Excerpts from submissions made to the Financial Services Authority by Robin Keyte in respect of the Treating Customers Fairly (TCF) initiative.

17 August 2004

I was delighted to read the contents of the update (Treating Customers Fairly – Progress & Next Steps July 2004 www.fsa.gov.uk/pubs/other/tcf_27072004.pdf), and would like to correspond with the author(s) and those behind the document.

Broadly I am supportive, but have some concerns such as:

page 13 para 7: it appears there will be degrees of fairness. My concern is that most firms / providers will remain 'unfair'

page 16 paras 4.7-4.8: this sounds like management paying lipservice, how much do they REALLY believe in this

page 17 para 4.16: the killer blow here is the last sentence, sales volumes remain the main factor in determining bonuses. It is difficult to see that changing just though a principled approach. Whilst that prevails, there will always be unfairness in financial services.

page 22 para 5.10-5.11: comments here really bother me. The trend with selling is to sell clients products you think they want, NOT sell clients products that they actually need. Selling clients products that they actually need is harder, and will lead to less sales in the short term.

Volumes based remuneration packages will always encourage selling clients products you think they want. This is a very tough nut to crack.

Other concerns I have, which you have not touched on, are the relative strengths of the bond / relationship between intermediaries and products provider versus intermediaries and their clients.

I think that in general the relationship between intermediaries and product providers is far too strong (i.e. commissions, marketing support, compliance support etc), and that detracts from the relationship with clients. Seminars / lunches arranged by product providers under the guise of CPD are all too often sales training sessions for intermediaries. It is as though intermediaries are pseudo employees / representatives of product providers.

Intermediaries forget (or choose not to remember) that their first duty is to protect the best interests of their client.

For change to occur, intermediaries need to be able to stand on their own two feet from the point of view of remuneration (i.e. fees or something similar), compliance and marketing. The relationship with product providers must be severely weakened or broken altogether.

In practical terms, how the hell are you going to do that? I want to help find out.

As for a common example of unfairness in practice, I would cite the selling of investment bonds (which often pay 7% commission) to any individual clients that are not higher rate taxpayers. On the grounds of taxation and charges, there is no merit whatsoever (compared to OEICs / unit trusts) yet it is done all the time.

26 May 2005

I have recently been discussing business ethics in financial services with a colleague at the UK Social Investment Forum, and other colleagues at Fair Money Ltd. One conclusion that has come out of these discussions I have found very interesting, so much so that I wanted to contact you with it.

Is there some way of trying to explicitly introduce our "sense of conscience" into the process. Perhaps a simple "do as you would be done by" element would work.

For example, financial advisors signing a statement saying that "If I were in the position of my client, then I would wish my advisor to recommend the product that I am recommending"? Perhaps a comment / clause to this effect in the suitability letter.

This would have the effect of explicitly introducing societal norms into the process, and, in this example, encouraging the advisor to behave in a more responsible way. There is an excellent example for this, where it would immediately be useful, which relates to protection insurance.

Recently published research found that after life cover, critical illness is the next most commonly sold form of protection cover in the vast majority of cases (I believe over 80% of cases).

However, when a representative sample of IFAs were asked what cover they had personally, after life cover, around 80% said permanent health insurance (PHI).

Evidently, financial advisers recognise the value of PHI over critical illness cover personally, but still sell critical illness cover to their clients, as it is an easier sale, thus providing a higher profit margin.

5 July 2005

I wanted to contact you on the subject of the proposed relaxation of RU64, the premise being that the low charges of stakeholder pensions do not allow product providers to pay enough in commissions to the intermediaries that sell them. I have recently been discussing this with a colleague at Fair Money Ltd.

I would like to challenge this premise and ask whether such products HAVE to be sold, or whether people should really be paying for the advice, NOT the product.

The financial services industry has long held the view that for financial services products to be well distributed, they have to be sold.

I would like this view to be tested. Has any independently funded research ever been done to substantiate this point, one way or the other? Perhaps this is something the FSA should look at.

It is my view that best interests of all consumers are held once you start to focus on the advice rather than the product sale.

In this respect, surely the FSA would want to retain the existing interpretation of RU64, and instead encourage advisers (as a matter of best practice) to declare in writing to their clients that the reason they are selling them a pension plan that is more expensive than stakeholder is because it will then generate enough commissions to pay for their advice.

That would be the best way to place a focus on the quality of the advice being provided. Indeed, if the consumer felt the advice was good enough to pay for, it would be a very legitimate 'reason why' to put into a suitability letter.

This would be a very enlightened form of regulation that placed the power back into the hands of the consumer. Advisers would have to raise their game and give decent advice others consumers will not want to pay for it.

In reality, at the present time, most advisers are scared of taking such an approach, the implication being either:
- they do not value the advice they give to their clients
- they are scared that given the opportunity to decide, their clients will not value the advice

So why is the FSA shying away from RU64, and instead proposing a measure that will take the focus away from 'the quality of advice'?

It does not exactly square up with the FSA's treating customers fairly. Rather than see RU64 watered down, I would actually prefer to see it applied to investments as well as pensions, so consumers can become aware of CAT marked unit trusts and understand why they are not being recommended them.

23 August 2005

I wanted to contact you on the subject of investment advice, and the way many financial advisers do not give due weight to the loan / debt / mortgage arrangements clients have.

I would argue that much of the investment business written for low to medium risk clients that have outstanding loans / mortgages is verging on misselling.

Consider the interest that might be charged on a loan (i.e. say 5.50% pa). Any loan repayment will have an effective return on the amount repaid equivalent to the interest being saved (i.e. 5.50% pa).

For a person to make an investment instead, the return that must be achieved after taxation and charges has to be greater than the loan interest to be worthwhile. So, for a typical investment product with reduction in yield of say 2% pa, the gross return must exceed 7.5% per annum. Such a return is only achievable through investing in shares, which carries a reasonably high degree of investment risk.

So, you have the very low risk and safe savings option of loan repayments, or the higher risk savings option of investing in shares. The middle ground of investing into low or medium risk funds is therefore far less attractive as you are less likely to achieve the returns you need to exceed the loan interest.

16 November 2005

A further submission that I would like to make about wider issues of concern relating to regulated financial advice.

1) It is easy to assume the customer will have a certain level of knowledge and understanding, a basic level of financial capability if you will (i.e. it is assumed a client can run a bank account, do basic budgeting etc).

   I would argue that one thing we are missing is a need for financial advisers to actually provide a small degree of personal coaching to the customer to improve their level of understanding and awareness and hence financial literacy, so they can (perhaps for the first time) begin to appreciate the circumstances in which they are in. Such coaching must be in an empathic manner as many customers may be shocked and upset to truly realise the financial situation they are in.

   In essence, we should aim for a customer to be more financially capable after meeting with a financial adviser. This in turn should affect the content of the meeting, the demeanour of the adviser, and move the advice process away from a well rehearsed sales pitch to something altogether more substantial and useful to the customer.

   It would also fit in nicely with FSA's Financial Capability initiative.

2. When fact finding, most financial advisers focus on loans, cash deposits, protection, cash savings and investments / pensions.

   The FSA's affordability requirements means that when factfinding, the adviser attempts to acquire evidence of net disposable income or capital. Typically with disposable income, this is by recomciling incoming with outgoings.

   To me, this is so near and yet so far ('a miss is as good as a mile').

   I happen to believe we are missing a very important area here, which is 'spending'. If you asked a customer for the top 5 or 10 areas where they spent most of their money, I feel sure that with the help of a little internet research, or a relevant Which? report, a financial adviser could help them to find ways to acquire the same products or services for less money.

   Hence, one result of the financial advice is a net saving in outgoings to the customer, leaving them with more money in their pocket to apply as they wish (or are advised to).

Whilst many might not regard this as traditional financial advice, it will be far more useful to the customer than most other financial advice they might otherwise receive, and will free up more income to apply for financial planning purposes thus reducing the strain on the state benefits system in the future.

In addition, sometimes debt arises from excessive spending on designer products etc as a by-product of depression or low self-esteem. I think financial advisers need to be open-minded enough to treat the whole person (genuine holistic advice) and broach these issues, and help the customer to find a solution (whether it is through a referral to counselling or whatever).

With regard to reviewing a person's spending habits, the following 6 questions might be useful:

1) **Can I restrict or stop the consumption of this product or service?**
Do I need this amount? Can I make do with less? Do I need it at all?

2) **Can I get this product or service at a cheaper price somewhere else?**
Can I buy this directly from a local producer (e.g. eggs, milk or sacks of potatoes from a local farm)? Can I buy utilities more cheaply from another provider?

3) **Can I combine my purchase with other customers and negotiate as a group for a lower price?**
Can I join or form a syndicate to purchase this product or service (i.e. wine, cigarettes, investment club, retail co-operative)?

4) **Can I do a deal with this provider (you never know until you ask)?**
What will you take for cash? What discount will you offer a regular customer?

5) **Can I defer my payment on the basis of credit on fair terms?**
Can I pay you next week or next month? Can I pay you half now and half later (i.e. next week)? (Note – interest free credit deals for 2 or 3 years rarely offer fair terms)

6) **Can I barter for this product or service?**
My grandfather used to grow strawberries and use them to pay for his coal. Do you have a skill or product that might be valued by someone else? Anyone with a vegetable patch, allotment or fruit trees has a definite advantage here!

What I hope you will realise is that for many people in the UK (i.e. those with little or no disposable income), this is possibly the most important financial advice they could ever receive. This is definitely something the FSA should be looking at.

You too can influence the FSA's Treating Customers Fairly initiative. If you have received any bad experiences in financial services, or have suggestions on how the position might be improved, we would encourage you to contact the FSA on tcf@fsa.gov.uk