

Safeguarding Ireland Response to CP 153

“Consultation Paper on the Individual Accountability Framework”

15/05/2023

Via email only referencing “Consultation Paper on the Individual Accountability Framework” to IAFconsultation@centralbank.ie.

Dear IAF consultation team,

Safeguarding Ireland was established to promote safeguarding of adults who may be vulnerable, protect them from all forms of abuse by persons, organisations and institutions and develop a national plan for promoting their welfare. This will be achieved by promoting inter-sectoral collaboration, developing public and professional awareness and education, and undertaking research to inform policy, practice and legislation in the Republic of Ireland.

Safeguarding Ireland welcomes the Central Bank (Individual Accountability Framework) Act 2023 and notes its important objectives. Safeguarding Ireland notes the origins of the Act and the related regulations and guidance in the CBI’s ‘Report on the Behaviour and Culture of the Irish Retail Banks’ (July 2018).

Safeguarding Ireland’s view, informed by experience, is that in the intervening years, significant steps have been made by the CBI, individual banks, the Irish Banking Culture Board and the BPFi to better understand and respond to the needs of vulnerable consumers. However, a ‘whole of financial services’ response is needed to prevent harm and abuse of adults who may not be positioned to adequately protect themselves. Engendering greater visibility of, and focus on, the additional risks and harms that some consumers may be exposed to on an ongoing or episodic basis is centrally important to achieving better outcomes for all consumers and, in Safeguarding Ireland’s view, will improve the quality of products and services and the culture of all firms.

Safeguarding Ireland has made a comprehensive submission¹ on relevant issues in its recent response to the Discussion Paper on the Review of the Consumer Protection Code. As the Discussion Paper notes ‘Acting in the best interests of consumers requires firms to understand vulnerability and to ensure that their culture, policies and processes take account of the needs of vulnerable consumers’ (p55).

Further, Safeguarding Ireland notes that the Minister for Finance in submitting on the Code Review, has stated ‘It is very important that special attention should be paid to the needs of consumers who may be

¹ <https://www.safeguardingireland.org/wp-content/uploads/2023/04/Safeguarding-Ireland-Submission-to-the-CBI-Review-of-the-CPC-%E2%80%93-March-2023.pdf>

*experiencing vulnerability*². The Minister's submission highlights several issues under the heading of 'Vulnerability', including the important role of the Assisted Decision-Making (Capacity) Acts.

The IAF Act makes one important reference to vulnerability at section 48 'Considerations relevant to imposition of sanctions', under 'the effect of the prescribed contravention, including, ***whether any loss or detriment has affected or may affect vulnerable persons***'.

Safeguarding Ireland views this inclusion as of central importance in bringing necessary attention to the harms that can be caused to vulnerable persons in their consumption of regulated financial services.

While accepting that the review of the Code is ongoing and that the definition of 'vulnerability' is a core component of that Review, Safeguarding Ireland is disappointed to note that there is no specific reference to this provision (whether 'loss or detriment has affected or may affect vulnerable persons') in the draft Regulations or Guidance. While it may be argued that such granular focus is not appropriate to the draft Regulations or Guidance (which cannot reflect the entirety of the Act), it is nonetheless vital that the provision is reflected prominently somewhere within the overall Framework.

To achieve and mainstream desired cultural change, roles coming within the scope of SEAR³ must develop and continue to evolve an understanding of the myriad ways in which their customers can become vulnerable to harm and abuse in their consumption of regulated financial services. Those undertaking such roles must view themselves as both accountable, and liable to sanction, where harm arises because of a contravention of the Act. This is particularly the case where a person is unable to adequately protect themselves from harm and abuse.

Safeguarding Ireland trusts that the above observations will be taken on board by the CBI as part of the consultation process.

Yours sincerely,



Patricia Rickard-Clarke

Chair

Safeguarding Ireland

² [gov.ie](https://www.gov.ie) - [Minister McGrath response to Central Bank of Ireland's Consumer Protection Code Review \(www.gov.ie\)](#)

³ The influence of the Framework on firms/roles that are currently out of scope is also relevant and this is reflected by the CBI in its consultation paper *'there is much in the spirit of the SEAR that firms not initially falling within scope should consider as aligned with good quality governance'* (pg27).

National Safeguarding Ireland (trading as Safeguarding Ireland) (a company limited by guarantee) CRO #612163.

RCN #20204851 Contact: annmarie@safeguardingireland.org

Directors: David Byrne, Carol Grogan, Colm Nolan, Paschal Moynihan, Louise O'Mahony, Nora Owen, Amanda Phelan, Phelim Quinn, Patricia T Rickard-Clarke (Chair), Mervyn Taylor.