



Feidhmeannacht na Seirbhíse Sláinte  
Health Service Executive

FSS Iarthar  
Seirbhísí do Dhaoine Scothaosta  
An Sciathán Thoir Theas  
Ospidéal Naomh Iósaf  
Sráid Mulgrave  
Luimneach

HSE West  
Services for Older People  
South East Wing  
St Joseph's Hospital  
Mulgrave Street  
Limerick

Teil: Tel: 061 461141  
Facs: Fax: 061 412365

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

13<sup>th</sup> July 2011

**Submission for Second Consultation on Review of the Consumer Protection Code CP 54 dated June 2011**

Dear Sir/Madam,

I attach a further submission by the National Financial Abuse of Older People Working Group (the Group) for the Second Consultation on Review of the Consumer Protection Code CP54.

The Group very much welcomes the opportunity to make this second submission as it believes that the revision of the Code is of great importance given the recent Report on *Abuse and Neglect of Older People in Ireland* published by the National Centre for the Protection of Older People which stated that financial abuse was the most frequent type of abuse reported. The study also concluded that age was a factor with regard to abuse, with those over 70 years suffering higher levels of abuse.

In its second submission, the Group has made suggestions in relation to *disclosure of information, lifetime mortgages and home reversion agreements* and *statements* which it believes will help to safeguard consumers and financial institutions alike.

Although the Irish Banking Federation and the Irish Insurance Federation are represented on the Group, my understanding is that these organisations will be making separate submissions on the Second Consultation on Review of the Consumer protection Code.

If you require any clarification or further comment please contact me.

Yours Sincerely,

---

**Paschal Moynihan**  
**Specialist Older People Services, HSE West**

**Submissions on *Second Consultation on Review of Consumer Protection Code***  
***Consultation Paper CP54***

**1 Disclosure of Information in certain circumstances**

The Data Protection Act 1988 as amended by the Data Protection Act 2003 (the Act) is stated by many financial and other bodies as a reason why non disclosure of information about abuse of older people is not permitted. Indeed the Act is often quoted as if there was an absolute ban on disclosure of information in all circumstance whereas Section 8 of the Act specifically provides for disclosure of personal data in certain circumstances. Section 8 (a), (b) and (c) of the Act refers to the security and interests of the State but Section (d), (e) and (f) can be interpreted as wide enough to cover instances where issues of abuse arise and should be reported to an appropriate authority. It is the intention of the Group to address these issues in its forthcoming report but for the purposes of the *Second Consultation on Review of Consumer Protection Code* it wishes to make the following submission in relation to Section 8 (h) of the Act.

Section 8 of the Act provides that *'Any restrictions in this Act on the processing of personal data do not apply if the processing is.....*

*(h) made at the request or with the consent of the data subject or a person acting on his behalf'.*

While the Group recognises that in addition to this specific statutory provision that information can be disclosed with the consent of the person concerned there is also the right to override the common law duty of confidentiality where the disclosure (which is allowed in a number of circumstances) is made with the express or implied consent of the person concerned. The Group would wish to see (for the purposes of clarity and transparency) reference in the Consumer Protection Code to disclosure of information where such disclosure is made with the express or implied consent of the customer and which is made to protect the best interest of the customer. This specific clarity in the Code might be helpful not only to financial institutions but also to a large number of consumers who are more likely to read and understand the Consumer Protection Code than trying to ascertain the position from legislation.

Perhaps this could be set out in paragraph 4.15 – terms of business.

**2 Lifetime mortgages and home reversion agreements**

The Group welcomes the strengthening the protection of consumers wishing to avail of these products. It nevertheless makes some further minimal suggestions that it believes to be necessary.

The draft provides at paragraph **4.57(f)** that *'at several intervals of five years or less over the duration of the loan, an indication of the likely early redemption costs.....'* It is our view that the maximum period of five years is too long and suggests at a minimum the maximum period should be three years. However, the Group's preferred option would be that such information would be provided on an annual basis as provided for in Chapter 6 for other types of products.

In relation to paragraph **4.58(c)**, the Group would wish to see added to this clause the following *'including details of continuing obligations (for example insurance, repairs and maintenance) required by the personal consumer'.*

**3 Statements**

The Group would wish that the provisions of paragraph 6.2 (a) and (b) which applies to Joint Bank Accounts also apply to donees of an Enduring Power of Attorney. In other words where there are two attorneys each would receive statements in relation to bank accounts of the donor of the power.