



THE SOCIETY OF PENSION
PROFESSIONALS

making pensions work

By email only: cp22-03@fca.org.uk

Francesca Morphakis
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

5 April 2022

Dear Ms Morphakis

SPP response to FCA's Consultation Paper: Pensions Dashboards: proposed rules for pension providers

We welcome the opportunity to respond to this consultation paper.

Key Messages

Our key messages in response to this consultation are:

Timing

- We think an implementation date of 30 June 2023, with connection to be made in a three-month window beforehand, is extremely ambitious for providers.
- Compliance with the Dashboard requirements is dependent on finalised rules and the MaPS technical standards; the MaPS standards have not yet been published for consultation and it is quite likely in our view that they will not be finalised until the end of 2022, as will the final FCA rules.
- Flexibility could be offered to providers by allowing them to request a later implementation date, yet it is currently proposed that this option is only available to the smallest providers and we do not understand the rationale for that.
- Finally, many providers, including the larger firms, may want to use a third party integrated service solution provider and this market is still developing and will not mature before the implementation date. There is therefore likely to be limited capacity for even the smaller firms to contract with an integrated service solution provider in the time available.

The Society of Pension Professionals

Kemp House, 152 – 160 City Road, London EC1V 2NX T: 020 7353 1688

E: info@the-spp.co.uk www.the-spp.co.uk

A company limited by guarantee. Registered in England and Wales No. 3095982

NOTICE

You may not take any statement in this document as expressing the view of The Society of Pension Professionals or of any organisation, which the maker of the statement represents. Whilst every effort is made to ensure that this document is accurate, you may not assume that any part, or all, of it is accurate or complete. This document is provided for information only. You may not rely on any part, or all, of this document in deciding whether to take any action or to refrain from action. You may not use this document in part or in whole, or reproduce any statement it contains, without the prior consent of The Society of Pension Professionals.

No liability (other than any liability which cannot be excluded by law) arising from your failure to comply with this Notice rests with The Society of Pension Professionals or with any individual or organisation referred to in this document. Liability is not excluded for personal injury or death resulting from The Society of Pension Professionals' (or any other party's) negligence, for fraud or for any matter which it would be illegal to exclude, or to attempt to exclude, liability.

Consistency

- You will be aware that the DWP has consulted separately in relation to the legislative changes that are being implemented in connection with the introduction of Pensions Dashboards. MaPS has to write and yet to consult on the standards providers are required to meet, before they can be approved by the Secretary of State. We think it is important that the various bodies who are responsible for regulating and bringing into force the requirements governing Dashboards, are all aligned and have common and consistent requirements, deadlines and goals.
- In this way consumers would have the benefit of the same experience regardless of whether their particular Dashboard is regulated by the FCA or TPR and this may encourage greater confidence in and the use of Dashboards by consumers.
- For providers, there could be more opportunity and ability to integrate the different regimes, which would also result in lower costs for providers.

Detailed Response

Q1: Do you think that our proposals for connection are proportionate and deliverable? Please provide evidence in support of your answer.

We think many providers (whether small, medium or large) would be interested in connecting using a third-party integrated service solution provider (an “ISSP”). We understand that currently the ISSP market is small and is certainly not mature; only a small number of firms have so far announced plans to offer this service. Consequently there will be a capacity issue; ISSPs will only be able to work through the due diligence, contractual arrangements and connection requirements with a finite number of providers at any one time and there is no guarantee that even those small providers (defined as providers with fewer than 1000 pots in accumulation and who choose to use an ISSP and who have the option of applying for an extension which would mean a later implementation date of 31 October 2024) will be able to contract with their chosen ISSP by the deadline.

In relation to ‘small providers’ more generally, we also consider that:

- (a) 1,000 pots in accumulation is a very low threshold and query the rationale for excluding larger providers;
- (b) those larger providers may be forced down the path of setting up their own systems to connect when they would prefer to have the option of an ISSP and consequently the initial set up costs are ‘wasted’.

We note that the Financial Reporting Council is currently consulting on changes to AS TM1 and it is expected that there will be significant change to AS TM1 following that consultation exercise (it closes on 6 May 2022). Any changes to AS TM1 will not come into force until 1 October 2023, 3 months after the Implementation Date. This will create a further strain on providers’ resources in terms of having to update their systems to comply with AS TM1.

We note the Government’s objectives for Pensions Dashboards includes increasing member engagement and we think that this could be achieved if, when a consumer accesses a Dashboard for the first time, they have the best possibility of obtaining the most up to date and accurate information. We would query if this objective can be satisfied if there are further changes to the way information is presented within the first few months.

Q2: If you are a pension provider, what challenges do you anticipate facing in meeting the implementation deadline?

There are a number of challenges in meeting the implementation deadline in our view, including:

Timing

Currently there are only two certainties in relation to the introduction of Pensions Dashboards; the Implementation Date and the Connection Date yet providers have to wait until “*later in the year*” for the MaPS standards which are said to be “*critical to the effective operation of dashboards*” and “*meeting MaPS standards is an explicit requirement of [the FCA’s] proposed rules*”.

Providers need time to plan, build and test their systems for connection and it is not reasonable to expect providers to ensure they have capacity to do that when there is no certainty on the timing of the finalised DWP regulations, the FCA rules and MaPS standards, which are currently either under consultation or yet to be consulted on. We anticipate that they will not be finalised until Autumn which could be as late as the end of December. Consequently, we consider that the connection proposals are not deliverable on the basis that providers could have as little as 3 months before the connection date to comply.

Definition of ‘in scope’ policies

The definition “*relevant pension scheme*” should be widened. The definition as amended in the FCA Handbook is:

*“(1) (except in COBS 19.11) a pension scheme or an additional voluntary contribution.
(2) (in COBS 19.11) a personal pension scheme or stakeholder pension scheme that has at least one relevant pension scheme member.”*

In contrast, para 1.8 of the Consultation Paper states that:

“This consultation primarily affects providers of individual and group stakeholder and personal pensions such as life insurance companies and operators of self-invested personal pensions (SIPPs), that have customers in the accumulation phase. Personal pensions include SIPPs, Freestanding Additional Voluntary Contributions, s32 buyout contracts and s226 retirement annuity contracts.”

The definition of ‘relevant pension scheme’ in the Handbook should reflect para 1.8 of the Consultation Paper. In this context, please note that the definition of “*personal pension scheme*” in the Handbook does not include express references to SIPPS, freestanding AVCs, s32 buyout contracts and s226 retirement annuity contracts. There is in fact a separate definition of “*retirement annuity*” which is “*an individual pension policy effected before 1 July 1988*” i.e. before the introduction of personal pension schemes and consequently providers would not generally expect a reference to a personal pension scheme to cover a s226 retirement annuity contract, which we understand is the intention here.

Consequently, we suggest updating the Handbook definition of “*relevant pension scheme*” to reflect the text in the consultation paper i.e. explicitly refer to each of the policies that are captured by the requirements.

Bulk Purchase Annuities

We also note that bulk purchase annuities are not within the scope of the DWP regulations, and it would appear they are not within the scope of the FCA's proposals either.

Where a defined benefit occupational pension scheme secures a deferred annuity, a contract of insurance is issued between the provider and the former scheme member. As such, deferred annuities would be regulated by the FCA, however we do not believe that these are personal pensions. For tax purposes only, the Finance Act 2004 ensures the policies are treated as if they were registered pension schemes, but they are not actually registered pension schemes. We do believe that the FCA therefore needs to provide clarity and separately define deferred annuity contracts, onboarding consistently with other non-money purchase schemes; *"a pension scheme under which none of the benefits that may be provided are money purchase benefits"*.

The new definition should take into account the fact that these are defined benefit related products and therefore they should not be grouped with other money purchase type arrangements. This will ensure:

- a) the FCA do not accidentally omit these types of policies when introducing new rules and/or initiatives; and
- b) it will be easier for the FCA to treat bulk annuity policies separately if they need to do so.

Finally, we note that non-money purchase benefits are defined as a *"benefits under a non-money purchase scheme"*. A non-money purchase scheme is defined as a pension scheme under which **none** of the pension benefits that may be provided are money purchase benefits. Many defined benefit schemes offer money purchase additional voluntary contributions and consequently we would suggest adding a carve out for AVCs in the definition.

Integrated Service Provider market

Para 3.4 states that *"Alternatively, third parties could develop integrated service solutions, including providers' existing administrators and software providers. We expect that some independent integrated service solution providers will emerge to offer an alternative commercial solution."*

Our view is that both the FCA and DWP would appear to be underestimating the issues for ISSPs. The FCA acknowledges that the ISSP market is yet to fully evolve, which creates another uncertainty for providers.

Consequently, a connection date of 30 March 2023 could result in providers being compelled to adopt a direct connection solution, which may be sub-optimal long term, to ensure they are compliant. Firms may do so on the understanding they will revisit once ISSP players emerge and make that their long-term connection strategy.

We understand that many providers would like to use ISSPs, however as acknowledged by the FCA, this is an immature market. It will therefore be extremely challenging for providers to identify a provider, complete all the necessary due diligence, agree the contract and be ready to connect by 30 March 2023, which is the date on which a number of the handbook provisions are intended to come into force. We understand that providers' best estimate is that they would need 6-12 months to connect via an ISSP once a viable ISSP market available becomes available.

Consequently, there will be an increased cost and burden on providers in complying with the requirements which cannot be in the interest of consumers in the long term.

There is a proposal that certain pension providers may request a later implementation deadline of

31 October 2024. The FCA however only intends to make this option available to those providers that have fewer than 1,000 pots in accumulation and rely on a third party ISSP. There may well be providers who do not meet the 1,000 pot criteria but who would like the option of being able to use an ISSP. Why does the FCA consider it is appropriate to remove this flexibility from larger providers?

MaPS standards

MaPS standards “*will include detail that providers must follow to comply with*” the FCA’s rules. The standards will be “*technical and operational and are critical to the effective operation of dashboards. So, meeting MaPS standards is an explicit requirement of [the FCA’s] proposed rules.*”

The proposed deadline for a number of the FCA handbook requirements that providers must comply with is 30 March 2023, yet MaPS standards will not be consulted on until “*later this year*”. Consequently, the earliest we expect the publication of MaPS standards will be the Summer 2022. Allowing time for consultation on the MaPS standards and approval by the Secretary of State means that they are unlikely to be finalised before Autumn, at the earliest, and it is quite likely that they may not be finalised until much later in 2022.

In reality this timing is very unlikely to be viable for providers who may have as little as three months to design, build and test their systems to ensure that they do comply with MaPS critical standards. They have to be finalised well in advance of the connection date to provide sufficient time to meet those requirements, so the current proposal is untenable.

We note that para 3.10 states that “*a breach of MaPS standards would result in the provider being automatically disconnected from MaPS’ digital architecture*”. We consider this to be quite an extreme response to a breach and we do not see that course of action reflected in the drafting to the rules. 19.11.5 R states a firm must “*... (2) comply with the service and operational pensions dashboard standards*” but it does not state a firm would be automatically disconnected if it doesn’t do so.

We also note that it is not certain at this time if MaPS will provide final standards in sufficient time to enable providers to build compliant and resilient Dashboards. Again, there is no flexibility in the Handbook to cater for any delay on the part of MaPS. As the Government’s objectives for the introduction of Dashboards include increasing individual’s awareness and understanding of their pensions information, increasing engagement and enabling individual’s to make more informed choices, it is important that the Dashboards work correctly from the outset. Any failure on the part of the Dashboard is likely to result in the Government failing to meet its stated objectives, whilst imposing an administrative and financial burden on providers. We also note that the updated Handbook does not include this provision, so perhaps the FCA is taking these concerns on board?

Q3: Do you think that our proposals for finding and matching are proportionate and deliverable? Please provide evidence in support of your answer.

We broadly agree that the proposals for finding and matching are proportionate and deliverable. However, the proposals are reliant on a good deal of detail to be provided in MaPS technical and data standards, which will be published “*later this year*” and we have expressed our concerns around timing in response to Q1 above.

We would also query, if there is some inconsistency between paragraphs 4.4 and 4.5 in relation to finding and matching.

Paragraph 4.4 states that the Handbook won't "*specify which find data elements providers should use to search their records for a match*" leaving providers to decide its matching criteria, which must be reasonable. Providers may have regard to what pension data they hold and the level of confidence they have in the quality of that data and its approach to preventing data breaches. Providers must also have regard to the Secretary of State's guidance on matching. Para 4.5 requires providers to make a 'possible match' where some of the 'find data' elements match the provider's records, but there is not enough for it to conclude there is a definite match. In this instance, the proposed rules require firms to make a 'possible match' and they cannot decide there is no match, even if for example, the only 'find data' that matches is the address. If providers are trusted to select sensible find data elements, could they not also be trusted to determine that in certain instances it is highly likely that there is no match? In this context, we note that the DWP consultation would appear to be inconsistent; in one part it suggests that it is the trustee's responsibility to resolve the match, and in another, the onus is on the member to contact the pension scheme and provide all the relevant information.

We note that the FCA and DWP requirements in relation to how long the provider has to resolve a possible match are not the same; the DWP allows for 30 days and the FCA does not set a fixed period of time, allowing the provider to determine what is appropriate. We welcome the flexibility offered by the FCA, we think the DWP and FCA requirements should be consistent; the worst scenario for providers is for the DWP and the FCA to have different rules which would greatly increase operational complexity (and cost).

We agree that providers should delete personal data in line with data protection laws. However, there is a question about whether providers could use that data to improve the quality of their data?

We would query how the FCA (and the DWP) would use the information listed in para 4.13 that may be requested and which is intended to support the FCA's Supervisory and Enforcement functions (and DWP's monitoring). This is because without understanding the underlying reasons why, for example, there are 'possible matches' which remain unresolved or took a certain period of time to resolve, it would appear to be very difficult for the FCA (or the DWP) to draw any conclusions from the required data itself in terms of compliance.

Q4: Do you think that our proposals for returning view data are proportionate and deliverable? Please provide evidence in support of your answer.

We have no comment to make on this question.

Q5: Do the proposals set out above deliver the right balance between the needs of consumers and industry burden? If not, how might a better balance be achieved?

Whilst we wholeheartedly support the Government's objectives behind the introduction of Dashboards, we would make the general observation that individuals who are currently engaged (to some extent) with their pensions savings are likely to be the greatest users of the new Dashboards, we would query if those individuals who are not at all engaged will be persuaded to use the Dashboards.

In addition, we note that there are very detailed requirements in relation to the management information to be held by providers, which is proposed to include but is not limited to the following:

"(1) the number of pensions dashboard find requests received by the firm;

(2) the pensions dashboard matching process used by the firm;

(3) in relation to positive matches:

(a) the number of matches that are notified to the Money and Pensions Service; and

(b) how quickly any uncertainties in relation to possible matches were resolved, resulting in a positive match being made;

(4) in relation to possible matches:

*(a) the number of possible matches that are notified to the Money and Pensions Service;
and*

(b) how many of these resulted in a positive match being made, resulted in no match being made, or remained unresolved;

(5) the number of pensions dashboard view requests received by the firm and the time taken to respond to each one; and

(6) contacts received from users, including details of:

(a) queries about pensions information provided;

(b) pensions not found following a search; and

(c) complaint.”

We consider this to be a very granular requirement to impose from the outset and we would query what the FCA intend to do with this information and how it enables the FCA to monitor providers' compliance with the requirements. More specifically:

- In relation to 3(b) above, who exactly is intended to be responsible for resolving any uncertainties and how are they expected to do so?
- In relation to 5 above – is there a particular reason why it's necessary to provide the response timeframe only in relation to view requests?
- In relation to 6 above, we consider the requirement to maintain and provide a record of all contact received from users to be unduly onerous and query what purpose this would serve?

We also note that the FCA may expand the information requirements. Changes to the requirements will mean that providers will have to update their systems leading to further costs for the providers and we would query how this would benefit consumers ultimately.

Q6: Do you have any comments on our cost benefit analysis in Annex 2?

We have no comment to make on this question.

Response ends

Yours sincerely

Sharon Piert

Financial Services Regulation Committee, SPP

Fred Emden

Chief Executive, SPP

THE SOCIETY OF PENSION PROFESSIONALS (SPP)

SPP is the representative body for the wide range of providers of advice and services to pension schemes, trustees and employers. The breadth of our membership profile is a unique strength for the SPP and includes actuaries, lawyers, investment managers, administrators, professional trustees, covenant assessors, consultants and specialists providing a very wide range of services relating to pension arrangements.

We do not represent any particular type of pension provision nor any one interest-body or group. Our ethos is that better outcomes are achieved for all our stakeholders and pension scheme members when the regulatory framework is clear, practical to operate, and promotes value and trust.

Many thousands of individuals and pension funds use the services of one or more of the SPP's members, including the overwhelming majority of the 500 largest UK pension funds. The SPP's membership collectively employs some 15,000 people providing pension-related advice and services.