



Tony Stubbs,  
Financial Conduct Authority  
12 Endeavour Square  
London E20 1JN

9 March 2023

Dear Tony,

## **AFM Response to FCA consultation CP23/1, Insurance Guidance for the support of customers in financial difficulties**

1. I am writing in response to this consultation paper, on behalf of the Association of Financial Mutuals. The objectives we seek from our response are to:
  - Highlight concerns about the proportionality of the proposed guidance; and
  - Comment on the proposals, and their consequences for members of AFM and their customers.

### About AFM and its members

2. The Association of Financial Mutuals (AFM) represents insurance and healthcare providers that are owned by their customers, or which are established to serve a defined community (on a not-for-profit basis). Between them, mutual insurers manage the savings, pensions, protection and healthcare needs of over 32 million people in the UK and Ireland, collect annual premium income of over £22 billion, and employ nearly 30,000 staff<sup>1</sup>.
3. The nature of their ownership and the consequently lower prices, higher returns or better service that typically results, make mutuals accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion. In particular, FCA and PRA are required to analyse whether new rules impose any significantly different consequences for mutual businesses<sup>2</sup> and to take account of corporate diversity<sup>3</sup>.

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<sup>1</sup> ICMIF and AFM, 2022: <https://financialmutuals.org/wp-content/uploads/2022/10/UK-Market-Insights-2022.pdf>

<sup>2</sup> Financial Services Act 2012, section 138 K: <http://www.legislation.gov.uk/ukpga/2012/21/section/24/enacted>

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2016/14/section/20/enacted>

## AFM comments on the proposals

4. We welcome the opportunity to respond to this consultation. From the early stages of the pandemic, the insurance sector responded positively to support customers and to ensure that the products it provides have continued to offer great value for money.
5. Mutual insurers were rightly proud of their commitment to serving customers during the pandemic, even where employees shared similar health, well-being and financial concerns, and where businesses were quickly having to assess how best to maintain service. Where large parts of the financial services sector blocked calls to phone centres and required customers to complete online templates and wait for a response, our members received positive feedback from customers for keeping phone lines open and dealing with queries sympathetically and effectively. As a result, the level of lapses and claims was lower than expected; customers, who recognised more clearly the benefits of cover, made sure premiums were maintained, and whilst our members voluntarily provided extended payment holidays- and subsequently adopted FCA guidance- the proportion of customers who sought help was relatively small.
6. AFM members are positively embracing the Consumer Duty, and FCA has broadly said that insurers, where IDD rules broadly reflect the outcomes expected in the Consumer Duty, should find they are already generally working towards the standards expected. The new rules however create significant implementation work for small firms, and difficult decisions over prioritisation. Despite this, AFM members take the view that as mutuals we are bound by a set of standards and expectations, which mean that we focus on working in the best interests of our members. In this light, the Consumer Duty is a virtue rather than a risk, so long as it is delivered proportionally, and firms are given a proper chance to implement it meaningfully, without unwarranted extra intervention.
7. The current consultation has been launched at a time when the UK economy is again facing a degree of uncertainty, but also where economists are predicting the downturn will not be as severe as first predicted. The consultation covers ground already addressed in the rulebook, both via the new Principle 12, and via the Covid guidance issued in November 2020, in the guidance on the fair treatment of vulnerable customers in July 2021, as well as the September 2022 Dear CEO letter. It also coincides with a period of exceptional regulatory intervention, with FCA's Consumer Duty taking up significant resources within organisations.

8. It is difficult given this to detect where the new rules and guidance offer any insight which is not already baked into the Consumer Duty and pre-existing guidance on support for vulnerable customers. The new rules however will mean that already stretched resources will need to be deviated from other work and/ or the Consumer Duty implementation work, which seems both unnecessary and inadvisable.
9. We also question whether the consultation demonstrates any particular concerns, or evidence of poor treatment of customers, to warrant the extra intervention. Certainly, the cost-benefit case assumes the only impact on firms will be the time taken to read the consultation. There is no assumption there that any change in policies, processes, training or other activities is necessary. Neither is there any expectation of any tangible benefits. This gives the impression that either FCA has underestimated the extra costs it is imposing on firms, or else that previous omissions in its approach to safeguarding vulnerable customers are being addressed by constant and piecemeal tinkering of the regulation.
10. We have responded to the specific questions raised in the consultation below, and would welcome the opportunity to discuss further the issues raised by our response. We are happy to be included in the published list of respondents.

Yours sincerely,



Martin Shaw  
Chief Executive  
Association of Financial Mutuals

## Our responses to the questions raised in the consultation

*Q1: Do you agree with our proposed purpose of the guidance? If not, how should we change it?*

We recognise that the purpose of the guidance is valid, though we also consider that this purpose is already served by pre-existing rules, including those covered in paragraph 6 of the text of our letter. As a result, we are not convinced the guidance is necessary.

We agree that customers with specific characteristics of vulnerability may need different levels of support, in order to achieve good outcomes. The consultation and FCA research reinforce that a significant proportion of the population is potentially vulnerable; insurers should be constantly aware that changes in circumstances can trigger a new vulnerability, and that it is prudent to take this into account when providing support to customers who make queries or initiate a claim.

Our own analysis indicates consumers are much more aware of the benefits of insurance cover than they might have been pre-Covid, and that this has discouraged them from lapsing policies. However, we also recognise that insurers have an obligation to ensure consumers can obtain worthwhile support and that they balance their finances across a range of competing needs.

*Q2: Do you agree with our proposed scope? If not, how should we change it?*

The scope proposes that the guidance is extended to commercial customers. However, there is no rationale for this, and the cost benefit case does not assume any extension of pre-existing guidance. We would value further insight from FCA on the extended scope and what impact it expects.

In addition, most of the commentary only considers motor and home insurance, and it is not apparent whether FCA has considered other products. As we have flagged in previous consultations, we remain concerned that FCA continues to make assumptions across the whole general insurance market, drawing only on research into motor and home cover. This means that FCA is often at risk of adding extra costs to firms who are not the focus of its attention, or where the potential for harm is much lower.

*Q3: Do you agree with our proposals about when firms should act? If not, what should the trigger points be?*

We agree that the pre-existing arrangements should apply.

*Q4: Do you agree with our proposals covering actions firms should consider? If not, what actions or types of actions should be in the guidance?*

Paragraph 3.14 indicates that where a firm identifies a customer in financial difficulty, they should consider how best to support them, and that this might include changes to a single product, through to a 'more holistic approach', or with a view to all products the customer owns with a firm. We don't think this wording is very explicit, and may be more suitable in a banking setting rather than general insurance.

The proposed actions give overt focus to motor, home and travel insurance and do not adequately consider other products in the scope of the consultation. For example, the consequences of reducing cover and removing aspects of cover from private medical insurance or health cash plans could be severe. In addition, income protection is within the scope of the guidance, but unlike most other general insurance cover, is purchased over a long period.

*Q5: Do you agree with our proposals for firms' signposting with customers in financial difficulty? If not, what expectations around communications should we be setting?*

We agree.

*Q6: Do you have any comments on our cost benefit analysis?*

The benefits proposed are not enumerated and are difficult therefore to judge. We would anticipate that if FCA was making rules which it expected to enhance consumer protection, it would be able to set out what specific changes it expected in the way firms operate, and how many consumers it would expect to benefit and by how much.

The cost case put forward is based purely on the time spent by compliance staff in firms in reading the consultation, and by undertaking a legal review. There is no assumption of any work being necessary to act on the guidance, which must question the relevance of it. In addition, FCA assumes that any review will only take place amongst in-house compliance and legal teams. We think this is wrong, as we would expect recommendations to be made elsewhere in the business; we also recognise that for most AFM members, legal advice is outsourced. As a result, the cost assumptions appear to be incomplete and understated.