

Equity Release Council Response to CP21/24: Improving the Appointed Representatives Regime

About the Equity Release Council (the Council)

The Council is the representative trade body for the UK equity release sector with 666 firms and over 1575 individuals registered, including funders, providers, regulated mortgage and financial advisers, lawyers, surveyors, and other professionals. Many adviser members are appointed representatives and networks and range from those with a small number of AR's to those with several hundred.

The Council leads a consumer-focused equity release market by setting authoritative standards and safeguards for the trusted provision of advice and products. Since 1991, (we are celebrating our 30th anniversary as a standards setter) more than 592,000 homeowners have accessed over £38.7 billion of housing wealth via Council members to support their finances.

The Council also works with government, voluntary and public sectors, regulatory, consumer and professional bodies to inform debate about the use of housing wealth in later life and retirement planning.

Every member is committed to the Council's Statement of Principles and its Rules and Guidance, which aim to provide consumer protections and safeguards. In addition, the Council works to boost consumer knowledge and increase awareness of equity release as a solution to financial challenges facing people aged 55 and over in the UK.

Response

The Council welcomes the opportunity to respond to this consultation on improving the Appointed Representatives' (AR) regime. The AR regime in the lifetime mortgage market is well developed and controlled. The benefits it brings should not be underestimated such as increasing competition and consumer choice, reducing the risk of financial exclusion, lower costs for new firms and compliance and technical expertise which is not available in many smaller Directly Authorised (DA) firms.

It should be noted that the Council can only consider and respond in relation to the equity release market which it represents. Our responses, therefore, relate only to this specific market.

The Council has grave concerns on the timing and detail being proposed by consultation paper 21/34 Improving the Appointed Representatives regime as follows: -

- The FCA has issued CP 21/36: A New Consumer Duty, with final details to be published in July 2022 and suggested implementation in April 2023. The scope and detail issued in the proposed Consumer Duty is significant as is the proposed implementation and ongoing costs. As the Consumer Duty will apply across all financial services areas this has a significant impact on ARs and the Networks that represent them. We suggest that the focus for the short and medium term should be on the understanding and implementation of the Consumer Duty in the first instance. In particular the proposed price and value and product and service outcomes, which should strengthen the AR regime. This may perhaps alleviate some of the concerns identified by the FCA? Once the Consumer Duty has been implemented and embedded perhaps that would be a more prudent time to review any further significant changes in the sector?
- The Consultation paper (CP 21/24?) in its summary detailed that there was significant evidence of harm where firms have ARs. No detail was provided on this, and more clarity is required on what type of harm has been demonstrated. The AR regime is vast and varied and works significantly well in the mortgage and lifetime retail mortgage market and we would wish to understand whether the evidence gathered from the FCA comes from the retail market and the lifetime mortgage market? If not, we would ask why these sectors are being included in this consultation? Surely a more tailored, proportionate and specific approach that focuses on financial services sectors and/or particular AR models that are of concern would be a better approach? In addition, we would question whether the absence of the same scrutiny in the DA sector create a two-tier system?
- Cost impact – the consultation paper did not include any questions on the FCA’s cost/benefit analysis (CBA) and therefore makes it difficult for firms to respond on this issue. We believe that the FCA has significantly underestimated the costs in the CBA as principal firms will incur large overheads, with both direct and indirect costs. The FCA has also significantly underestimated the level of staff resources required to meet the requirements, notably the requirements relating to ongoing notifications, annual review and self-assessment. The consequences of these costs could cause detriment in the market with potentially increased costs for consumers and the likelihood that some ARs and/or networks might be forced to exit the market due to additional costs.
- Implementation period – a minimum of 12 months from final policy statement is essential if the FCA progresses with this initiative. If insufficient time is provided for the work required, it seems likely that firms will risk being in breach of the proposals. Again, we believe the FCA needs to align and sequence consultations to ensure they are cohesive and reasonable; therefore, our preference is that this is postponed until after Consumer Duty implementation.

The Council would welcome the opportunity, together with a select group of our members, to meet with the FCA to discuss our concerns further.

To discuss any aspect of this response please contact Kelly Melville-Kelly (Head of Risk, Policy, and Compliance) at kelly.melville-kelly@equityreleasecouncil.com