



Work and Pensions Committee

Oral evidence: Progress with automatic enrolment and pension reforms, HC 668

Wednesday 17 December 2014

Ordered by the House of Commons to be published on 17 December 2014.

Written evidence from witnesses:

- [Financial Conduct Authority](#)
- [The Pensions Regulator](#)

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Members present: Dame Anne Begg (Chair), Debbie Abrahams, Graham Evans, Sheila Gilmore, Kwasi Kwarteng, Paul Maynard, Nigel Mills, Anne Marie Morris, Teresa Pearce, Mr Michael Thornton

Questions 146 - 237

Witnesses: **Christopher Woolard**, Director, Policy, Risk and Research Division, and **David Geale**, Director of Policy, Financial Conduct Authority, and **Stephen Soper**, Interim Chief Executive, and **Charles Counsell**, Executive Director, Automatic Enrolment, The Pensions Regulator, gave evidence.

Q146 Chair: Can I thank you very much for coming along this morning for our third evidence session of our inquiry into progress with automatic enrolment and pension reforms? Please introduce yourselves, for the record.

David Geale: I am David Geale. I am Director of Policy at the Financial Conduct Authority.

Christopher Woolard: I am Chris Woolard. I am Director of Policy, Risk and Research at the Financial Conduct Authority.

Stephen Soper: I am Stephen Soper. I am the interim Chief Executive of The Pensions Regulator.

Charles Counsell: I am Charles Counsell. I am the Executive Director for Automatic Enrolment at The Pensions Regulator.

Q147 Chair: You are all very welcome. Thanks for coming along this morning. Stephen, on your CV it said that you have been interim for more than a year; why are you still interim?

Stephen Soper: We had a process running to find a Chief Executive, and the first two attempts at that did not succeed in finding an acceptable candidate. I stepped in to do the role. My main role is Executive Director of Defined Benefit at the regulator. I stepped in to do the interim Chief Executive post whilst a new process was started. We waited for our new Chairman, Mark Boyle, to arrive to start that process, and that has just concluded. We will have somebody starting on 1 March.

Q148 Chair: I suppose that leads into my first question, which is that this Committee recommended, in our report in 2013, that there should be a single pensions regulator, because it is confusing that there are essentially two regulators and potentially a third one. At the time, the Government rejected our suggestion but, more recently, the Minister for Pensions has indicated that he is more sympathetic to the view of a single regulator. I suppose I am asking you to pitch for why you are better as two, rather than one. Who wants to start?

Stephen Soper: To be clear, Anne, I do not think we have made the case one way or the other, in a public sense. We view the structure of regulation being very much a matter for Government. We are a creature of the statute, as opposed to something that creates it. That said, we are very keen to make sure that we run whatever statute is set out for us in the best possible way. The two teams here have made considerable efforts over the last few years to work together at many levels. Our view is that, however you draw this legislation, there will always be boundaries. Pensions will always have a boundary with tax or with Treasury, and those boundaries need to be managed. Good working relationships are the best way to achieve that. You may take a view about what these two stacks of legislation look and feel like from the outside, but we try to make it work as best we can in the meantime.

Q149 Chair: There are clearly difficulties in having two regulators, so what are the main challenges that you face in making it work?

Christopher Woolard: The main challenges you get in any environment like this are the challenges of co-ordination. From a Financial Conduct Authority point of view, we will have those with a variety of bodies, not just in terms of the work that we do with The Pensions Regulator but also, for example, the work that we do on the enforcement side of the house with the Serious Fraud Office, and so on and so forth. The reality of the situation is we have to work with whatever boundaries we are given. We make them work as best we can.

Q150 Chair: Would you prefer a single regulator? Do you think that would help focus people's attention a lot more or a lot better?

Christopher Woolard: I absolutely do not think that is a matter for us. As Stephen says, we are the creatures of statute here and it is for Government and Parliament to decide what

we do. The thing I would say is, wherever you draw the line, just to echo Stephen's point, you will have a boundary. If you put everything to do with pensions in one place, you would still have boundaries into, for example, longer term savings and vehicles that people are using as alternatives to a pension. You would have boundaries with things like equity release when you are on the decumulation side of the equation. Wherever you put that line, you will end up with boundaries.

Q151 Chair: There must be gaps and inconsistencies between the two different approaches, so what are they?

Christopher Woolard: We have a range of different approaches, which stem from the legislation that we work under. You can frame them as differences, inconsistencies or however you would like to use the language around that. What we try to do wherever we can is minimise them. In particular around our supervisory and enforcement approach, wherever we can, we do on the big issues try to co-ordinate our actions. We have joint projects. You have probably heard about Project Bloom before now. There is another project that sounds a bit more like an enforcement project because it is called Project Scorpion. These are issues where we work very closely together and we try to make those things work as best as we can.

Stephen Soper: It is how it manifests itself to members and customers. That is probably where the differences are, but members and customers are not typically being presented with a choice between a contract pension and a trust-based pension. Occupationally, you typically offer one or the other. There is no confusion for a member or customer in making a choice here, because the choice is not typically offered. An employer, in our world, sets up a scheme that is trust based. They are not being given the very nuanced differences between a contract-based pension and a trust-based pension. There are nuanced differences but, as Chris outlines, we have tried to set up our principles and our standards to be pretty much aiming at delivering the same outcomes, although they have different legislative routes to achieving those. There are subtleties in the language, at the contract and trust deed level, but I do not think in the main they are manifesting themselves in a way that confuses members or customers.

Q152 Chair: People have an occupational pension. They do not know what kind of occupational pension. They just know that they are paying into a pension and their employer is paying into a pension. It is only when things go wrong that they need to find out the route to how they are going to get redress. At this stage, they do not know where to turn.

Stephen Soper: At that point, we both work with TPAS, The Pensions Advisory Service, and MAS, the Money Advice Service. They know how to route those kinds of enquiries. The Pensions Ombudsman is also well versed in working with both of us. Where problems occur, we are pretty quick.

Chair: They have to know about TPAS.

Stephen Soper: They do, but they are well-publicised services. They are linked up to other services, such as Citizens Advice. I am not saying that this complex web of baton changing is how you might design it if you had a blank page, but we are in a place that says that the blank page is probably not easy either. Weighing it up and doing some proper analysis of it would be very helpful, but we have not done that, so we cannot give you the answer as to which is right.

Q153 Chair: If you had the blank page, what would you do? Would you design the system you have now if you had a blank page?

Stephen Soper: Probably not, but I cannot tell you that a blank page is better today, because we have not done the work to work that out. There is a lot to get there.

Q154 Mr Thornton: If you did end up having one regulator, would you end up just having you guys, in the same jobs, but with one person as the Chief Executive? You would end up splitting the roles anyway. Would that happen or not?

Stephen Soper: There is a degree of that. It depends how invasive you want to get into the pension system: whether you want to grandfather old contracts and old trust deeds, and keep them, in which case, yes, we will have two teams of specialists who will have to work together and it is really a management change; or whether you want to move to a new world where pensions changes its whole basis and you have something new and not reliant on old and well-worked-through legislation, particularly around trust deeds. That law is very old and has been worked through over many years. We would have to start with something new, maybe, and then you could look at a more efficient regulatory system, but that is a very expensive way of getting a very efficient regulatory system.

Q155 Chair: You say that you are creatures of statute and, therefore, you cannot really have a say; you have just been given what you have been given, and you have to get on with it, but there must be gaps. As creatures of statute, you will know where these gaps are. What are they?

Stephen Soper: Without being contrite, could I say that some of these I would prefer to disclose in a non-public environment? They are the gaps that those who wish produce scams and frauds like to operate in but, in the main, they are the sorts of issues that can be resolved through time and polish, and the memorandums of understanding that we have between us. They are often defined in legislation, for example. Sometimes they are worded in a way that causes us to scratch our heads before we can share information with each other, but we often find a way through. There are ways to make those things more efficient, and there is a list of those, but again it is probably not the right forum to go through the whole long list.

Chair: We will probably, with the new flexibilities, be coming back to that whole issue. I do not know whether you want to ask something different, Paul.

Q156 Paul Maynard: Very briefly, if there are gaps, and I understand why you do not want to say what they are, can you say what you are trying to do about them to close them down? If you are not doing anything at all, I would be quite concerned.

Stephen Soper: When we say gaps, I will let Chris speak for contract, but we have most of what we need to regulate a trust-based pension scheme. There is no scheme that sits in between trust and contract—they are either fish or fowl—and we are very clear about how we both regulate those. There are no gaps in looking after a member or a customer in each of our environments. That is very clear.

Q157 Paul Maynard: If there are gaps that the scams and the fraudsters are exploiting, what are you doing to seek to close those gaps?

Stephen Soper: We recently had a successful case in the courts that closed down a particular new business model that sought to operate outside of both contract legislation and pensions legislation, trying to set itself up as a vehicle that was neither of these and, therefore, outside of the rules.

Q158 Paul Maynard: Where you see regulatory or legislative change being required, are you approaching the Government to secure that?

Stephen Soper: Yes, we do. We have a very good dialogue with DWP. Again, I will let Chris speak for himself in a moment, but we always set those risks out. They are aware that they happen. We pursue them through the courts. Where we are unsuccessful, DWP is usually prepared to rush or write legislation at the most appropriate moment to correct that problem.

David Geale: We do quite a lot in terms of co-ordinating our action and co-ordinating our view of the concerns that exist, the risks and so on. We have regular catch-ups at a senior level between the TPR and the FCA, and also at working level. We also have what we call a quad meeting between us, Treasury, DWP, TPR and now latterly the PRA as well, where we review the risks in the market, the things we are seeing, the concerns we have, on a regular basis, and also what action we can take between us to close those gaps. That co-ordination is happening on a regular basis.

Q159 Chair: This question is just for the FCA. How do you decide on the allocation of resources for your pensions work compared with the other areas? You have a huge remit.

Christopher Woolard: Like any public body, like any other organisation, we will go through an annual strategy process that takes a three-year look ahead as well as one year in detail. We will have to try to prioritise all the different things we are responsible for against the risks that we perceive in certain areas. To give you a sense of it, at any one time we have around 45 people who just work on pensions. That is all they ever do.

Q160 Chair: How does that compare with the last time your predecessor body gave us evidence, because we were quite critical; we did not think there was enough expertise in the FSA, as it was at the time.

Christopher Woolard: It is quite hard to compare. It is slightly apples and pears on this one, because there was quite a significant restructure at the time the FCA was created, which also created some dedicated teams that just looked at particular sectors. As I say, at any one time, we probably have a core of about 45 people. If you look a little more broadly at people who are spending most of their time deployed on thinking about pensions-related issues, it is probably around 100 staff from time to time, and then that will flex. Clearly at the moment we are just coming out the back of having done work on the retirement income market through our competition team, so we had more people than that looking at pensions issues at that particular point in time.

Q161 Chair: Have you had to put more money in because of the introduction of auto-enrolment?

Christopher Woolard: We have certainly put in more intensity, it is fair to say. We have a bit of flexible policy resource we can deploy on what are really live issues at any one moment in time. We have certainly deployed some of those people there.

Q162 Chair: Are you ready for the upturn with the huge number of smaller employers that are about to come in as they reach the staging date?

Christopher Woolard: We are obviously coming at this from the point of view of setting standards around questions like the guidance guarantee. We are looking at what we term unauthorised business; other people tend to talk about scams. We are looking at questions around that particular space. On auto-enrolment, I will defer to my left.

Q163 Chair: TPR, do you have enough resources?

Charles Counsell: Yes, we have. Reflecting back over the last two years as auto-enrolment has rolled out, it has been at the top end of all of our expectations. The results we have had have been very good. 5 million people are now automatically enrolled who were not previously, as we announced last week.

In terms of looking forward for small and micro employers as they come through from next year, but in mass from 2016 onwards, yes, we are. We have modelled in detail how much resource we think we need in various parts of the process and, yes, we are confident that we will be able to deal with it.

Q164 Teresa Pearce: The FCA said that you move people around. Does the FCA employ agency staff or consultants to cover gaps or is it all internal staff?

Christopher Woolard: It will be a mixture. We do use contractors or consultants from time to time, as specialists. On the whole, what I was just talking about there was, for

example, deploying full-time staff who work for the FCA on competition issues to look at the retirement income market or, within our policy department, using teams that we have as a flexible resource to move into that space.

Q165 Teresa Pearce: You have enough staff to be able to move into different things without having to bring in, en masse, agency staff or consultants.

Christopher Woolard: Yes. We would never use consultants or agency staff en masse, no.

David Geale: In the policy team we have specialists on disclosure, who can be deployed to work on pensions disclosure at any point in time, or specialists on advice issues and so on, so we can draw in from our own expertise, across the piece.

Teresa Pearce: There are things within your organisation you would want to keep within your organisation. You would not really want a consultant coming in, finding out how it all works and then going out and working it.

Q166 Nigel Mills: For the FCA people on the panel, the one difference we have seen between The Pensions Regulator and the FCA is that The Pensions Regulator is there to do pensions and the FCA does a whole load of other very important things as well. How much time does the senior management at the FCA focus on pensions or are they still focusing on trying to save the banking system from the next crash? Is there the senior focus the organisation needs to give on pensions?

Christopher Woolard: There probably is. Clearly we have to hold pensions in balance with a whole range of other issues, but I think in the last year, particularly as we have headed towards things like the guidance guarantee and those kinds of questions, it has definitely had its fair share of board time. It has certainly been discussed at the executive committee that I attend. Broadly, the answer is yes.

Q167 Nigel Mills: You are not the poor relation at the board meeting, with pensions being item 27 on the agenda that you get to at half past seven at night, when everyone is tired.

Christopher Woolard: No. It is worth saying that both David and I cover the waterfront in terms of policy and the wider questions that are there. Within that, if I think of the amount of time that I have spent on this issue in the last year or so, it has been one of the big three or four things that I have spent time on. Bearing in mind, as you said, we have a job to do that is a very wide-ranging job, overall pensions is not the poor relation in that.

Q168 Nigel Mills: There are some quite fundamental reforms going on. I suppose instinctively I might be concerned that it is one of the big three or four things you are doing, when there is so much change and risk in this market. Is that a sustainable job? Can you do three or four things this meaty while there is so much change happening?

Christopher Woolard: You can probably say that about almost anything that we do. If we were sitting in a different Committee talking about banking, senior persons in banking or whatever it might be, we could be asked exactly the same question the other way around. Clearly, the FCA was created out of the FSA, which brought together a whole range of very specialist regulators. The model we have at the moment has the ability to move resources to where there are particular issues. For example on pensions, as I said, we have moved resource into that area at this moment in time because of the issues that are there. There will be something else in the financial world that will need attention two or three years down the line, and we will have that ability to move in other ways that way. You of course can run this any way you want but, within the model we have, we do give it sufficient attention.

Q169 Mr Thornton: Just a quick question here: traditionally, the FSA was very much about advice, taking over from the PIA and then right back to LAUTRO and all that lot. The Pensions Regulator is less about the advice and more about the conduct of the pensions companies. Is this the sort of thing where you would be concentrating more on the guidance guarantees, the advice and the consumer protection side of it, and The Pensions Regulator is more about how they are done, the investments are done, the conduct and all that sort of thing? Is that the split we are going to see? Is that a fairly reasonable distinction of the functions?

David Geale: “Not quite” would be the answer to that. Certainly, the FCA regulates the advice and, as you say, we developed the standards around the guidance guarantee, so certainly that is a very strong focus for us, but we focus on advice broader than pensions as well, pensions being one of the potential options. Also, we regulate the asset managers and other parts of the chain as well. From a contract-based side, we are focusing on the insurance providers and the pension providers, with TPR focusing on the trust-based side of that. I will let Charles and Stephen speak for their own remit, but we would look across the chain, certainly on the contract side, and also deal with some parts of that chain that work on the trust-based side as well.

Chair: That leads us into the next set of questions, which is about the flexibilities, and Anne Marie has them.

Q170 Anne Marie Morris: We are at a time of great change. In a sense auto-enrolment was a big change in its own right, and now you have the new flexibilities, which many people are looking at with a great deal of hunger, and they want to do something to get their hands on, dare we say it, the money that they currently have trapped. We have talked about the challenges of basic resource—how many people you have to do the auto-enrolment and how many people are focussed on pensions—but this is not just about resource. There is a whole complex set of changes—organisational, cultural—that you are going to have to put in place to make these new flexibilities a reality. Is auto-enrolment, given that we are already well on the road, going to suffer because suddenly you have to focus on these new flexibilities? Charles, you mentioned you have a specific focus on

auto-enrolment; could you explain how on earth you are going to deal with all this new change in the regulation and yet keep focussed on auto-enrolment?

Charles Counsell: Certainly from The Pensions Regulator, I am the Director of Automatic Enrolment, so my focus is on automatic enrolment and my team's focus is on automatic enrolment, and to be honest on all things automatic enrolment. We have continued to maintain that focus with the changes that have come along and we will continue to do so as we roll out and go through staging. It is our intent that we keep a part of The Pensions Regulator absolutely focussed on automatic enrolment.

Stephen Soper: Auto-enrolment has the benefit of a distinct funding stream as well, which is preserving that capability. Everybody has always accepted how challenging small and micro employers are going to be. It is very important that we preserve that infrastructure and make sure that it can deliver that outcome. The rest of the regulator runs on different funding and, as a result, those risk-based decisions about where we apply our resources are pretty much limited to those other scope areas. We have shared services to provide efficiencies where we can make them happen, but there will not be compromises to auto-enrolment or other regulated activity. We have scoped it; we have our mitigations; we know what that will take. If, for any reason, those mitigations look like they are not going to be sufficient, then we have a good dialogue with the Department, they are fully aware of our plans and, if needed, I am sure the Department would help us if we found difficulties.

Q171 Anne Marie Morris: Within the non-auto-enrolment bit, the general pensions bit, have you got a change programme in place? What are you doing? You have “steady as she goes”, but then you have this huge regulatory change. How are you dealing with that?

Stephen Soper: We have several things that come together. First of all, there is our risk appetite, which we outline every year in our corporate plan in the outline for the year ahead. It explains how we wish to deal with the risks that present. Our budgets are formed around that risk appetite and we have a change programme that is managing these changes as they come through and, you are right, they are complex; they are pretty long ranging.

You talked about the budget flexibilities; I suspect it will be some time before the market is able to deliver propositions that meet up to that expectation of cashpoint drawdown. I think we are some way from that personally but, nevertheless, that is the journey we are now on and it will have an impact across our pension schemes and, I am sure, the FCA contract schemes as well and their insurers, in terms of how the money moves, where it goes and what become the choice products to buy. We will see that unravel but, at the moment, we are concentrating on providing the right guidance to our trustees, as to how they should manage those schemes, and employers that are backing them. We are working with them to help them understand where these flexibilities take that, but that is part of our transformation programme. I should remind you that these things never end. Even our old friends of the 2004 Act and the 1993 Act are still being tested in court, as it is some while before these things get hammered out, so it is the beginning of a long journey, not an overnight thing.

Q172 Anne Marie Morris: What is this journey going to look like? Is it going to look a bit like that? What sort of timeframe are we looking at? Of course, you have people who are hungry and think it is going to happen by yesterday, but that is the nature of the market, and you have the reality of ensuring that you can deliver in a safe, secure and managed way.

Stephen Soper: We are putting in guidance ready for next April, not only on the flexibilities point but also costs and charges, which come in at the same time. As other changes come through, auto-transfers, defined ambition, and are improved and refined through the legislative track, we will develop our products on the back of that, and big communication programmes, working with trustees and companies, training our own people as well, just as much as the outside world. We have a change programme that helps make that happen.

Q173 Anne Marie Morris: That is going to be quite a complex stakeholder group. It is going to have to be carefully managed to get the desired end result.

Stephen Soper: Yes, that is right. We have worked with stakeholders and we work with them on a regular basis. We have quarterly stakeholder briefings. Our teams go out at a very detailed level and meet with the markets. Charles can give a very deep explanation about what we did with auto-enrolment. We have learned from all of these things, and we are developing those forums and meeting people face-to-face. It is very much part of helping to make that happen, but it all stems from doing good policy, good guidance, meeting with people and making sure they understand what it is we are trying to achieve.

Q174 Anne Marie Morris: What is the biggest challenge you have seen so far in trying to deliver these regulatory changes?

Stephen Soper: AE is a big challenge. It is a case in point. Costs and charges is going to present some interesting challenges along the way, because there is a very big distribution chain to get to a point where you can understand what a scheme costs to run. That certainly has its intricacies. The new world of defined ambition provides a huge scope for the market, but it will take some time for that to develop new products and propositions. It is a supply and demand thing. I suspect that that will develop slowly at first, and then will emerge as something quite interesting.

Q175 Anne Marie Morris: I wondered whether David or Christopher would like to comment on auto-enrolment versus the complex changes in the pensions regulatory regime, and how you see that balance working, whether you are content, as Charles seems to be, that auto-enrolment is in a safe pair of hands and is not going to be negatively impacted.

Christopher Woolard: Regarding whether we think there is a safe pair of hands in terms of auto enrolment, absolutely, in terms of TPR. As to the wider landscape of reforms, we published a document last week, which is our market study. It was an attempt to look

forward into the market, as well as doing some backward-looking stuff. There are some key things we are looking for, which are perhaps unsurprising. They are around the ability of individuals reaching retirement, so on the other end of this particular scale, to be able to shop around.

There is a question for us about the products that are coming into the market, the clarity of them, the simplicity of the charging and the questions that we have around the very early products that are beginning to emerge: “Do they represent good value for consumers compared with buying more traditional annuity?” and those kinds of questions. We have set out our stall on what we are looking for here.

To echo Stephen’s comment, a lot of this is not going to happen overnight instantly. Although there is quite a lot of pent-up demand beginning to build among those reaching retirement age for new products and people are deferring their pension choices, at the moment the market is largely responding by re-badging some existing products and really coming forward with a product line that is slightly dressed up in certain cases. There are relatively few innovative products at this moment in time. I do think we will get more. We will get more, but I do not think this is going to happen instantly.

Q176 Anne Marie Morris: Do you feel under a lot of pressure from the Government’s changes to move at a pace beyond which you feel is sensible or wise?

Christopher Woolard: No, I do not think we are saying that. There is definitely a very big piece of work that we have had to do around setting the standards for the guidance guarantee, for example, and that aspect of the governance changes, and we will be involved in monitoring how that rolls out and reporting back to the Treasury, if there is any need to do that. Around the wider freedoms that are being introduced and the wider set of changes, all the research work we have done so far suggests that consumers welcome having those options.

There is certainly some evidence in terms of the number of people beginning to defer their retirement choices this year, in anticipation of the reforms coming in next year, that says that there is a very significant number of people who probably are intending to see what is available to them and take advantage of that in some way. The point I am trying to make is that, at the moment, in terms of looking quite closely at what is coming on to the market, we are not seeing a huge number of innovative products filling what might be that demand, at this moment in time. I am not 100% surprised by that, though, given that the business of many of the firms in this place is about managing very large risks in terms of longevity and those kinds of questions. You would not be expecting them to be moving instantly.

Q177 Sheila Gilmore: Just as a follow-up to Stephen particularly in terms of timescale, this all seems to be, in your view, rolling out quite slowly. But looking back to the previous experience of big changes and the introduction of flexibilities, for example going back to—and I know it was some time ago—the 1980s when people were encouraged to

leave SERPS and take up other options, generally people feel that a lot of mistakes were made. How can you move more quickly to prevent these things happening again? Is there not an urgency here? We know that a lot of people come up with quite attractive schemes fairly quickly.

Stephen Soper: Particularly at the dark end of the scale and the scam end of the scale, we are very alive to the reality that the focus of people conducting scams may well move and we need to be alert to what those new models look like and act jointly, in a lot of cases, to shut those down. We have had success in shutting those models down, both as a combination of using the court-based process to do it, but also in terms of us making people aware of what the risks are, ensuring that we engage both insurers and trustees, in terms of making their members and customers aware that these risks exist and that they should try to validate the quality of the scheme that they are going to be moving their money to, if they choose to move it.

In the main, as we have alluded to, many of the schemes that are currently running do not have these automatic drawdown facilities, so the member is needing to move their money to a provider that can provide those sort of drawdown products, because it has been largely an annuity-based system. In that process, we have had great success in making sure that those members are communicated to at the point they show an interest, not just at the point where they are asking to move their money. We are making people very aware of the risks in advance of them moving their money.

In fact, the Pensions Ombudsman heard a case just such as this, and the decision was passed down this week. The Ombudsman held that the awareness we had given this member was perfectly adequate, but the member still chose to go ahead and put their money into a scheme that was not proper. The Ombudsman has been very supportive of the framework that we have created so far, but that still does not protect us, I am afraid, or any of us around the table, from members who choose to move their money despite all the warnings that they are given. This member did move his money and he lost his money. The Ombudsman has held up or, if you like, suppressed his claim.

That is not to say the job is done. We have to remain vigilant, all the time, to the different types of risks. Pension scams have been the flavour of the day, and I am sure we will get different flavours. In fact, we have talked privately about the flavours of scam that might come from these flexibilities but, for reasons that are obvious, I hope, we are not going to put across what we think those might be. But we are thinking about them and we are trying to protect against them. It is not just us; there is a big intelligence network. Our intelligence teams work increasingly with the National Crime Agency, the Serious Fraud Office and the police force to help guard against these sorts of scams. We are vigilant. I cannot tell you that we have got every base covered, because we do not know what we do not know, in some cases, but we are trying very hard to work with as many people as possible to work quickly to close these things down.

David Geale: If I might add a couple of reflections on top of what Stephen has just said, there are a couple of areas to look at here. One is the rules that exist around pension selling and so on, in the pension providers, which we are already reviewing. We have been looking at them and we have worked with TPR to make sure we have consistency in

terms of the outcomes that we are seeking. That is already under way. We think the rules currently are fit for purpose, will deliver what is needed and provide the appropriate protections, but there may be opportunities to make that tighter, which we are doing on the back of things like the market study.

The other thing we are doing proactively is that supervision teams have been out talking to product providers, looking at the sorts of products they are thinking about bringing to market, at an early stage, before they have hit the market. That gives us an opportunity to get in early. As Chris said, what we have found so far is that largely they are coming up with variants on existing products, rather than anything perhaps new and exciting, but some will. That is the purpose of us going out on a thematic basis to do some discovery work. This is the second time we have done it and we are looking to report back some time early next year, so there is proactive work going on there. We also have a similar intelligence network, where consumers, consumer bodies and others can come and raise their concerns with us at an early stage.

Q178 Graham Evans: I have a question for Stephen on Sheila's point about the dark side. My quick question is on the legitimate side. You mentioned earlier on, answering Anne Marie's question regarding costs and charges, this rather long supply chain. I was wondering if you or some of your colleagues within your organisation understand the true cost of transaction charges and so forth. I worked in business before, and we went through a process of lean manufacturing, stripping out cost and waste on the one hand, but improving quality and value on the other. Most industries have done this. Have you looked into the financial services industry, and looked at where there is waste, overcharging and inefficiency while, at the same time, recognising those organisations within the industry that do offer value, are efficient and whose costs are down to the lowest level, without affecting quality of outcome? There has to be that balancing act.

Stephen Soper: I am familiar with the process you talk about. We use it internally for managing the regulator, but we have also sought to start that journey in terms of awareness. We have been doing research and publishing costs and charges. It is fair to say that research revealed that trustees of our schemes anyway, at least, because that was what the research was limited to, were not that aware of investment charges and what they were being charged. Only 37% said they knew what they were being charged, so we published that research and we started a dialogue with trustees—we have also started to build our own investment team—to help educate and get trustees further up that learning curve. I agree with you that there will be ways of making those things more efficient for delivering the same quality, but we are very much at the beginning of that journey and nowhere near the end.

Q179 Graham Evans: That is very much as I suspect for the whole industry, when it comes to costs. Consumers, when they look at their sheets and see charges, it is a complete black hole. It is not understandable, and it does not even attempt to make clear where those costs lie.

Stephen Soper: They are very aware of some things. The bit we can determine is often we are a burden to them. We ask them questions. We interact with them. We cause them to go and get advice. We have taken significant steps to try to reduce that burden. For example, we used to ask 2,000 schemes a year about their funding plans; we now only ask 200. We are working hard to cut down on the regulatory burden, which involves them going out to actuaries to get advice, and so on and so forth, but there are other bits of that distribution chain. They were more aware of other areas. It was investment charges particularly where they had low awareness, and that gave us something particular to focus in on. That chimes quite well with the costs and charges changes that are coming in at the end of March.

Q180 Mr Thornton: This is more for the FCA, but I just want to comment that, looking at my own staff, things like bid offer spreads and all that seem to be going away, and it is more straightforward management charges you get, which is great, especially for the ordinary consumer.

Stephen Soper: The simpler it is, the better.

Q181 Mr Thornton: On the regulation side still, we had rules in the past with the FSA, for instance, which we have to look at rather than the previous ones, because they were non-Government, but there were failings. I do not think those failings were down so much to the rules; it was more down to the will and the ability of the FSA to investigate. That came across within other financial services areas, where you saw such a strong relationship between the FSA and, say, some of the banks that they were almost working as a team, rather than one as a supervisor/regulator. We saw pension failings in the retirement market in 2002, 2006, 2008, 2014 and again just last week, when we talk about the annuities. I know that is historical.

How can we make sure, in the future, that the regulators have the will to act as regulators and not as partners? I know there has to be a partnership role, but I worked for a bank where you saw the FSA guy coming out of the CEO's office saying, "Thank you very much for all that advice. We will certainly use that in our implementation". This was just before Northern Rock went down. That was Northern Rock. I worry very much that the will and the culture of the FCA could go back into "we're all friends together", light regulation, light touch. "We don't really need to do much; we just let them know what they should be doing". Are you going to withstand that culture as the years go by?

Christopher Woolard: If you look at the first two years of the FCA, which we are coming up to, I do not think anyone has particularly accused us of having that culture. Quite often they have accused us of the opposite of that, in terms of absolutely being willing to take quite firm action wherever that is required, in whatever sector we have investigated.

In terms of the historic questions around annuities that we published a piece of work on last week, what we have said is that we think that, when the FSA last visited this, in 2008, they set down very clearly what the requirements were, particularly on open market options, so encouraging people to shop around at the point of retirement. In the work that

we have done so far, we have highlighted some concerns and we detailed those in the report. They were picked up fairly publicly, in terms of some of those case studies.

We are now in a position where we are saying to the majority of the market that we want it to go back and look at cases over the last few years, going back to 2008, on a statistical sample. We are going to supervise that; we are going to check how that work is done. Depending on what the results of that are, we are then going to have to think about what the appropriate action is. Although we have to understand the industries with which we work and we have to work with them closely in order to make sure that we have a really in-depth understanding of how business models operate and those kinds of questions, I do not think there is any question of us having some sort of cosy relationship or something like that.

Q182 Mr Thornton: When you work with people, you cannot help but become informal. You cannot help but talk to them in a friendly way. You are going to meet them in various friendly situations. It is unavoidable. You have to do that, otherwise you could not do your job. You can see that you could, over the years, slowly slip into a cosier relationship, even though you do not have one now. The assurance of the will to act, the willingness to take strong action, to get on with it, not be fobbed off and not to be worried about upsetting anybody has to remain absolutely central to your roles.

Christopher Woolard: Yes, I completely agree with that. I have been a regulator in a variety of environments. There is always this question in the background of regulatory capture, because you do have to do a number of things, as you have said. In order to understand the industry, you have to work closely with them. I do not think that means we constantly have to be in an antagonistic mode towards them, but we have to have a very clear view of what our job is in that environment and what our duties are, and we have to act on them. I have every confidence that I certainly will and so will my colleagues.

Q183 Anne Marie Morris: The FCA Policy Statement PS14/17 contains a reference to a thorough review of the pensions and retirement area, but it is not starting until next year. Clearly this is something that we definitely need. Albeit you have not started it, what do you think the unresolved issues are that you are likely to unearth in that review?

David Geale: We have looked at the rules broadly as they stand. Obviously there are some changes that need to be made for things like independent governance committees, on which we have consulted. We will be putting out the final rules early next year. What we were suggesting here was that, while the bulk of the rules deliver the flexibilities and provide the protections that are needed, there is an opportunity to look again and to make sure that we are delivering as much as we can deliver, in terms of the protections that are required.

For example, one of the things that has been suggested is that we could make it easier by working with providers to come up with a solution in which people would be able to take standardised information to the guidance guarantee section, or they could see something in a standard format that says, "This is the amount of pension pot you have. These are any

guarantees”, and so on, with the things you need to know to have an informed conversation. We may be able to do something in that area, so really what we are looking to do is see if there are any improvements that we can make that help consumers to adapt. It is partly about information. It is partly about looking at, as the new products develop, whether there are tweaks we need to make to adjust to those as well.

Q184 Anne Marie Morris: What you are really saying is principally about communication and information, as opposed to there being any other gaps or potholes in the road, if you like.

David Geale: Communication and information are important. I do not think it is the whole story. As Chris said, we have not really seen the development of particularly exciting and different new products yet. As that comes, it may be that we need to adapt the rules to accommodate that, and we will keep that under review. At the moment, we have not really seen that happening.

Q185 Anne Marie Morris: The implication of the way the Policy Statement is worded is that consumers are not, at the moment, adequately protected. In what way do you feel that they are not currently adequately protected?

David Geale: As I say, the rules are designed such that they are high level enough that they do deliver protection. What we need to do is take a review on the basis that the market has changed. The environment has changed. We need to take a step back, look at that properly throughout the handbook and make sure that protection is being delivered. In terms of whether the rules are fit for purpose from April next year, yes, they are, because they will deliver what is required at that point.

Q186 Anne Marie Morris: We have talked about scams quite a bit and, in a sense, this is part of the same question, because what you are talking about is communication and information, but the scammers get into the gaps, and the gaps are not just about communication and information; there is some sort of flaw somewhere. Of course you are not going to, and rightly so, set out in public what those gaps are, but is there anything in this review that you might be looking at that that is not simply about information and regulation, but will look at something that will actually help the battle against the scammers?

David Geale: The question is: what are the scammers doing now? If they are doing something that comes within our regulatory remit, we can take action now, under the rules that we have. If they are carrying out what should be regulated activity without being authorised, then there is already a case for us to take enforcement action. We will look again at the potential for whether there are new holes that open up new potential for scams and, if need be, we will tighten the rules around that.

Q187 Anne Marie Morris: The challenge with the scams is some are within the rules and some are without the rules. Do you see what I mean? Rules cannot be perfect; there are always going to be gaps.

David Geale: There will always be people who are operating in what should be regulated activity without being regulated. Those are the people that we need to find, through the intelligence networks that we are building up and working with. If they are carrying out that sort of activity, we can take action now under the current rules that we have. We have done that in the past.

Q188 Anne Marie Morris: How do you find them, because they are not going to put up a flag and say, “Hi, I’m here. I’m not regulated. I’m being bad”? It is only a consumer who recognises when he has a problem, rather than often just does not recognise it. Until something goes wrong, they are not going to put up the flag and they may not know where to go, which is the point the Chairman made earlier.

David Geale: It is a challenge finding them, I agree, but we use a variety of routes to do that. First, consumers can get in touch with us and tell us about these things. Secondly, other firms can and, thirdly, we do things like monitor promotions, for example, so we can spot some of these firms ourselves through promotions that they are making in the press and so on.

Q189 Anne Marie Morris: Presumably part of this must be a cyber mission, because much of this advertising must be on the web. Presumably, you have teams who understand what to look for and can go and look for things that are frankly a bit dodgy.

Christopher Woolard: Without writing the handbook for people to avoid us, yes, we do. We have guys who are, in certain sectors, pulling together multiple layers of information, much of which is publicly available, but doing it in a way that tries to spot patterns of behaviours, and then we can flag certain people or individuals and act on that basis.

Similarly, to your earlier question, in terms of how we look at the rules, one of the interesting questions around protection is, where there are legitimate activities but they are often used for the wrong purpose, what kinds of controls do we want to put around those in the future if we think there is a loophole that people who are trying to do this for the wrong reason are trying to exploit? What is the balance between the flexibility that might provide to some legitimate investors and some legitimate businesses, versus the cost of scamming and whether you decide to close those things down or not? We will look at those kinds of things in detail but, again, we are tiptoeing around the edge of this question not to be obtuse but just because I do not want to write the book for someone on how to come and do it.

Q190 Nigel Mills: Can we just go back to your report last week on the continued failings in the annuity market? You conclude that lots of people are suffering serious detriment due to buying the wrong type of annuity, probably from the wrong provider, in

effect. I suppose my first question is: how many more reports do we need to tell us that before we stop it happening?

Christopher Woolard: This point has been made a number of times outside of this Committee and it is one that we take very seriously. The work we have done so far, and certainly the latest round of work we have done, is quite detailed forensic stuff, getting back all the transcripts and all the recordings of sales calls from a number of people. It is quite intensive work. What that has thrown up is a series of questions where we can say, “Right, we have found some examples here of sales that clearly did not get into a position where there was the best outcome for the consumer”. There are one or two examples that we have highlighted in the report that are very poor indeed. The one that got press coverage was the individual who was suffering from cancer, and they are clearly very serious incidents in themselves.

The piece for us as a regulator is to now say: how far is this something where we have managed to pick a number of cases and we just happened to hit the target, or how far is this something that is far more widespread in terms of activity that has occurred? The important thing for us is to get a large statistically valid sample now in terms of those cases that have been reviewed. I recognise that there is a frustration with this, because doing that work takes a bit of time and, in many cases, we are talking about people here who have already retired and are at the wrong end of the equation in terms of how long we take to deal with these questions. We are really aware of that. On the other hand, we do need to make sure that, where we act, we act on the basis of evidence and it is evidence that will stand up, if we are challenged.

Q191 Nigel Mills: I suppose the question I am trying to ask is we keep having reports that say that people are not shopping around enough; they are just buying from their pension provider so they are not getting the best deal they could have got or they are not getting the health-weighted annuity at all. It just seems that the punishment seems to be another report a few years later and you say the same thing. “If you keep doing this, we will have another report in another three years and we will keep saying it is wrong”. At what point do we really get some action that says, as you suggest in your report, “You must advertise the three best quotes in the market for this product in your own sales material”? Is it not just time to do something like that?

Christopher Woolard: There are two things here. There is the backward-looking bit that we just talked about a second ago and then there is the forward-looking piece where, for the first time using the competition powers we got 18 months ago, we are looking at the market as a whole and we are asking if it is working well for consumers. There is a package of measures we have put forward now and there is a brief consultation between now and the end of January to say what we could do to genuinely improve things.

It is a question of whether you should get a range of quotes from your existing provider that highlights other people who are out there who can offer you better deals. There is a question we have asked in a very open way at this moment about adopting ideas, like we have seen in the Netherlands, around a pensions dashboard so that, as an individual, you can see all of your pension entitlements in one place. That would obviously take a bit of

organising, but other countries have used it and seem to be using it quite successfully. There are certainly questions about how far firms are following the processes and procedures that ought to be in place. We have had a conversation with the ABI, which represents the insurance industry, and in that discussion agreed that we now need some rules in place for the ABI code, which at the moment applies to their members but does not apply to the whole industry, that are enforceable by us, as opposed to having a voluntary set of requirements. In terms of the forward-looking piece, we already have on the table now some actions we propose to take.

In terms of the backward-looking piece, so in other words if individuals are entitled to redress and if there are people who need to be put back in a better position, as I said, we do need to do the next level of that work in terms of making sure we have a statistically valid sample. There are things there that we are proposing to do. I understand the fact that there has been a long history here that we have been building against.

Q192 Nigel Mills: The irony is of course that, by the time you get the annuity market fixed, people will have stopped buying them, as we have probably seen in the last six months. This is going to come too late, is it not?

Christopher Woolard: I am not necessarily sure of that. First, significant numbers of people are still buying annuities. Secondly, in terms of whether you get good value for the product that you buy if—and this is a very important “if”—you shop around, you go on the open market and you buy your annuity in the right way, one of the important conclusions of our report is that the overwhelming answer to that is “yes”. The issue that we need to pull apart here is rather like saying, “I bought a really nice car; I just did not like the showroom”. There are lots of issues around how annuities are being sold that we have tried to address in this report. The underlying product itself, for many people, if you have a relatively low risk appetite and you want that guarantee of income in retirement, is still a good product potentially.

Q193 Nigel Mills: When will we see a clearer warm-up pack that includes competitive quotes for people to see that perhaps their incumbent provider is not the best place to go? Will it be 1 April when you have that in place? Is it going to be next summer or somewhere further down the track?

Christopher Woolard: It is certainly not going to be 1 April. We are in a position where we have asked to get views back by 30 January on what we put out into the market last week. Following that, we will get to some final conclusions, and we will need to consult on some rules. We would want to be making definitive statements towards the summer, but obviously we then have to give a bit of time for that to be implemented. It is not an instant fix. I know that lots of people would like an instant fix but, on the other hand, we are trying to get towards something that works and something that will have a degree of permanency to it.

Q194 Nigel Mills: The software exists to do the comparative quotes, so there is no reason that you could not say, “Look, the best practice for everyone selling an annuity now is to use this software, run the best quotes and put them in”. You could say that anyone could do that now if they wanted to, could you not?

Christopher Woolard: In terms of the measures that we are putting forward, some of them are more far-reaching and some of them are far simpler. The speed at which we ask people to implement changes, if those are the final changes we end up with, will vary depending on what the actual costs are of introducing this and how fast you can introduce it. What we certainly will not do is wait for the slowest bit of the caravan.

David Geale: What you will have from 1 April is the guidance service, and one aspect of the guidance service is to encourage people to shop around when they look at options like annuities and to give them the knowledge to go and see where they can do that—where they can find those comparisons and so on.

Chair: We have got questions coming up on the guidance guarantee so, if you hold on there, we will deal with it.

Q195 Nigel Mills: I know you do not do trust-based schemes—that is your colleagues—but perhaps all trustees and people on independent governance committees (IGCs) should be saying, “When we send out warm-up packs and start offering products, we should be putting in these competitive quotes”. Is that the best practice that you would be advising them that they ought to be looking to try to put in place?

David Geale: The governance committees are looking at charges in the accumulation phase. That is what they have been set up to do, and to look at value for money there. I am not sure it is their place to say that you should be sending out several annuity quotes. What we would expect firms to do is to look at the results of the market study and to consider their own response to that. As I say, there are other things available, so there are tools where you can compare annuities, if an annuity is the route you choose to take. Through things like the conversations that firms have with their clients, where they would be required to ask whether they have taken the guidance service or advice, and point them in that direction if they have not, hopefully people will be more inclined to go towards that sort of comparison. I am not sure if IGCs are the right place to do that.

Q196 Nigel Mills: I suppose I was thinking they might be the people there to represent the customer or the saver. Trying to get the provider to send out clear and fair marketing material looks to me to be quite an important part of their job. Is it not?

David Geale: Their job is set up to focus on the fair value of the accumulation contract. There is nothing that we are saying precludes them from doing that. That may be something that is set up in the terms of reference with a firm, but the backstop at the moment is the guidance service, where people take that. They will be encouraged to shop around and told the implications of the choices that they make. “If you are looking at an annuity, you may be able to get a better rate by shopping around. This is where you can go and shop around”, for example. I think those tools are there.

Q197 Debbie Abrahams: I would just like to ask, and this brings in both Nigel and Mike's lines of questioning, with the new flexibilities, have you been able to model in your risk assessment the likelihood of increased mis-selling and the implications for consumers?

Christopher Woolard: We are certainly not in a position to model it and say there is, I do not know—make up a number—a 15% chance of an increase of scams or something like that. That is not the nature of how scams work, unfortunately.

Q198 Debbie Abrahams: But you are going to be estimating them from the examples you have currently to see how widespread it is. You would be able to do some assessment—I appreciate they would be crude figures—of the increased risk of the likelihood of mis-selling.

Christopher Woolard: As I said, we are not in a position to be able to say, “We see this kind of behaviour. We therefore think this kind of behaviour is going to increase in these ways”, because there is a whole range of factors that potentially affect this. The fact that we are out there saying, “We are keeping an eye on it; we're interested in it”, may well mean that, if you are a scammer, you will divert away from pensions, because there seems to be an awful lot of attention on pensions, and keep going in your rainforest scam or whatever it might be. I do not think we encounter many absolute pension scam specialists. We tend to encounter people who will have a scam in whatever sector they think they can get away with having a scam in. They will sometimes phoenix, having been closed down in one place, into something else completely different.

The issue underlying the question though is, clearly from a risk point of view, the fact that people have larger, easily movable pots of money here we expect will attract some degree of attention. Of course, we are going to be vigilant about that.

Q199 Debbie Abrahams: That links then to the line of questioning that Mike had before. Are you in a position to be able to raise concerns where there is an unacceptable increase in risk to consumers that government policy introduces?

Christopher Woolard: Yes. We are in a position where, on any particular subject, we have a duty and we can alert Government, so the Treasury in our particular case, to issues that give us concern on that score.

Q200 Debbie Abrahams: It is estimated that less than 20% of people will have access to the guidance guarantee. Is that an acceptable level of risk?

Christopher Woolard: Everyone in theory has access to the guidance guarantee.

Debbie Abrahams: I do not think that is the case, having been on the Pensions Bill Committee looking at that. It is clear that the support provided for the guidance guarantee is estimating that only 20% of people will have access to it.

Christopher Woolard: There is a difference between whether you have access and whether you take it up. That is the difference between the numbers potentially. I know you are pulling a face at me, but there is a question here of where we are today relative to where we will be in April. Where we are today is that individuals can go and make their pension choices without any form of guidance, if they wish. They can do that effectively on an execution-only basis, or they can seek advice from a financial adviser to do that. In the future, there is something else in that mix in terms of the guidance guarantee, which individuals might well choose to take up, or they may choose to take up independent financial advice. The additional piece in the mix is the series of reforms that mean that, as we have identified in our reports, the need for that guidance is strong. There is a range of things there that individuals may wish to choose from, and the need for guidance is definitely there.

Chair: We might have more questions on the guidance guarantee, but Nigel still has to finish off, because there is also a concern about people who think they are doing the right thing, but are actually doing the wrong thing, so it is not a scam.

Q201 Nigel Mills: The questions I wanted to ask were on what you are going to do for people who get to their retirement date, want to start decumulating and probably try to use their existing pension scheme as some kind of cash card bank account, which really is not what the scheme wants them to do. Is there a risk they could be horribly excessively charged for trying to do a scheme with no contributions and leave it sitting there? What are you going to be saying to schemes and savers about what happens in this sort of default situation?

Christopher Woolard: In terms of the advice to the individual—and I use advice with a little “a”, so guidance, big “A” Advice or whatever you want to call it—that is intended to be one of the roles that the guidance guarantee fulfils. That is on the governance side of this equation. We have set down the standards we expect there and we would certainly expect part of that conversation to be about alerting individuals to some of the consequences and some of the options they might want to take. To give a very crude example, if you decide, “Right, that’s it. I’ve got this pot of tens of thousands of pounds; I want to take it all in one go”, you would expect people to have at least left that conversation knowing that there is a serious tax implication to doing that.

In terms of where they save at the moment and the providers they save with, we have some general principles here about the fact that those providers need to treat their customers fairly. They do need to provide them with certain information at this moment in time, when they are approaching retirement, in terms of wake-up packs. As I said, one of the things we are looking at is how you make those more jargon-free, easier to understand and present more options within those. In the short term, you would expect them at least to have some degree of checking, and David might want to add something here, about when somebody is making choices: essentially, “You are making a choice, aren’t you?”.

David Geale: There is a question of quite what we are looking at here in the question. If somebody is still in an accumulation pension and looking to take money out of it, then the IGC will still be reactive, looking at the charges. There would potentially still be a charge

cap applied if it is still in an accumulation scheme and so on, so, to some degree, there is protection there.

As Chris said, some people will come to the point of retirement or wanting to access some of their money. They will be offered the guidance guarantee service. They may choose to take it; they may choose not to take it. That is their choice. The provider then has a requirement to ask somebody wanting to take some of their money whether: a) they have had the guidance guarantee service; and b) whether they have taken advice. If the answer to both of those is “no”, then there is an expectation that the provider will remind them that those things are available to them and that they should do that before making their choice. Some people will still choose to make a choice that may be right or wrong.

Q202 Nigel Mills: What happens if somebody gets to their chosen retirement date, they get a warm-up pack and they ignore it, and they just sit there, do not tell the scheme what on earth they want to do and nothing happens? What does the scheme do with their money then? They just leave it sitting there and wait for them to tell them something, I assume. You are saying that kind of situation would still be within the charge cap, even though perhaps accumulation has stopped.

David Geale: It depends on the scheme, because it could still be an accumulation scheme. It is not a one-hit wonder for providers that they send out a wake-up pack and that is it. Many customers might choose to defer and, for many people, it would be the right decision to choose to defer taking their accumulated pot. They may not tell their provider, which is their choice, but we do not expect the providers to just say, “There is your wake-up pack; thank you very much, that is everything done”. Particularly if the provider is making changes to the scheme, we would expect them to make efforts to get in touch with the customer before they make any formal change. I do not think it is a one-hit wonder.

Q203 Nigel Mills: What do you think is a fair level of charges for a decumulation flexi-pension pot?

David Geale: We have not set a fair level of charges. It depends on the pot itself. It depends on the services that are being provided. We want people to have the information available to them to be able to make a choice, to look at what exerts good value in the market and, effectively, for consumers to put pressure on providers to compete on charges, as well as the service that they are offering.

Q204 Nigel Mills: Do you think schemes can get down to 75 basis points in the decumulation phase or do you think that is optimistic?

David Geale: It depends on where schemes go in terms of the decumulation phase. As we said, we are expecting some form of innovation. Certainly it is possible for firms to develop schemes that are cheap, available to people with smaller pots and still represent

good value. It is possible for them to do that, but I would not put a number on where they can get to.

Q205 Nigel Mills: Just one last question on the accumulation phase: certainly my defined contribution pension assumes I retire at 65 probably, maybe 66 now, and take an annuity. I imagine they are profiling my investments to run on that basis. What are you telling pensions schemes to do? What should they assume that people want to do when they get to their retirement age now? Presumably, if I want a big lump sum, perhaps I want that de-risking quite early so I have a lump sum. If I still want an annuity, it needs to be de-risked to maximise what I have on that day but, if I fancy doing a flexible drawdown over 20 years, I do not really want it all de-risking when I am 55. What is the default assumption people should be making in this situation, without any fresh instructions from the individual saver?

David Geale: The providers are looking at their current schemes, because different schemes will de-risk in different ways and at different ages. Equally, you may have people who have selected, say, 55 as a retirement age and are de-risking from age 50, rather than from age 60 or 61. The providers are looking at how they have set up their de-risking schemes. Some do not even have that option—some actually continue. It will be a matter for communication between the providers and the individual because, for some, that de-risking will still be appropriate. Those choices become starker now in terms of where you are. It is very difficult to tell, at the point of going into the scheme, if you go in at age 25, 30 or what have you, what you might want to do when you hit 60. It is about the communication between the provider and the individual to come up with the appropriate option.

Q206 Nigel Mills: Say I keep ignoring all these complicated letters I get, what should the schemes be doing as default? What is their kind of regulatory risk-free approach? Should they just say, “You’ve not given me any more instructions, so I’ll assume you’ll effectively still want to have a risk-free pot at your retirement age and I’ll just keep acting on that, unless you tell me otherwise”, or do they say, “Actually, 80% of people are now choosing a lump sum and a flexi-product, so we best assume that is our new default and we will not de-risk you quite so early”? Presumably at some point you have to agree with them on their approach in that situation.

David Geale: First, I do not think the letter needs to be complicated. They can communicate with customers in ways that are not necessarily a letter and not necessarily complicated. It is a matter of thinking about how your target market engages. As I said, it is not one hit; it is a sustained effort to get in touch with people who are not engaging perhaps. My sense would be that providers should do what they said they would do in the first place. If they do what they said they would do and they are compliant with the rules around everything else, then they are meeting what the customer has asked for. But that has to follow a sustained effort to get in touch.

Q207 Chair: Do you see it as your role to help save pension savers from themselves?

David Geale: Sorry, I did not catch the first part of the question.

Chair: The people who Nigel is describing are the people who are mesmerised by all the choices and end up doing nothing, or make a very wrong decision, because even under the present rules, you have people who are going through pension liberation at a huge cost. It is not that they are being scammed out of it, but they are only going to get 50% of their pot at the end. People make the wrong decisions. Do you see it as your role to save them from themselves?

David Geale: I would not put it as saving them from themselves, because people have a right to make a choice.

Chair: The line of questioning from Nigel was that a lot of people will not be making the choice. They are just being left. Either the provider is taking advantage of them or they have not realised that, by not doing anything, they are making things worse for themselves or they are not getting the best return on their pension savings.

David Geale: Our role is to prevent them from being taken advantage of. It is about ensuring that firms do what they should do, when they should do it. If people choose not to engage, it is about making sure that they are not unfairly disadvantaged by doing that—for example, they are not put into a high-charging scheme just because they are not paying in and not getting involved. If you took banking, for example, you are not put into a non-interest-bearing account just because you have not done anything on the end of it.

Chair: Banks do that. That is exactly what they do.

David Geale: That is exactly the sort of thing we have looked at through the cash savings market study.

Q208 Chair: I discovered that the savings account I have had for years has no interest on it whatsoever, because I have not read the small print on every letter that has come in. You do not realise that, so they are doing that now. What is going to protect consumers after April, when all of this is a free-for-all? What is going to protect them from these kinds of things either being done by the provider or resulting from the fact that they failed to take action themselves?

David Geale: At its most basic, we have a principle that providers must treat customers fairly. We also have specific rules around things like the wake-up pack and requiring them to engage with customers. As I say, the key thing for us is to make sure that they are not taking advantage of customers who choose not to engage and that they do treat them fairly.

Chair: You have not managed to stop the banks doing it.

David Geale: As you know, we carried out a cash savings market study looking at bank accounts, looking at how people are saving money, and we are due to report back.

Christopher Woolard: We are due to report on that fairly soon. It does raise some similar questions in that space. As David said—I am going to paraphrase someone here very badly, and not get the quote right—a lot of our job is about making sure that, if you are a consumer, you are a reasonable consumer, an honest consumer and you are not made a fool of. What we can never do, in any area we regulate, is stop fools behaving like fools. There is an element of that, frankly.

Q209 Chair: Can I take you up on that, saying that fools behave like fools? Under the present circumstances, they have to buy an annuity, so it is a no-brainer for them. Very often, the worst that they can do is go to the existing provider that they have trusted, because they have invested their money throughout all their pension life in that particular company, so they trust them. That is the worst they can do but, after April, there will be all sorts of things. Very often, when you give people too much choice, they are paralysed by that choice. I know that we are coming on to the guidance guarantee, but they are paralysed by that choice and, therefore, they do not make a choice. That is not behaving like a fool; that is behaving like normal people behave, given this range of very complicated products.

Christopher Woolard: It is worth saying that the very first publication we made as the FCA was around behavioural economics, which might sound a bit anoraky and a bit nerdy. What that was all about was trying to say that people do not behave like they do in economic textbooks; people behave in ways that are rational to them. We need to regulate in ways that are rational to them. For example, the conclusion we reached last week around the current wake-up packs and where we think they need to change is to remove jargon and to look at having what we call behavioural experiments, which again are about saying, “Let’s get a bunch of ordinary people and test wake-up packs on them, how they respond to them and how they do all these things”.

Q210 Chair: You are not going to have time to do any of this before April. You have said a couple of times that it will take a lot of time. You do not have time; you have until April.

Christopher Woolard: As David said, at this moment in time, and particularly bearing in mind the products coming on to the market, which are relatively limited in nature, we believe we have a rule book and we also have a set of principles sitting behind that rule book, which is the basis on which we take all of our enforcement action, saying we think firms have to treat customers fairly around these changes and around how they interact with those changes. We have those sitting there now; they are sitting there ready to go, before April.

That is not to say that we do not think there is a whole range of things that could be improved, and it is right that we try to improve them. We operate in a legislative environment and we have to meet certain standards around things like judicial review and so forth, and sometimes other changes take us a bit of time, but I do not think that invalidates the fact that we should try to make those changes.

Q211 Graham Evans: I would not use the word “fools”, but people perhaps make inappropriate choices that are detrimental to them. I am not sure the charities will thank me for mentioning this, but have you thought about having a non-formal relationship with charities such as Age UK or Saga? You cannot go giving individual advice to people who are coming up to retirement or in retirement and making these very important decisions, but Age UK, for example, is in my experience on the ball with some of the most vulnerable senior citizens in our communities. Now, I am not saying that the people who are making these decisions are vulnerable, but that they need help, support and guidance. The charities that are only interested in giving help and support could, working with you, be able to see these individuals, sit down with them in the comfort of their own home and just go through it, based on your advice and your experience.

Christopher Woolard: There are two things to say on that point. First, on this question of people making very inappropriate choices, to give you an example from a different environment we dealt with earlier this year, payday lending, we have introduced a very large number of new rules; we have taken some very tough action in relation to payday lenders for doing things that we think are completely inappropriate. At the margin, there are a tiny number of people in this country who have set out quite deliberately to get as many payday loans as they can in a single day, go to Ibiza for a week on the back of the money that they have got from there and say that they are never going to pay back the debts and it is someone else’s problem. There are people who say to us, “You should stop those people doing that”. There is nothing in the world we can do to stop people doing that, so that was what I was talking about around inappropriate choices.

On your point about the charities, we already have a network that was built over the last 18 months with all the major charities, including people like Age UK, where we exchange intelligence on a whole range of issues. For example, earlier this year, we had a particular scam that was operating on armed forces personnel. As they left the military and they had their bounties, they were being deliberately targeted by a bunch of people who wanted them to invest in very high-risk investments. We were able to work with people like the British Legion and so forth to get out there and talk to those communities directly, through their own newsletters, through their own volunteers. We do this from time to time. On something like this issue, obviously the Government are trying to get Citizens Advice at the front line, in terms of the guidance guarantee, which I know we will come on to. Certainly we are very open to those kinds of partnerships and we do provide support to them already.

Chair: We are on to the guidance guarantee and the second line of defence, Mike.

Q212 Mr Thornton: I have several questions, and I think it is only fair if I ask them all one after the other, you take a note, and then you can come back to me on the whole thing, rather than do it a bit at a time. I think that might be more effective, if that is okay. Also, I can cram some of them together that way. It might be more efficient.

The first one is the fact that we have the guidance guarantee coming in, whether it is 20% of people who take advantage of its availability, or 100%. I do know that there have been problems in the past; if you talk to L&G, when people have phoned up to ask for

money, they say that 3% of people are willing to listen to any kind of guidance. People are refusing to take the guidance; they just say, "I want the money". I also noticed in the Policy Statement that you said that this will evolve over time. Now, I accept that; everything evolves over time. I am slightly worried that, therefore, if people take money in April and then their brother takes money in April 2016, their brother will get a lot better guidance and it will work a lot better. I am concerned. Is it just natural evolution or is it that you do not really know, so you are waiting to see what things go wrong before you get it right? Which of those is it?

Obviously, you want the consumers to have access to a comprehensive and effective product in the guidance guarantee. However, it is very complex. There are going to be lots of parties involved in implementing it. There are going to be lots of companies involved in implementing it. You are going to have people who have got their money with somebody, but it might be better for them to go to another company, etc. It is very complicated, so it is going to be interesting to see how you can help the guidance work on that basis.

Then we have this famous second line of defence. I see worrisome looks on your faces as we bring this up once again. To me, it is absolutely vital that there is a second line of defence, and I do not think that we can say, "We'll wait and see", on this. This needs to be implemented right away. I personally think that there should be active prompts on this second line of defence. Every single provider that someone is coming to, to provide income in retirement, should have to ask, and they can do it. If they say, "I've got questions I have to ask you; do you mind if I ask them?" people will say "no". They can say, "Look, can I just check? I need to check a few facts; can I just ask you a few questions?". There are ways to ask the questions that people will answer and there are ways to ask the questions to which people will say, "I can't be bothered".

These questions have to be asked about someone's health, and we know that from the mis-selling of annuities to people with medical problems. Something like 50% who went on the open market option ended up with a health-affected annuity, and only about 3% or 4% did if they went through the route with their provider. It was something like those figures. They must know what their marital/partner status is, what dependants they have and what they want to do about their dependants when they die, if they are reliant on them financially. That question has to be asked. If it is not asked, the whole process is wrong.

What plans do they have if they run out of money and, added on to that as a product, how many products can be made by providers to make sure that there is going to be always some money left, if they can do it? Do they understand inflation? Do they understand that, just because they are getting £10,000 a year now, in 20 years' time that might not be enough to buy them a boiled egg? Do they understand about the effects of tax, not on the money that they are drawing out but on their whole income? It could put them into a higher tax bracket for all their income if they take too much money out. It is not just that they will be taxed on that; the rest of their income coming from elsewhere will also be taxed at a higher rate. Will they understand that? Also, they must be asked about their existing debt and what plans they have to pay that off. Should some of the money go towards paying off their debt or their mortgages or stuff?

This is where we could have a massive failure. In 10 years' time, we could end up with another scandal on mis-selling. People could be completely and utterly disillusioned, totally, even more than now, with the financial services industry. If providers start going down the target route for their staff and they start putting pressure on their managers, like

banks have on their staff, you end up with a PPI mis-selling scandal, because people cannot keep their jobs if they do not sell enough of their product, so we have to have protection from that kind of target selling. Providers have systems in place like this already. It is not like we are asking them to do a lot different; we are just saying that this has to be done and not to wait for when, in a year's time, somebody says, "Perhaps we should do this now". Do you want to add something to that, Paul?

Paul Maynard: I could not possibly.

Chair: I think we had better let them answer first, and then Paul can come back in.

David Geale: I will kick off, and Chris may want to add to this.

Chair: You do not all have to answer all of the questions, just the relevant bits.

David Geale: Okay, I will take the easy ones. The guidance guarantee is coming in, as you say. We have seen varying estimates. L&G, I agree, were around 2.5% to 3%. The CII did some research and suggested it was higher, to 90%. We just do not know how many people are going to take up the guidance guarantee. The key thing is to make it as easy as possible to get in there to make sure that people know it is there and take steps to do that. That is certainly a piece that will evolve over time.

I am not seeing it in terms of the quality of the output, so I would expect from day one people to get the right output. I would expect, in 2016, they would get the right output in terms of the information on the options they have and the implications for them. What I could see evolving over time is how people perhaps go into that service and so on. Over time, we will see whether people prefer to do it face-to-face, over the phone, via a website and so on. Certainly those are the areas I would see evolving. Treasury, as you know, is leading the implementation and having that form of oversight of the service, so that is broadly a question for them, but those are the sorts of areas I would expect to see evolve. I would not expect to see people having something different as a result from April 2016.

In terms of the second line of defence, we have put in a requirement that providers must ask somebody phoning up whether they have taken the guidance guarantee. If the answer to that is "no", "Have you taken advice?". If the answer to that is "no", they must remind people that that service is available and what it does for them.

Q213 Mr Thornton: That is nowhere close to good enough. That does not even approach answering the problem. That is completely and utterly useless. If someone has not taken guidance originally, someone asking them if they want to take guidance will get exactly the same answer as before. If you ask a question in that way, you will get the answer that they have given before. Ask any psychologist, salesman, anybody. That is exactly the sort of question that gets a "no". You cannot do it that way. I am sorry; if you do it that way, you will get a very low take-up and you will get no one being asked these questions at the time when they take the product up and sign the contract.

David Geale: That is what we have put in place. There is also a requirement on providers to do nothing to detract from the guidance guarantee service and effectively to make sure

that people are aware it is available. That is on the receiving provider, if you have somebody else other than the person you have saved with. There is also nothing to stop providers from providing their own service. They can give advice if they have advice permissions and take responsibility for that advice. As we have found, providers can do things just as wrong as people not taking advice as well. It is about people having the right things at the right time.

We would also expect providers to make people aware there are ill-health annuities available if, for example, they are in poor health. They are required to give certain information on the implications of what you are taking out. They would give information on things like the tax treatment of the option you have taken up.

Christopher Woolard: Stephen might want to say about how it fits on the other side of the fence as well. The only point I would underscore in what David has just said is, ultimately, as we were going down that list of questions, I was thinking, “Yes, some of those are absolutely squarely for us, as the regulator. Some of them are about the overall design of the scheme and that is for the Treasury, I am afraid”. They are the guys who ultimately are going to deliver and run this as a service. Our job is to set some standards around it and then police against those standards.

Stephen Soper: Not as a provider of a guidance service at all, what we can offer are elements that go around the edges of that. It is often a game of two halves. There is often a ceding scheme and a product that needs to be purchased. Many of our schemes, despite being quite a vast sum in terms of overall number of assets under management, are not planning, at this stage anyway, to offer a drawdown of services of the nature that has been described. They are looking to provide a transfer value and that money to go to another provider that will provide those drawdown products.

However, we do give trustees guidance and we have had guidance for trustees, particularly around the open market option point on annuities. These are very similar sorts of issues, in the sense that the scheme is ceding money, and we have been providing guidance in that area. We are in the process of looking at updating that guidance for April. These points are good, particularly around complexity, and hints to the member could certainly be included in that guidance that the trustees provide to that member. In other words, they could make them aware of the fact not just that they should be prepared to answer questions that are demanded but that they should be asking these questions for themselves, because in many of these situations they will provide uplifts to the sorts of products and incomes that they might generate. Our trustees can certainly provide these pointers, as part of the guidance that we provide.

In terms of mis-selling and targeting, I talked earlier about how we had worked with Project Bloom on scams. There is no reason why the same mechanism for providing providers and trustees with information, about the sorts of mis-selling and the sorts of targeting that we are seeing, cannot also work in the same situation. Where they are approached by a member saying, “I wish to move my money for the following reasons”, there are quite a lot of options here for us to make sure that the trustees at least provide nudges here to people to make sure that they are aware that these are the sorts of things they should be considering. That should play in. Of course, the guidance service is part of

that list, but it should be there to help them get the best from it, as opposed to being seen as a barrier.

I do believe there are people there who will say, “I just want the money”. The chap who went to the Ombudsman, who we talked about earlier, just wanted to do what he wanted to do, no matter what we said. We can provide this information in a way that is helpful to people, and more helpful maybe than has traditionally been the case in the past. That has been because, in fairness, this has been a low-volume area. Most of the members stayed in the scheme and went to an annuity. We are cutting new ground, but we have an opportunity here to get trustees to provide some helpful assistance on the way through and set people up for the guidance service. I think, and you will probably back this up, that even when they buy a product there is still a provision advice element that needs to come into play after the guidance services have happened.

Q214 Paul Maynard: You have just made a key point. I spent yesterday reading your 100-page market strategy report—very outrageous for my birthday, but absolutely fascinating. The international comparisons I think are key, so I am saving the annex until Christmas Day. But you seem to be running away from international comparisons and the conclusions that can be drawn from them. There are a lot of recommendations in your proposed remedies, but very few requirements. I am getting a little concerned that we are grabbing on to this idea of a second line of defence as though it was some life raft. In reality, all it amounts to is a series of cosy questions to try to ensure granny does not get fleeced.

Is it not surely more important, looking at some of the international comparisons, that what matters is the journey of the person approaching their pension age through this guidance service having a coherent set of options at each stage, with a reasonable default that they then default to? An obsession with a list of questions and who gets to ask what avoids the issue of whether the default is robust enough if that person does not understand the question, does not have sufficient knowledge of the pensions market and is reliant upon inertia. I am getting a little concerned that we are being diverted into the second line of defence. There does need to be a second line of defence, but should it be a set of questions or does there need to be more thought going into the robustness of the default?

Why are you not requiring a pensions dashboard? Why are you only recommending it? Why are you not requiring more robust comparison sites? Why are you just recommending looking into them? If Chile can do a decent comparison website, why the hell can't the UK? If New Zealand can, why the hell can't the UK? We seem to be about 10 years behind what is essentially the semi-developed world. I was excited reading your international comparisons; then I saw your proposed remedies and I thought, “Why did they bother?”. Sorry; that was a bit harsh.

Christopher Woolard: The reason we bothered, on that particular piece of work, was to be able to see if there are ideas that work elsewhere. Often people hold up the positive aspects of an international comparison, and we have seen in other places some of the debate in the Netherlands and some of the debate in Canada. There are some negative bits in there as well and you need to avoid them.

Certainly in terms of the recommendation that we have put out there, and it is there for discussion until the end of January, on something like a dashboard we know that a number of parties have got to come together here. You are going to need definitely the Government side of this, in terms of state pension entitlement. You would need a range of commercial providers, whether they are on the DC or DB side of the fence, to put into this too. It is not an immediately simple task unless a piece of primary legislation just forces everyone to do it so, at the moment, we are putting the question out there until the end of January to say, "Right, who could come forward? What would be some of the practical implications of this?" and so on, so that is why it is not down there as an absolute requirement at this moment in time.

Where we come on to some other questions though, for example around the wake-up packs and things like that, we will absolutely put requirements in place. I do not think there is any question of that. What we are asking is what they should look like, and whether there are things in particular that we need to take into account in putting requirements there.

Q215 Paul Maynard: You only have one requirement in your proposed remedy. The rest were all recommendations. That requirement was for companies to make consumers aware of what other companies might be offering. Even that seems to fall short of the comparison websites that consumers, even in this country, are now used to with car insurance or whatever. It still seems very timid.

Christopher Woolard: It is not meant to be timid. We have two stages of the way we do market studies. The first is the interim report, which we published last week, which is basically saying where our thinking has got to. We will have, fairly early in the new year, a set of conclusions that come off the back of having put that out there and saying, "What responses do people have?". It will get a bit firmer, just to reassure you, but at this stage what we are trying to say is that there are a number of interesting ideas here; we think they could work. Talk to us about how you think they could work.

Q216 Paul Maynard: Can you just resolve my dilemma over the default issue versus the second line of defence, if you can?

Christopher Woolard: There is an interesting question if you follow through some of the behavioural aspects of this. In many situations, if you do nothing, what "do nothing" means is that you are led by inertia. That is often the case when we look at a number of financial schemes in a number of countries. That is often what is taken into consideration. David, earlier on, outlined where we think we are at the moment in what happens if you do nothing. It is going to vary somewhat. I do not know if you want to say a little bit more.

David Geale: It is a complicated question in terms of the default. If the default was that you put somebody automatically into an annuity, you have taken that choice for them. You have taken their ability to access their money away. If you immediately pay them the money and say, "There you go; there is your pension fund", you could give them a huge tax liability. It is a complex question in terms of what the default would be and if there is

actually a right answer to that default. Personally, I think it is about making sure that all possible efforts are made to get in touch with the individual to offer them the help that they need to make a decision. That is the option open to them. If people still choose not to make a decision, then ultimately they are not taking the money that they have and you would hope that that would be a spur to do something.

Q217 Mr Thornton: There is a default option that covers everything you are saying, which I know that companies like the Pru are looking into. The capital is secure. It is still the customer's; it is still the client's. The capital is still available, but it goes into a secure place where it is very unlikely that the money will reduce and the capital will lose value, and it does provide an income. Because that is still totally under their control, if they then come back six months later saying, "I don't really want that", there is absolutely nothing to stop them doing something else. It does provide them with an income and it does provide security of capital. I know a number of companies that can do it; it seems fairly simple. Paul's idea could go into that.

Education up to that point is very important. I am very worried that you are trying to put away your responsibility to talk about what a provider should do for its customers and say, "That's Treasury". I am sorry; you are the FCA. You are the Financial Conduct Authority. How providers act towards their customers is at the centre of your responsibilities. You are trying to say, "It is not up to us to say to the providers, 'You need to ask these questions in a way that means people will answer them.'" They know how to do it, because they have salesmen. They know how to ask questions that people will answer; it is not difficult. If they are not going to ask those questions, after what Paul has suggested has been done, before they sign that contract that puts their money, maybe permanently, into something or maybe that costs something, these questions should be asked in a way that makes people think, "Actually, have I thought about that? Have I discussed it?". It does not have to be advice. It can just be, "We need to know if you have seriously thought about this. Have you thought about this? Have you thought about that?".

It is much better if what Paul is proposing happens, but that needs to be there before that contract is signed. If it is not there, you are going to get a mis-selling issue and, in five years' time, we are going to be bringing you back to say, "We warned you this would happen, but you didn't do anything about it". I am sorry; you will not enjoy it. You will not enjoy it.

David Geale: To be clear, what I was saying about the Treasury's responsibility is the Treasury is responsible for the delivery and implementation of the guidance guarantee.

Mr Thornton: I am not talking about the guidance guarantee. I am talking about what the providers do.

David Geale: What I was trying to do is clarify. The Treasury is responsible for all the guidance guarantee. The rules around what providers tell the customers are ours.

Q218 Teresa Pearce: I am just at a little bit of a loss, to be honest. Given what we all know, what you know and what the FSA before you knew about the scale and the duration of poor practice among pension providers, I cannot see, for the life of me, a reason why you would not introduce a conduct rule about the second line of defence. Why not? My understanding is that the FCA is there to protect the public, not to protect the pension providers. It seems as if they are going to walk on a high wire and, when they fall off, you will say, “We told them to be careful”. Why not put out a net? Can you tell me why you do not or will not do that? Why will you not make a rule to introduce a second line of defence with your industry?

David Geale: We have consulted on a rule that requires providers to ask whether people have taken the options available to them for guidance or for advice.

Q219 Teresa Pearce: I am not asking about them asking whether they have taken the guidance and then asking them again. I am asking whether or not they should ask those specific few questions about tax, about health—those questions that are needed to make sure the person has made an informed decision.

David Geale: The requirement is around seeing whether people are aware of the options available to them for getting the guidance or advice they need, and then we have requirements around the information that providers give, which would tell them things like the tax implications. We have requirements about the fact they should tell them they may be able to get a better annuity rate, including if they have ill health. Those requirements are there.

Q220 Teresa Pearce: Is that a recommendation or is it a rule?

David Geale: The rule around the referral to the guidance guarantee or advice has been consulted on, so it is not a rule in our handbook yet, but we have consulted on it and we will be making final rules on that early in the new year.

Q221 Teresa Pearce: Before April 2015?

David Geale: Yes, before April 2015. The rules around the information that has been provided already exist. We will be looking at the entirety of our pension rules.

Q222 Teresa Pearce: It will be possible for somebody to make a decision that is not in their best interests, but it will not be possible for them to make that decision without having been asked about it—without having been asked if they have any pre-existing conditions or if they have a wife they want to provide for if they die.

David Geale: It will not be possible for them to make that decision without being told that the guidance service and advice are available to them if they want to take it, and without being told about the implications of the decision they are making. It is not a requirement

to ask questions about whether you are married and so on. It is a requirement to tell them about the implications of the decision.

Teresa Pearce: Just to be clear, the requirement is that they have to be informed about the guidance and nudged towards the guidance again.

David Geale: Correct.

Q223 Teresa Pearce: Also, they have to be asked if they have considered any implications. They will not specifically be asked about underlying health issues, about whether or not they have a spouse who might survive them, or about whether or not they have thought about their taxation issues.

David Geale: Our rules require providers to tell them about the implications of the decision they are making. If you choose to take a standard annuity, they would be required to tell you that you could be able to get a better one if you were in ill health. They would also be required to tell you that you could get a better rate by shopping around. What it will not do, through the rules, but providers can still do this, is lead them to a point of asking questions about, “You could do something better if you did this”, and actually giving advice.

Q224 Teresa Pearce: There is no requirement for them to say, for instance, “If you’ve got a life-threatening illness, an annuity might not be best for you”.

David Geale: There is a requirement to certainly say, “You may be able to get better options”, and “You may be able to get a better annuity if you are in ill health”. That already exists.

Teresa Pearce: I just think, as the Financial Conduct Authority, you have authority over their conduct. Just saying to these pension companies, “Don’t be bad; be good”, is not really enough. They need to have to do things. If it is best practice, they will not do it. We know they will not do it. Some will; most will not. They need to be required and, if they are not required and people fall foul of this, it is the FCA’s fault, in my opinion.

Q225 Chair: We have been slightly sidetracked because of the publication of your two reports last week and, I think, another one today. We have lost sight a wee bit of auto-enrolment. We had lots and lots of questions on auto-enrolment. We have now virtually run out of time so, Charles, you have been sitting there very patiently through all of this. I am going to just run back on some of the things that we are interested in, on auto-enrolment, and whether you think you have enough things in place to ensure that the roll-out of automatic enrolment, particularly to smaller employers, is going to be successful. What are the challenges you see that are still ahead, in terms of the staging dates of these smaller employers?

Charles Counsell: On the plus side, the roll-out so far has done exactly what we wanted it to do, which was to create the behavioural norm that if you work for an employer you get

automatically enrolled into your pension scheme and the contributions go into the pension scheme. That is really helpful as a starter, but obviously it is not enough.

As we look forwards to small and micros, the awareness of what they have to do has gone up a lot. It has improved a lot on the back of a number of things, including advertising and the work that we have been doing with the industry and directly with employers. We will take every employer through, if you like, a standard journey, which means that we write to them 12 months before their staging date and we help them along a process by writing to them periodically as they get towards the date.

Q226 Chair: Have you got the capacity, in your organisation, to do that, when you are going from hundreds to thousands to tens of thousands or hundreds of thousands?

Charles Counsell: We have already built the systems capacity to be able to do it and, from a recruitment perspective, we have recruitment plans in place to be able to do that, exactly matching the profile and in the right time. Can I say one other thing that we are also going to do early in the new year? In order just to give a boost to awareness, we are going to write to all employers who have not yet staged—the duties do not yet apply to them—telling them what their staging date is and that we will continue to write to them as they get closer. For all employers who stage in that period between early 2016 and the back end of 2017, where the majority are, they will all know that the law does apply to them.

There is still a bit of a myth out there that, for the very smallest employer, it does not apply. It is not true, of course. We know that. We think it is worthwhile writing to all of them then, in the early part of the new year, to make them aware. That will help in terms of managing the capacity because, when they know, they will know at what point they should be taking action.

Q227 Chair: What about the employer's ability to choose a good scheme? Are they finding that easy enough or are they coming to you for advice? Is there anywhere they could go for advice?

Charles Counsell: In terms of the schemes that are available, we were looking 12 months ago and there was a lot of talk about a capacity crunch. That has not emerged. We are seeing, and you may have seen them in a previous hearing, a number of providers emerging that are in the market for all employers, irrespective of their size. That is very encouraging. We are considering putting together a list of those providers that are in that market and that meet certain quality criteria in order to help the very smallest employers. If they want to know how to find a scheme, they will be able to come to us.

Q228 Chair: You will not recommend one, but you will give them a range: these are the ones that are suitable for you.

Charles Counsell: Exactly.

Q229 Chair: The other thing is: are you picking up people who have defaulted on their payments? There must be ones that are accidental defaults, as opposed to people who are wilfully defaulting. Can you differentiate?

Charles Counsell: Yes, we think we can. We have put together a code of practice for the pensions industry, which we published, which sets out what their duties are. For payments that are over 90 days old, in that period, what tends to happen is the accidental default. It is the employer who is managing their cash flow for a period of time. It is the employer who has made an administrative error in that time. Those ones that go beyond that 90-day period then get reported to us. We now have an electronic mechanism for them to report.

Q230 Chair: Is that reporting happening automatically?

Charles Counsell: It is happening automatically for a number of providers, but not for all of them yet. Where it is not automatic, so where it is not electronic, they do it through a manual process that we agree with them and that they provide to us.

Q231 Chair: One of the other things that has been raised with us is the employer who is putting pressure on the very small number of employees that they have to opt out. They say, “We have to do this bit, but you opt out because it will save you money”, without pointing out that it saves them money as well. Do you have the facilities to be able to pick up those kinds of patterns, where you have an employer of five people and all five opt out, which becomes a bit suspicious?

Charles Counsell: Again, what we do is we look at the data, so we will be able to see from the data whether that pattern is emerging. That is exactly the sort of trigger that would make us think, “Hang on, there is something odd happening here”. It is conceivable of course that they have done it for a good reason, but we would absolutely look at that. We also have the facility for employers to whistle-blow, and so to come to us and say, “Actually, that has happened. I have been encouraged to opt out, induced to opt out”, and so they can come to us in that way.

Q232 Chair: Do you think opt-out rates will go up as smaller employers come in?

Charles Counsell: In all honestly, I believe that they will. Obviously, we do not have the evidence yet, but I believe they will. I do not think they will go up a lot higher than they are now, but I think they will be higher than with large employers. I do not think that is necessarily because of inducement activity. They just will be, but it’ll be much lower than we anticipated going into this.

Q233 Chair: You said in reply to one of the other answers—I have lost my train of thought now. What was it about? I have completely lost my train of thought. I started my sentence and I cannot remember it. Yes—it was around the duties of the employer. You said there was a myth that small employers do not have to sign up. Do they understand, are you

finding, or are they going to be able to understand the levels before somebody is then contracted in, because they are not earning enough, the age limitations and all those other more complicated bits of the legislation? It is not as simple as just signing everybody up and paying the 1% from the employer or whatever it is at this stage.

Charles Counsell: There are a couple of things there. For very small employers, that part of it is not so difficult. If you are looking at a workforce of 100,000, it is much harder than if you have two people who work for you, because they are in the van with them all day or whatever the situation may be. The underlying point is that there is quite a lot of complexity in parts of the legislation. There are a lot of choices in parts of the legislation.

What we are doing as a consequence of that is looking to put in place something we have called the directed journey. If an employer just wants to do what many of them say to us they want to do—"Just tell us what to do"—what we will have is this directed journey that takes them through the steps. It will take away a lot of those choices and we will alert them to the choices that they are having taken away from them, but basically it will mean that they can get through this in a much simpler way than would otherwise be the case.

Q234 Chair: A more general question for the FCA is: is anything about auto-enrolment that is still causing you some concern that the Government, you or the providers need to act on?

David Geale: I do not think so, from our perspective. The key thing is that the providers are ready. We have conversations with providers. Largely it is an issue for TPR, at the present moment in time.

Q235 Chair: Is there anything, because we did not ask all the questions, that you were burning to say that we have not asked you a question about?

Charles Counsell: It is undoubtedly true that there is still a big challenge. We are really eager that all employers realise that this duty applies to them. The more that we can publicise that across the board, the better it is.

Q236 Chair: Do you think that this stuff about mis-selling, the fears, the scams and everything has punctured the public's consciousness and potentially might undermine auto-enrolment? It has been going quite well up till now, but is there still that anxiety?

Charles Counsell: I personally do not think so. If you look at some of the changes that are going to come in from April of next year, including of course the charge cap on the default fund, they are going to help from the perspective of a very small employer, in terms of knowing that they are getting something with a low charge.

Q237 Chair: Do you think the new flexibilities are going to make it more or less likely that people will do what we want them to do, which is save for their retirement?

Charles Counsell: It is an interesting question. I suspect they will help. I suspect they will help particularly, if you look at the DWP's figures on opt-outs and the proportion who are opting out in older age categories, we think that probably some of that is because they are tying up money towards the back end of their earning period. From that perspective, it will help. What is really encouraging is how many of the younger age groups are sticking in.

Chair: Do any of my colleagues want any more questions? I think we have exhausted our questions. Can I thank you very much for coming along this morning? As I say, the line of questioning changed as a result of your publications last week. I do not know if that was a good thing from your point of view, but we really do appreciate it, and your evidence this morning will help us greatly when we come to write our report, so thank you very much.