



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Consumer Protection Code Review

HSE National Office for Human Rights
and Equality Policy Response

Response Information

I am completing this form as:

An organisation or representative body

What is the name of your organisation or representative body?

HSE National Office for Human Rights and Equality Policy

Please specify your organisation/representative body type.

Government body

Broad Theme A – Availability and Choice

Q.1 What are your views on availability and choice of financial services and products for consumers?

Q.2 How important are new providers and new delivery channels to serving consumers' financial needs?

Q.3 In implementing its consumer protection mandate, how should the Central Bank reflect the importance of competition in its regulatory approach?

Broad Theme B – Firms Acting in Consumers' Best Interests

Q.4 Do you agree that the Central Bank should develop guidance on what it means for a firm to act in the best interests of its customers?

Disagree

The Assisted Decision-Making (Capacity) Act 2015 (the 2015 Act) is expected to commence as law on the 26th of April 2023.

The 2015 Act reforms the law relating to persons who require or may require assistance in exercising their decision-making capacity. Key reforms include the establishment of the Decision Support Service (DSS), abolition of wardship, statutory functional test of capacity, introduction of statutory guiding principles and a new tiered system of decision supporters. This new Act will assist in complying with human-rights obligations contained in the Constitution of Ireland, the European Convention on Human Rights, and the United Nations Convention on the Rights of Persons with Disabilities.

The Act moves away from the paternalistic approach of acting in the “best interests” of a person to a human rights-based approach which protects the autonomy of each person. The guiding principles of the Act state that any intervenor shall:

“act at all times in good faith and for the benefit of the relevant person” - Assisted Decision-Making (Capacity) Act 2015, Part 2, Section 8(7)(e).

Under the 2015 Act, a financial professional could be classed as an intervenor.

Therefore, in line with imminent commencement of the Act in April, we advocate that the central bank's guidance should be based on 'firms acting for the benefit of consumers', rather than in their best interests.

Q.5 Does the suggested outline of ‘customer best interest’ guidance capture the essence of the obligation to act in customers’ best interests? What other guidance would you suggest?

Theme 1 – Innovation and Disruption

Q.6 Do you agree with our proposed approach to enhancing our Innovation Hub?

Q.7 What more should be done to support innovation while ensuring consumers’ best interests are protected?

Q.8 How can regulators ensure that neither firms currently in the market, nor new entrants, have unfair advantages which could be a barrier to fair competition?

Theme 2 – Digitalisation

Q.9 Do you agree with our analysis of the benefits, challenges and risks around digitalisation in the area of financial services? What are the key issues for you?

Q.10 How do you think the personalisation and individual-targeting of ads can be made compatible with the requirement for firms to act in the best interests of customers?

Theme 3 – Unregulated Activities

Q.11 The Code requires regulated firms to provide a statement indicating that they are ‘regulated by the Central Bank’. Do you think this is useful for consumers?

Q.12 How can the difference between regulated and unregulated activities be made clearer for consumers?

Q.13 Should there be additional obligations on regulated firms when they undertake unregulated activities?

Theme 4 – Pricing Matters

Q.14 What can firms do to improve transparency of pricing for consumers?

Q.15 In relation to pricing, are there examples of firms using unfair practices to take advantage of customer vulnerabilities?

Theme 5 – Informing Effectively

Q.16 How can regulation improve effectiveness of information disclosure to consumers?

Q.17 How can firms better support consumers' understanding – can technology play a role?

Q.18 Does the way in which firms approach disclosure in respect of mortgage products need enhancing? If so, how? - taking account of the wide variety of features of mortgage products, and borrowers' different circumstances and needs.

Theme 6 – Vulnerability

Q.19 Given that vulnerability should be considered more as a spectrum of risk than a binary distinction, how should firms' duty to act in their customers' best interests reflect this?

Q.20 What other specific measures might be adopted to protect consumers in vulnerable circumstances while respecting their privacy and autonomy?

Theme 7 – Financial Literacy

Q.21 What can the responsible authorities do to improve financial education?

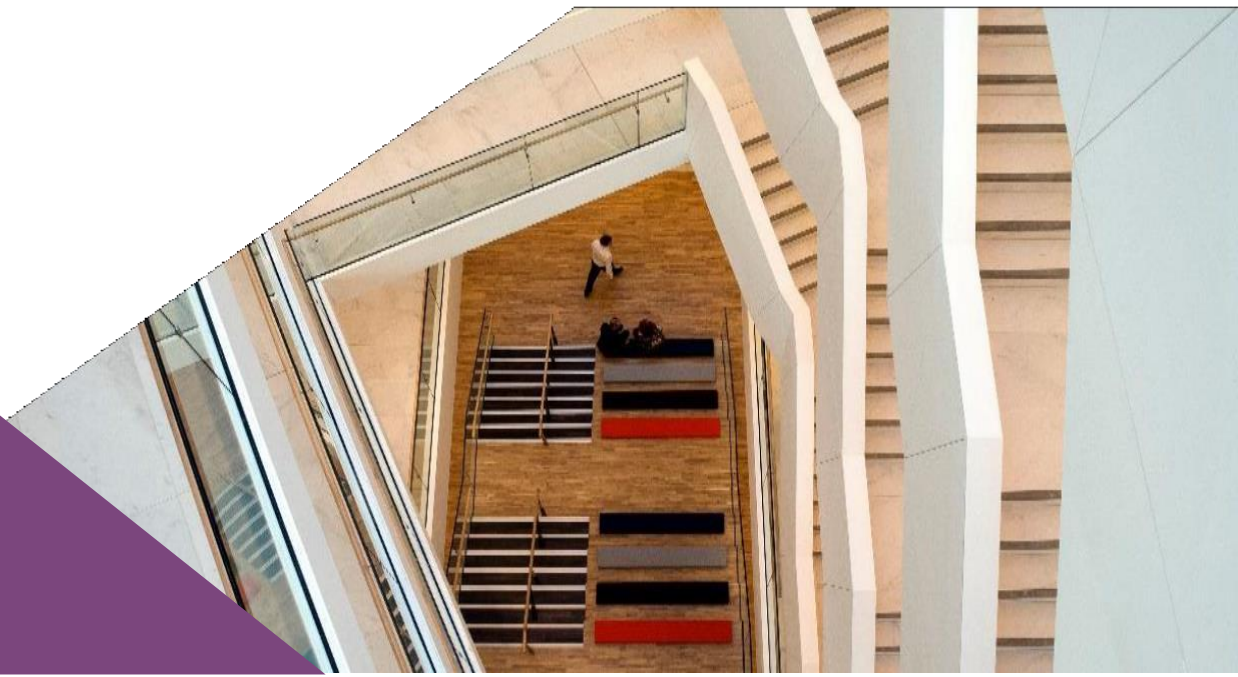
Q.22 How can consumers be empowered to better protect their own interests when dealing with financial matters?

Theme 8 – Climate Matters

Q.23 How should the financial system best fulfil its role in supporting the transition to a climate neutral economy?

Q.24 How will climate change impact on availability, choice and pricing for financial products and services?

Q.25 Does the impact of climate change require additional specific consumer protections?



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