge.

Again, the FCA should consider running a pilot for certain targeted support scenarios, and within this, details on the minimum amount of data firms might use (allowing firms to use their own judgement for data used above and beyond this).

Ready-made solutions

After pre-defining relevant scenarios and consumer segments, the FCA expects firms would then pre-design ready-made solutions to align with the common characteristics of the consumer segment they are designed for. This could involve an action related to an existing product or new product.

PLSA members suggested that for most targeted support, firms should generally be able to recommend:

1. A “product type” (i.e. an annuity or an income drawdown product);
2. A “product shape” (i.e. a joint-life annuity versus a single life annuity or a recommendation for a maximum drawdown percentage); and
3. A “product brand” (i.e. a specific firm’s branded drawdown product).

PLSA members noted that within targeted support, firms should be able to recommend all three “levels” within a product (type, shape, and brand) except for in the case of an annuity, where a firm might suggest this type of product and its shape, but not a specific brand. It would be helpful for the FCA to clarify this.

Questions 10-13

The FCA should provide guidance to firms that clarifies where certain personalised recommendations fit within targeted support, without straying into advice. If a consumer is drawing down at an unsustainable rate, a firm should be able to reasonably warn them of this through targeted support. A firm should then also be able to suggest a reasonable drawdown rate that “people in their circumstances” might take, without straying into advice. The is true within accumulation, for consumers to determine how much to save.

Chapter 5: Specific Conduct Standards

Question 14

The consultation notes that Consumer Duty and the FCA’s Product Intervention and Product Governance Sourcebook (PROD) in combination could set clear standards for the design of consumer segments and ready-made solutions (including that these are tested). PLSA members agree that between Consumer Duty and PROD, there are more than enough product design and testing requirements to apply to targeted support.

Our members also suggested that an equivalent governance framework across firms could help targeted support deliver as intended and drive better consumer outcomes. Uniformity of governance across the market could help ensure that consumers receive equal protection from risk as well as high standards of communication – regardless of the firm providing the targeted support. It could also protect consumers from “bad actors” who might attempt to use targeted support to drive them towards higher cost products.

Question 15

The FCA proposes that any ready-made solutions should not include a suggestion to buy a specific annuity, both because it is irreversible and highly personalised. Several members noted that the suggestion of a specific annuity likely fits within simplified advice journey versus targeted support.

PLSA members did note, however, that firms should be able to – through targeted support – suggest annuities more generally and even perhaps the type of annuity (i.e. a spousal annuity versus a single life annuity). However, to recommend a specific, branded annuity product would require the consumer to seek advice (see response within questions six to nine under *“Ready-made Solutions”).*

Question 16

As noted in our response to question one, consumer segments should be neither too broad nor overly individualised. PROD and Consumer Duty already have the concept of "sufficiently granular" target markets, and a similar but more detailed concept – given the greater degree of personalisation of targeted support – could be applied.

Firms agree that flexibility in determining consumer segments is key, and therefore the FCA should not limit the number of consumer segments. It should, however, set general parameters around the definition of consumer segments, to distinguish what information is necessary for targeted support versus the full fact-finding that occurs for holistic advice.

These parameters will help firms determine what data they need to reasonably assign a consumer to a group. It also may help firms to identify at which point they should *stop* collecting consumer information before it becomes advice. There is likely no precise answer for when a firm should stop collecting consumer information for a given targeted support scenario. Firms will need to use a certain level of judgement, though FCA parameters would prove useful.

Questions 17-19

In pre-defining scenarios and relevant consumer segments, firms also need to pre-determine the information they need from consumers. Firms would need enough data to match consumers to a particular consumer segment, versus multiple segments.

PLSA members agree that it would be helpful for the FCA to provide guidance on the data they might use to allocate a consumer to a particular segment. It would also be helpful for the FCA to consider at what point the use of data results in a level of personalisation that strays into advice.

Questions 21-22

A firm might establish that their customer cannot be allocated to a pre-defined consumer segment, either because it does not have enough data on the consumer to allocate them into a consumer segment or its verification process shows a consumer would not achieve a better outcome by being given a ready-made solution. PLSA members agree that both these examples are sensible for when a firm should stop a targeted support journey.

Another example would be if a consumer offers "off script" information to a firm over the phone, revealing something about their health status or financial circumstances that would exclude them from achieving a better outcome through targeted support. It appears that a firm cannot disregard this data, and it should be considered when determining whether to stop targeted support.

Question 23

Different firms may design quite different targeted support journeys within the pensions savings and retirement space. Although ultimately this variety could be in the interest of consumers, there should be a level of quality and consistency across targeted support, regardless of the firm providing it. It may take some time to establish this uniformity, which is understandable, as it will take some before the industry comes to a view on what works and what does not. To protect savers against the risks that may arise during this innovation phase, we again suggest the FCA implement a pilot for certain targeted support scenarios. In the trust-based context, were a similar regime implemented, this would mean that trustees should also provide targeted support with certain uniformity.

Chapter 6: Consumer Understanding of Service and Disclosure

Questions 26-27

PLSA members largely agree with the three touch points at which firms disclose information to consumers, noting that particularly within digital journeys, consumers will drop out if there is too much friction. The FCA should therefore avoid long or confusing disclosure statements within the targeted support journey.

PLSA members also stressed the importance of clearly distinguishing between targeted support and advice, noting that this should be simple and easy for consumers to digest. Additional consumer testing could help with this.

PLSA members also noted that targeted support should not be an extra service offered to customers, but rather, a standard part of a consumer journey. Given this, there would be no need to notify member when they may be leaving one regulated activity and entering another.

Finally, PLSA members discussed how targeted support could be delivered in either a proactive or reactive way, which would likely change a firm's approach to disclosing information to consumers.

If a consumer contacts a help centre to ask for support (touchpoint one), the firm would be responding to that inquiry, possibly initiating "reactive" targeted support. Within the conversation, the firm can gather the necessary/appropriate information from the consumer (touchpoint two) and possibly offer a ready-made solution them (touchpoint three), noting that the solution is based on limited information. The disclosure could be woven and layered into the conversation.

If a firm identifies, for example, that a consumer is at risk of harm from withdrawing too much income via drawdown, they can "proactively" reach out to provide targeted support. Via touchpoint one, a firm can let the consumer know that targeted support is available. To deliver touchpoints two and three (collecting information from the consumer and offering a ready-made solution, caveating that the solution is based off limited information) could then possibly overload the consumer with information, which could be disengaging. Firms will need to be thoughtful and consider how to divulge all three touch points in "one hit," and guidance from the FCA could prove helpful to do this in a compliant way.

Questions also remain regarding how, in practice, to make targeted support an "opt-out" service. Initial points of communication could be opportunities for consumers to "opt-out;"

however, the more targeted support becomes a two-way conversation (i.e. collecting additional consumer data), this could shift the consumer journey to become "opt-in," as it relies on the consumer to engage. If partway through a targeted support journey there is a shift to "opt-in," this could limit the number of consumers who access the support.

Chapter 7: Applying Existing Regulatory Requirements

Questions 28-31

PLSA members noted that risks of conflicts of interest should be addressed via the existing Consumer Duty requirements for FCA-regulated firms.

Conflicts of interest could arise both at the point of customer acquisition as well as customer retention. For example, if a firm makes money via its assets under management, there is a disincentive for that firm to notify a customer that they would be better off moving to an annuity or a product for life if they were within a firm drawdown product.

Firms will need specific guidance from the FCA on these – and other – examples of potential conflicts of interest. Firm governance frameworks could help assess and monitor these scenarios.

Chapter 8: Costs and Charges

Questions 32-33

A free, up-front service is likely to make targeted support accessible for the maximum number of consumers, and PLSA members widely agree that this is the best option for this form of support.

PLSA members also understood that a firm may seek to recuperate costs from the rest of its business, effectively cross subsidising. They agreed that limited cross subsidisation to allow for this free service is reasonable, as long as firms abide by the proposed conduct standards in the consultation.

Chapter 9: Firms Delivering Targeted Support

Questions 34-38

The FCA should work to develop guidance for targeted support within existing regulatory permissions that firms hold. This will prevent certain barriers to the uptake like the cost and administrative burden associated with applying for a new regulatory permission. As targeted support is intended for the mass market – with the hope of maximum uptake across the industry – guidance is preferable to additional regulation.

Whether advisers deliver targeted support depends on how advisers deliver simplified advice. For any support that isn't considered holistic advice, advisers will need to be able to distinguish between targeted support versus simplified advice. As noted in our responses within chapter six, consumers will need clarity whether the service is free targeted support or another form of (charged for) advice.

The FCA should also create guardrails so independent firms cannot promote themselves as providing a targeted support service that they then begin charging consumers for, which might undermine the wider targeted support framework.

Chapter 10: Complaints and Redress

Questions 39-41

Targeted support, by definition, would not optimise support at an individual level, but rather by consumer segments. Given this, there may be some consumers who don't achieve an "optimal outcome" via targeted support. These consumers could bring forth this complaint to the Financial Ombudsman, and these complaints may be upheld depending on the FOS's interpretation of the requirements. This risk of redress, particularly the risk of bulk claims in the future, could prevent firms from offering targeted support.

The FCA should work closely with the Financial Ombudsman to ensure they are aligned with the need for and purpose of targeted support, including how any appropriateness test or otherwise should be met, which again, would explicitly not be at an individual level. Without this, firms are unlikely to take up targeted support, and therefore clarity is needed before individuals can make a claim.

Chapter 11: Interactions with Direct Marketing Rules

Question 42

PECR and other data protection laws could make it difficult to provide targeted support to consumers, and pension providers would be unable to use the 'soft opt-in' rule to provide targeted support. The FCA should work to get an exemption for workplace pension providers to be able to use the soft opt-in rule.