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Consumer duty and ongoing adviser services

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It will have come as little surprise to many that the Financial Conduct Authority (FCA) are looking further into financial advisers ongoing review services. Last month, they announced they were writing to a number of financial adviser firms requesting information about their delivery of ongoing services for which their clients are being charged.

The letter itself asked for the number of clients over the last seven years who fell into the following categories:

- who were due a suitability review;
- who received a suitability review;
- who paid an ongoing fee but whose fee was refunded as the suitability review did not happen.

The FCA say that the data will inform further regulatory work in this area. Initially, around twenty of the largest adviser firms received the survey.

None of this should come as a surprise as in December 2022, the FCA published a portfolio strategy letter to financial advisers and intermediaries which stated they were concerned customers were not being provided with all the information regarding their investments. They further clarified in January 2023 that in particular, they were concerned that some clients of financial advisers may be getting ongoing services that do not meet their needs and/or represent value for money.

More recently, the initial survey and subsequent questionnaire that the FCA sent to advisers in respect of the thematic review of retirement income advice contained numerous questions around the frequency, content and cost of ongoing fees.

But what can advisers do to ensure they are meeting FCA standards and have reviewed their process in lieu of consumer duty?

The first thing to acknowledge is that this isn't just about the annual review. The service provided to a client all year around needs to be considered, and most advisers I talk to tell me that clients value the peace of mind they get knowing they can contact their adviser at any time with questions if they sign up to an ongoing service.

Also, the adviser often needs to act more quickly than waiting for the annual review to take action on a client's behalf. The recent pension Lifetime Allowance tax-free cash and certification issues is an example of where some immediate action may need to have been taken.

Nonetheless, given the regulatory scrutiny that is taking place, now is a good time for advisers to review ongoing client services if they haven't already. Some advisers I have spoken to have found being able to answer the following questions are of use to help ensure their processes are as tight as they can be.

Forgive me if some of these fall into the category of stating the obvious, however whilst probably all advisers intuitively think about these subjects, I suspect not all will be readily able to evidence the thought process, internal challenges and the eventual outcome.

What questions do you need to consider?

This is an inexhaustive list but it would be worth thinking through the following areas and associated questions.

Adviser Ongoing fees/charges proposition

What is the fundamental proposition, and what options are open to clients?

Question	Comments
How are fees to be paid – i.e., directly or from product wrappers?	
How are fees calculated and offered – e.g., based upon assets under management/hourly rates/fixed costs/ retainer/reactive-pay as you go?	
Can the client select a combination of two or more of these options?	
Is the fee structure tiered?	
If so on what basis and what happens when clients move from one tier to another?	
Is there a minimum and maximum fee in place?	
Can you demonstrate the rationale for the level of the fee – e.g., operational costs, regulation costs, overheads, PII and profit?	

Service Design

What are the details of how the ongoing service operates, and have all foreseeable circumstances which affect the service been taken into account?

Question	Comments
How is the ongoing fee structure reviewed and agreed with the client?	
When do fees become payable? For example, is a free initial meeting offered?	
What anomalies might the service generate – e.g., could a client be paying more or less than others for the same service?	
If the fee structure is based on a percentage of the funds under management how is any conflict of interest managed? For example, if it could potentially be better to pay off a client's mortgage from an invested amount or buy an annuity when the client is in drawdown are there checks in place to ensure this is monitored?	

Have you benchmarked your fees against other adviser offerings?	
Is it appropriate for fees to vary dependent on who is undertaking the task – e.g., adviser, paraplanner, administrator etc?	
Are there different service levels and how are they differentiated by the cost of fees?	
Is there any risk that vulnerable customers could be adversely affected by the structure of the fee?	
How are the costs of fees demonstrated to clients in monetary terms?	
If taken from portfolios/wrappers has the impact of this been demonstrated?	
Have you shown clients how to cancel the service/fees if they wish to stop receiving advice?	
If a review is deferred or declined how is the ongoing fee refunded?	
Has the effect of a reducing charge if funds are depleting (e.g., drawdown) been taken into account in terms of the service offered? Conversely is the client aware of how the fee will rise if assets increase?	
Do your fees vary dependent on the amount invested and if so, what different service is the client receiving?	
How are reviews to be conducted – e.g., written/phone/virtual/Face to Face or a combination?	
How often are these to take place?	
What is the internal process to ensure the review takes place?	
Will you discount fees for certain clients and in what circumstances?	
Is the fee structure regularly reviewed? If so, how often?	
Is the fee structure consistently delivered across all of the business/by all advisers?	
How is the ongoing fee structure reviewed and agreed with the client?	

Service Standards

Of course, once this has been agreed and documented, it would then be wise to think through different client scenarios and what specific actions are needed as part of the review to show the service standards a client can expect. I don't propose to go through a multitude of different scenarios here, but as an example it was interesting to see the FCA ask the following as part of their Retirement Income Thematic Review research.

What does your firm's annual ongoing service include?

Question	Select all that apply
Review customers' circumstances and health	
Review sustainability of income	
Review of fund performance	
Review risk profile	
Realign and rebalance portfolio/funds	
Changes to objectives/needs	
Tax planning – impact of tax rates/allowances	

Once this has been established it is of course important to consider how ongoing suitability is recorded and what format the suitability report will take.

For those looking for more information on retirement income suitability the 'Retirement Income Aims and Objectives Checklist' is available from the M&G Wealth website
www.mandg.com/dam/pru/shared/documents/en/frpm100580106.pdf

Client benefits

Have you demonstrated the value clients receive? A few very simple examples

Benefit	Select all that apply
Tax savings due to estate/pension planning shown in monetary terms	
Bed and ISA process	
Cashflow planning & forecasts	
Risk profiling	
Communications/newsletters	
Legacy planning	
Death benefit protection	
Income Protection	

This list will vary from business to business but further examples can be found in the Personal Finance Society (PFS) template mentioned below.

Total Cost

Ultimately the full cost to the client needs to be taken into account, considering all parts of the Manufacturer/Distribution chain

Question	Comment
Has the total cost to the client been considered? E.g., product/platform fees, investment AMCs, transaction costs, DFM charges	
Has this been made clear to the client?	
Can fair value for the whole service be demonstrated?	

Management Information

What MI is being collected to help complete annual board attestations for Consumer Duty?

Question	Comments
Can you evidence client understanding of the fee structure, and if so – how? E.g., survey/client feedback etc.	
Can you evidence the value clients attribute to the ongoing service?	
How many complaints have been received about the ongoing service and what was the outcome of those complaints?	

So how do you document all of this, and include it in a fair value statement for ongoing advice? Fortunately, the PFS have created an example template which can be accessed below. Some of the answers from questions raised in this article could of course be used to help create a bespoke document appropriate to an advice firm.
https://www.thepfs.org/news-insight/consumer-duty/

For further information there is also a guide to fair value available from M&G Wealth.
https://documents.platformservices.co.uk/Document/650

Ongoing fees and service are clearly going to be high on the FCA's agenda. Whilst virtually all adviser firms will have given this due consideration, not all firms will have documented and be able to evidence this process. If that is the case, now is the time to ensure that documentation and evidence is available.

CD100758401 03/2024_WEB