

**A RESPONSE TO
THE THORESEN REVIEW OF GENERIC FINANCIAL ADVICE
- INTERIM REPORT**

This response is based on my reading of:

- the Interim Report:
 - Executive summary
 - Chapter 2
 - Chapter 3
- Annex 3 (Consumer focus groups)
- Annex 4 (Regulatory boundary of generic financial advice)

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INTERIM REPORT, EXECUTIVE SUMMARY: BUILDING THE NATIONAL APPROACH

GFA needs a context

There is a danger that GFA will become bogged down in debates with and between various vested interest groups, because to some extent or other many see it as attempting to shoe-horn itself into their territory. Maybe, therefore, a good place to start is to briefly review why it is required.

The reasons people believe GFA is needed usually include one or other of these issues:

- People do not have sufficient knowledge to make their own decisions.
- There are not enough financial advisers to go round, even if all consumers felt comfortable in seeking their opinions in the first place.

The first is sometimes made by people who assume everyone is a rational economic being seeking to maximise the utility of all the assets at his or her disposal. Fortunately, due to the findings of behavioral finance, we are beginning to accept that very few people are economic automatons. When the washing machine breaks down, even those of us with some economic ability probably spent half an hour maximum either driving to Curry's or searching the web for a replacement. We find one that looks to be good value, buy it, and move on. Rationally, we ought to spend hours in the local library reading Which? surveys. In reality, we would rather spend the time doing something else.

As with washing machines, so with financial services. Once people are comfortable with the issues they will make what, for them, are acceptable solutions. They may not be perfect, but at the time they are made, they will believe they will do.

Running parallel with the GFA debate is the ongoing work of the Personal Financial Education Group ('pfeg'). This charity is gradually extending the reach of financial education in schools¹. If pfeg's work can be scaled up there will come a time in maybe 10 to 15 years when GFA as it is currently envisaged will not be required; the adult population will be equipped to make decisions for themselves. This would answer the question raised by consumer groups who realised 'there is not only a need to get people to engage with (a GFA service) but then (to) keep on using it throughout their lives'²

An acceptance of these observations will, I think, give the GFA debate a context it has yet to achieve. If it is seen as filling a gap in society until education has overtake its purpose, the turf wars of vested interest groups ought to diminish. Whether or not the arrival of an adult population with a better level of financial education means people make adequate (not perfect) financial plans for themselves remains to be seen. This, however, is a different question and is probably beyond the scope of this Review.

¹ For further information on pfeg's work, see <http://www.pfeg.org/About/default.asp>, accessed 13th November, 2007.

² Annex 3, *Consumer focus groups*, p. 10.

Delivering the service that people need: the scope of GFA

Paragraph E33.2 of the Interim Report states ‘the Review’s starting point is that the current regulatory boundary should not act as an inhibitor to delivering the vision for a national approach’. The pilots are to test whether or not this is the case and will assist in making any necessary recommendation for change.

One should not pre-judge the outcome on the pilots but as Annex 4 makes clear, there are considerable difficulties ahead. In his conclusion in the recent Walker case³ the judge stated ‘It seems to me that the concept of investment advice ... is broad enough to include any communication with the client which, in the particular context in which it is given, goes beyond the mere provision of information and is objectively likely to influence the client’s decision whether or not to undertake the transaction in question’. This throws into doubt at least some of the dialogues that have been put forward as falling within current regulation. A typical example would be the caller who has outstanding credit card debt and is considering starting to make pension contributions. Whatever the reply given, it must be ‘objectively likely to influence the client’s decision’. Another will be the vexed question of how Pension Credit might impact upon some peoples’ pension savings decisions. The judge’s point seems to be not whether the advice turns out to be right or wrong, but the fact that it is advice in the first place.

A GFA service may well be one of the largest risks yet to be placed for financial advice in the PI market. Even if it is not, underwriters will have to form a judgement at a time when there is little case law at their disposal. Sensible comfort factors to all concerned would be:

1. a statutory limitation on the number of years after advice was given that people could bring an action, or file a complaint with any Ombudsman.
2. a requirement for the plaintiff to prove his or her case.
3. a requirement for complainants to pay a nominal fee for lodging a complaint with an Ombudsman, recoverable if their complaint was upheld. £100 would probably be adequate to deter many of those who start a complaint because they feel they have nothing to loose. The fee could be means-tested away for complainants who genuinely could not afford it.

Costs and funding – service delivery model

Paragraph E.41 of the Interim Report suggests funding should be shared between the government and the industry. In the context of Personal Accounts, Investment Managers are likely to be one of the largest commercial beneficiaries, so presumably ‘the industry’ includes members of the Investment Management Association.

External Considerations - The Retail Distribution Review

Paragraph E.47 refers to the desirability of the GFA working with the RDR and expresses the hope that the two services will be as joined-up as possible.

There may be a growing consensus that sees regulated financial advice as a continuum from the very simple to the complex. People might start with the financial equivalent of a GP who, for

³ Walker v Inter-Alliance Group and Scottish Equitable, High Court, July 2007.

many, will be able to provide everything that is required. Other will be passed to specialists. It is not difficult to conceptualise GFA as being at the beginning of this process; the medical equivalent would be triage.

Part of the outcome of contacting a GFA service could be a paper or eMail report of the conversation containing the background the Adviser was given and the generic information given as a result. If this was in a format that, from a regulatory perspective, was acceptable to the financial GP, regulated advice for many might come at a lower cost and with less time input.

CHAPTER 2: WHO NEEDS A GENERIC FINANCIAL ADVICE SERVICE AND HOW CAN THEY BE ENGAGED?

Consumer focus groups

Savings and mortgages are separated from planning for retirement in the division of topics derived from focus groups (Paragraph 2.21 of the Interim Report). It will be necessary to ensure that planning for retirement includes the issue of savings, because, increasingly, retirement planning is becoming a matter of having savings and pensions in the right proportion. An easy example would be the gradual increase in State Pension age from 65 to 68. This will affect all those born on or after 6th April, 1959 with the full impact falling on those born after 6th April, 1978. Aspirationally, today's 29 year-olds are unlikely to plan to work full-time until they are 68 so will need to have saved a capital sum to 'see them through' the first three years of retirement. They will need about £20,000 in today's monetary values to cover the married couple's Basic State pension alone.

It is reported in Annex 3 that consumers regard the FSA as 'the sort of well-regarded consumer-friendly institution that could act (in the capacity of an independent organisation)'. This will not work. Then FSA is a regulator, not a representative of consumers.

CHAPTER 3: DESIGNING THE NATIONAL APPROACH

The parameters of GFA

The Review sights the example, in paragraph 3.8, of a new parent who might be told that “most people in your situation consider life cover”. The suggestion is that it will then ‘provide information on the pros and cons of different types of protection and *the consequences of not holding insurance*, then *guide users towards appropriate comparison tables* and/or signpost them to the regulated advice sector (my italics)’. It is not difficult to see that this could be interpreted as advice within the context of the Walker judgement⁴.

Interim conclusions

Perhaps the Review should consider whether or not a judicial review of Regulatory boundaries and case law would help to clarify what is, currently, a difficult area.

Piloting a GFA service

If paragraph 3.32 (3) (Testing the variables) implies that if the financial knowledge of FSA-qualified advisers is always better than that of others, whoever authored this section of the report needs to re-consider the attributes of at least some of those who already provide generic financial advice and information. I would suggest the knowledge of many of those giving generic advice on pensions through TPAS, and probably debt counsellors manning the National Debt Helpline, is, in these fields, considerably greater than that of a high proportion of regulated advisers.

Accreditation and training of generic financial advisers

The 2nd question at the end of Chapter 3 asks ‘What sort of accreditation and training would be the most effective way of ensuring accuracy, quality and consistency of GFA information and guidance?’

The answer to the question depends upon whether the Review finally favours their Monolithic model, the Fully Decentralised model, or a hybrid model in between these two extremes.

There would clearly be a need for in-house accreditation and training if the Monolithic model was to be recommended. At the other end of the spectrum, a fully-decentralised model could, presumably, operate upon whatever basis its participants currently regard as acceptable.

Under the hybrid model, there would be a need for any GFA service to recognise existing professional qualifications. A provider of generic advice and information may already require its personnel to have a relevant professional qualification and/or a minimum number of years experience in its field. These may well exceed the standards laid down by the Financial Services Skills Council insofar as that field is concerned. Any hybrid model using such existing providers will need to have a system in place that recognises these qualifications and does not expect participating individuals to obtain additional (and lower-level) qualifications. It should also ensure qualified people maintain knowledge through CPD. If their own institutes do not operate CPD programmes, this could be attained by attendance at courses run by the provider.

⁴ Op cit., p.2.