Dear Frank Field

4 May 2018

Re: The FCA’s response to the Pensions Freedoms Inquiry and British Steel Pension Scheme Inquiry reports

I am writing to you following the publication of the Work and Pensions Select Committee’s reports on the Pension Freedoms and British Steel Pensions Scheme (BSPS). These reports contained a number of recommendations for the FCA which I will respond to in turn.

Before I do, I wanted to set out some wider information that may be useful to the Committee.

The pensions sector has been a priority for the FCA for some time, and our Business Plan for 2018/19, published in April, reaffirms this priority. Recognising the significant changes brought in by the Pension Freedoms we are committed to ensuring a pensions and retirement income market that supports consumers, offers them good value for money and well run, funded and safe pension schemes. This support is imperative in helping consumers get off to a good start with their retirement savings, but also in helping consumers make good choices across accumulation and decumulation.

Part of helping consumers make good choices is ensuring a well-functioning pension advice market. Through our continuing supervisory work we are taking action to address specific areas of concern. This work has helped to inform our policy interventions – including our new rules on pension transfer advice.

While, quite rightly, a lot of recent attention has been on workplace pensions, the non-workplace market remains significant. We are currently exploring whether competition is operating in the interests of consumers in the accumulation phase. A big part of this is helping consumers understand the costs and charges associated with their pension. This also extends into workplace personal pensions. We plan to consult on new rules on transaction costs disclosure in workplace personal pensions later this year.

As the Committee will be fully aware, we are not the only regulator for the pensions market with some pension schemes, such as defined benefit pensions and trust based defined contribution pensions, falling within the remit of the Pensions Regulator (TPR). It is important that the FCA and TPR set out clearly how pensions regulation is effected in the UK and how we plan to work together in the interests of consumers to maintain a robust and comprehensive regulatory framework. We announced in October that we would publish a joint Pension Strategy to help stakeholders understand both the work we are doing and areas of future focus.

The Committee’s reports are highly relevant to much of the work we are currently undertaking, and plan to undertake in future. I will set out our response to each of the recommendations for the FCA from both reports.
Pension Freedoms Report recommendations

"The Committee recommends that the FCA and TPR require all pension providers to issue one-page pensions passports as part of their pre-retirement communications with members. The FCA and TPR should work together to produce a template best practice passport by June 2018."

We agree with the Committee’s view that open market options statements (commonly referred to as ‘wake-up’ packs) could be more effective. In July 2017 we published our Retirement Outcomes Review (ROR) Interim Report where we sought feedback from stakeholders on how to improve the effectiveness of wake-up packs, or if an alternative solution may be needed; one of which could be the pension passport mentioned by the Committee. We are exploring this in detail. We have also paid close attention to the work being carried out by the Behavioural Insights Team as well as carrying out our own research. We are looking to take forward the lessons learned from the pensions passport through our work on the wake-up pack.

As set out in our ROR Interim Report, we want to help consumers understand their options for accessing their pension savings following the Pension Freedoms. Our ROR findings showed that, for a variety of reasons, many consumers were simply pursuing the path of least resistance when accessing their pension savings. As such, the wake-up pack is one tool that would help to address this. We have received a lot of valuable feedback, including the views expressed by the Committee. We have considered this carefully and we plan to say more on wake-up packs in the ROR Final Report which will be published in June, accompanied by a consultation paper.

"The Committee recommends that the FCA conduct and publish a review comparing consumer outcomes from face-to-face and automated advice."

We agree that the Pension Freedoms mean that there is a greater need for cost-effective, high quality advice. We also agree that technology can play an important role in providing affordable advice services and improving the availability of guidance for consumers.

We have already done a lot of work to encourage the development of automated advice services through our implementation of the Financial Advice Market Review. In particular, in 2016 we established the Advice Unit, which continues to support firms seeking to bring a number of innovative propositions to market and now offers a similar service to those developing guidance models. We also continue to share our insight with the wider market by publishing additional guidance and clearly signposting existing rules.

Firms which provide advice online are subject to the same suitability requirements as firms which offer advice face-to-face. We would, therefore, expect to see the same standard of consumer outcome. We are preparing for our next 'Assessing Suitability' Review. This will consider advice provided by firms over the course of 2018 and check whether consumers are being recommended products which are suitable for their needs and whether they are being provided with appropriate disclosure.

We will seek to include some form of review of outcomes of automated advice services relative to face to face advice in this work. However it should be noted that automated advice services are in their early stages of development, and at present tend to only address simpler consumer needs and the number of firms offering advice is still relatively small.

"The Committee recommends the Government takes forward FCA proposals to introduce default decumulation pathways. Any provider offering drawdown would be required by FCA rules to offer a default solution that is targeted at their core
customer group. The same charge cap that applies to automatic enrolment schemes, 0.75%, should apply to default drawdown products. Similarly, the remit of Independent Governance Committees (IGCs) to scrutinise value for money in the accumulation phase should be extended to default decumulation products. These protections should be in place by April 2019.”

We agree with the Committee that decisions about how to make the most of a drawdown product are very complex. Consumers need to make decisions on a number of areas including investment and withdrawal strategies, and longevity risk (the latter decision is particularly pertinent for those consumers who want their pot to last through their retirement). Poor choices on any of these decisions can lead to consumers choosing a route that is unsuitable for their needs, yet as research shows, most consumers pick the path of least resistance with their retirement choices due to a lack of engagement with their pensions.

As announced in our ROR Interim Report we are currently considering default investment pathways for drawdown, a charge cap or caps for default investment pathways and the possible extension of the role of IGCs to decumulation products.

This is a complex area, particularly as consumers’ needs and circumstances differ significantly in decumulation, so a single default pathway may not be appropriate for all consumers in all circumstances. This is why our ROR Interim Report explored the possibility of multiple investment pathways, which may be better tailored to serve the diverse needs of different consumers.

At this point we have not reached final decisions and will make a further announcement on this with the publication of our ROR Final Report and accompanying consultation paper in June.

**British Steel Pension Scheme Report recommendations**

The Committee published its Final Report on BSPS in February 2018. As the Committee will recall, we published my detailed letter of January 2018 on our website prior to the Report being published. My letter set out the breadth of our work on defined benefit transfer advice and BSPS in particular. I will not cover those issues again as I believe we have set out clearly our view on our work and the action we took to protect members of BSPS. I will instead respond directly to the recommendations in the Report, all of which were already being addressed at the time of publication.

"We recommend that the FCA ban contingent charging on defined benefit pension transfer advice. Genuinely independent expert advice, on what for many people could be their biggest financial decision, has a value irrespective of whether a transfer is the outcome."

In March 2018 we published two papers on pension transfer advice: a Policy Statement¹ on Advising on Pensions Transfers and a Consultation Paper² on Improving the Quality of Pension Transfer Advice. The latter paper contains a discussion section which asks for views on the charging structures used by firms giving advice on pension transfers.

We agree that contingent charging structures create conflicts of interests and we require advisers to take adequate steps to manage these conflicts. However, given the results of our recent supervisory work, we agree that there is a case to consider intervention on charging structures. This needs to be balanced against the overall availability and cost of advice for consumers.

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¹ https://www.fca.org.uk/publication/policy/ps18-06.pdf
We are asking for views on this, and other proposed rule changes set out in our Consultation Paper, by 25 May 2018.

"We recommend that the FCA names firms and individuals suspended from providing pensions advice. It should take immediate action to make such suspensions clear at the top of register entries and in search results. We further recommend that it publish its broader plans to redesign the Register."

We are legally required to establish and maintain a public register of firms that we regulate. The Financial Services Register (the Register) is available through our website and is maintained by the FCA. Where action is taken against a firm resulting in restrictions being placed on it, these are reflected on the firm’s entry. The Committee set out in its Report where these restrictions are recorded.

As Megan Butler, our Executive Director of Supervision, said during her evidence to the Committee in November, we accept the Register can be improved. This is partly due to it being created for a specific purpose that did not initially cater for consumers.

Work is underway to consider how we can improve the Register to make it easier to use and understand. Changes will be made this summer to make clearer when requirements, including suspensions, apply to an entry. We will also make improvements to the search facility and make available a simpler presentation of some commonly searched information.

In 2019 we will provide a free Application Programme Interface from the Register which will allow developers to provide services that can integrate Register data with other data which consumers use. Also in 2019, as part of the Senior Manager and Certification Regime, we will introduce a new public register for certified individuals. This will link to the FS Register to provide a more intuitive resource for consumers to use.

In July 2017 the FCA published proposals to extend the Senior Managers and Certification Regime to almost all regulated firms. In response to these proposals, we received substantial feedback on the public value of the FCA maintaining a central public record of certification employees and other important individuals in regulated firms who will no longer appear on the Register. This includes non-executive directors, financial advisers, traders and portfolio managers.

Under these proposals, we will only approve the most senior individuals within firms. This means that only Senior Managers will appear on the Register. Firms are responsible for assessing the fitness and propriety of their employees and ‘certifying’ certain individuals who are not Senior Managers, but whose jobs mean they can still have a significant impact on customers, firms and market integrity.

We have listened to this feedback and will consult on policy proposals to introduce a public register.

"Transferring out is not in the interests of most defined benefit scheme members. Advisers should start from the presumption that it is a bad idea for their client, and be able to justify clearly a change of mind. In the light of the BSPS experience, the FCA’s proposal to remove that safeguard looks reckless. It should be abandoned."

In June 2017 we issued a Consultation Paper on Advising on Pension Transfers. In this paper we asked for views on whether the starting presumption on suitability should be

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changed to a more neutral position and more clearly linked to a consumer’s individual circumstances. After further consideration – including our concerns about the proportion of advice that is unsuitable and in light of the fact that we have opened a discussion on charging structures – we decided to retain the existing presumption (that a transfer is unlikely to be in the client’s best interests) at the present time. This was announced in the Policy Statement⁴ published in March.

I want to reaffirm the FCA’s position that regardless of advisers’ starting presumption on suitability for pension transfer advice, the regulated advice given to all consumers making a decision about their pensions, whether that is a defined benefit scheme or a defined contribution scheme, needs to be suitable for the individual consumer.

We have clear and firm expectations of regulated advisers providing pension transfer advice and they have all been reminded of these. Where they are not meeting our standards, we will take the appropriate action – which could result in us restricting or removing their permissions.

I hope that this is helpful.

Yours sincerely,

Andrew Bailey
Chief Executive

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