



An Roinn Sláinte agus Leanaí

DEPARTMENT OF HEALTH AND CHILDREN



14th January 2011

Consumer Protection Codes Department
Central Bank of Ireland
PO Box 559
Dame Street
Dublin 2

Re: Financial Abuse of Older People and Review of Consumer Protection Code

I am writing in connection with the above and would like to thank you for providing the Department of Health and Children (DoHC) the opportunity to make observations on the *Review of Consumer Protection Code Consultation Paper CP 47*. Policy on Elder Abuse is derived from *Protecting our Future 2002* Report of the Working Group on Elder Abuse and a Review of that Report in 2009. The Office for Older People is charged with overseeing the implementation of the recommendations in these reports and for the development of policy in this area.

Elder abuse is a societal issue and the Review of the Code provides an excellent opportunity to develop the necessary protections in relation to financial abuse of older people. Financial abuse cannot be tackled by the health sector alone and the contributions arising from themed inspections, the HSE National Financial Abuse Working Group and the Financial Services Ombudsman are very welcome initiatives. Strengthening the Code in relation to general principles, vulnerable consumers, information about products, joint accounts, power of attorney and product producer responsibilities etc are all important developments in protecting older people from financial abuse. The Department acknowledges that many of the issues outlined by the HSE Financial Abuse Working Group have been incorporated into the Code.

I attach comments in relation to some of the questions outlined in the Code at Appendix A below. You will also appreciate, that this Department does not have in-house expertise relating to the financial services industry. However the Department also welcomes the provisions relating to Product Producer Responsibilities. DoHC feels that products should not be made available to vulnerable consumers without consideration of the risks attached to those products. It is important that any such risks are clearly understood by vulnerable consumers and that the product is suitable for the consumer in question.

The Department has also circulated its response to the Department of Finance. In addition to the points raised in Appendix A below DoHC requested the Department of Finance to consider the provision of similar protections to financial institutions not covered by the Consumer Protection Code e.g. An Post and Credit Unions (apart from acting as insurance intermediaries).

Cuirfear fáilte roimh chomhfhreagras i nGaeilge

An Roinn Sláinte agus Leanaí/Department of Health & Children

Hawkins House Dublin 2
Teach Haicín Baile Átha Cliath 2

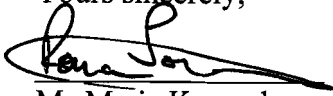
Fón/Tel (01) 635 4000
Facs/Fax (01) 635 4001

Ríomphost/Email info@health.gov.ie
Suíomh Gréasáin/Web www.dohc.ie

I hope that these observations are of use to you. If you have any queries please do not hesitate to contact my colleague Maria Stanley at (01) 635 4050 or by email at maria_stanley@health.gov.ie.

Yours sincerely,

MP



Ms Marie Kennedy
Office for Older People

Appendix A.
DoHC Comments on Review of Consumer Protection Code.

- 1) Do you agree with the indicative list of circumstances that could render a consumer vulnerable that have been included in the definition of ‘vulnerable consumer’?
- DoHC welcomes the inclusion of a definition for vulnerable consumers particularly as it includes older people who may be vulnerable to financial abuse for a variety of reasons. It is clear that deciding on a definition for vulnerable consumers is fraught with difficulty. The Department is of the view that age is not a predictor of capacity or infirmity. However there is a risk associated with age and financial product/service providers need to be aware of and cater for this.
 - In relation to the example provided for older people it is understood that there is no statutory retirement age in Ireland but rather an age at which a statutory right to receive the state pension arises.
- 2) Do you think that the inclusion of a definition for a vulnerable consumer and the proposals and amendments outlined above will be effective in improving the level of care afforded to vulnerable consumers during the sales process? If not, please outline any further measures you think are necessary.

A. With regard to “Provision of Information to the Consumer - Verbal Interactions (Chapter 12, Provision 1)

Many consumers place a great deal of reliance and trust on what a regulated entity tells them during the sales process, in particular in relation to verbal assurances and promises concerning the safety and performance of a product or service. Where a verbal exchange takes place, we are proposing that a contemporaneous record of the verbal interactions must be maintained by the regulated entity to verify that such interactions took place and to record the nature of the information provided during such interactions.”

- DoHC welcomes the addition of this proposal but feels that it would be also useful to provide a copy of the record to vulnerable consumers.
- In addition DoHC notes that the HSE National Financial Abuse Working Group’s suggestion concerning a definition for financial abuse was not included in the Code. The Department feels that it would be useful to include such a definition.
- The 2009 Review of *Protecting our Future* highlighted the need for financial institutions to develop education and training programmes. Staff working on the front-line are in a unique position to assist in identifying financial abuse and procedures need to be in place to tackle this issue. DoHC notes that the HSE National Financial Abuse Working Group’s suggestions regarding staff training to recognise financial abuse were not included. DoHC feels that the Code should recognise the training necessary for staff members and suggests that the Code reassure consumers that staff members have been trained to

identify and respond appropriately to suspicions of financial abuse of vulnerable consumers.