



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI



Submissions on: Disclosure requirements in the new financial advice regime

Submissions Kiwibank to Klee

5 September 2018

Submissions on: Disclosure requirements in the new financial advice regime.

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1 June 2018

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Financial Markets Policy
Building, Resources and Markets
Ministry of Business, Innovation and Employment
PO Box 1473
WELLINGTON 6140

By email: faareview@mbie.govt.nz

Dear Sirs

Submission: Discussion paper: Disclosure requirements in the new financial advice regime (Discussion Paper)

Please find attached submission on behalf of Kiwibank Limited. We welcome the opportunity to submit on the above Discussion Paper and appreciate the extension of time that we were granted to make this submission.

Background

Kiwibank is currently a Qualifying Financial Entity (QFE) under the Financial Advisers Act (FAA) and Kiwi Wealth Investments Limited Partnership (KWILP) and Kiwi Wealth Limited are members of the Kiwibank QFE Group and a default provider for KiwiSaver. The Kiwibank QFE Group has approximately 2,300 QFE advisers and 15 Authorised Financial Advisers, who advise on a range of banking and investment products (including bank and savings accounts, credit cards and home loans, life and general insurance, KiwiSaver, managed funds and a discretionary investment management service). The QFE Group also has a number of simple class 'robo-advice' tools and Kiwi Wealth has been granted an exemption to provide personalised 'robo-advice' initially for its KiwiSaver Scheme. Each entity is a member of the Kiwi Group Holdings Limited group of companies, which includes other financial product providers. Kiwibank and KWILP currently hold licences under the Financial Markets Conduct Act 2013 (FMCA).

Comments

Kiwibank agrees that it is important that consumers be provided with useful information to help them make informed financial decisions. We support the proposals, but are concerned that they should not, in practice, result in information that is overwhelming for the consumer. We therefore consider that the regulations should allow:

- more flexibility than proposed. For example, in the situation where the conversation involves a simple product like a bank account, reduced disclosures and disclosure at one point in time (given that conversations are likely to be short) should be allowed.

- balanced incentive schemes to be easily disclosed, given that these are often designed to address concerns about conflicted remuneration and are likely to become more common. We recommend that some real examples of disclosure of incentives are worked through in developing the detail of the regulations.

Our detailed comments are set out in the attached appendix, where we respond to selected questions from the template provided.

If you have any further questions regarding the above, please feel free to contact Julie Bottomley at **S9(2)(a)**

Yours faithfully

S9(2)(a)

Tracey Berry
Acting Group Manager Sales and Service
Kiwibank

cc Julie Bottomley, Senior Manager, Compliance
Loretta DeSourdy, Head of Regulatory Affairs

Appendix: Responses to Discussion Paper questions

Timing of disclosure

Question 2: What are your views on the proposal that information be disclosed to consumers at different points in the advice process?

There should be flexibility to provide information about the licensed status of the provider before the nature and scope of advice is known - for example, on a recorded message when a customer telephones a Financial Advice Provider (FAP).

The regulations should provide some flexibility to allow for situations where only a short conversation or interaction is needed, given the simple nature of the product or question that the advice relates to. For example, for a bank account or term deposit, the conversation is likely to be a short one and complete disclosure information is likely to be known at the start of the conversation. It should be possible to provide all of the information at the same time and without duplication, rather than artificially creating two points in the conversation for disclosure.

The regulations should also allow flexibility to reduce duplication of disclosure in other situations, for example, circumstances where the particular commission or incentive potentially available is known and disclosed when the scope of the advice is established.

The detail of any requirements should take into account that once the nature and scope of advice required is established, the customer may be referred between staff members at an FAP. There should be flexibility for disclosures to be provided by the person to whom the referral is made (B), rather than by the member of staff making the referral (A) who has identified the nature (and scope) of the advice. This takes into account that B will have more knowledge of the limitations and commission and other incentives compared to A.

Question 4: Should those giving advice be required to tell consumers that they can access general information about the provider or refer to this general information in advertising material?

Those giving advice should not be required to tell consumers that they can access general information if they have just provided the consumer with more relevant information. There is little to be gained in doing so.

It should be clear that general information should only be required in advertising material where the provider is advertising its advice, rather than particular products or services alone.

Form of disclosure

Question 6: Should a person who contravenes the presentational requirements under the proposal be subject to civil liability or should it be dealt with by an FMA stop order or similar regulatory response?

A contravention of presentational requirements should not be subject to civil liability.

What information do customers require?

Question 7: Do you agree that information relating to the licence, duties and complaints process should be made available to consumers?

Information relating to the licence should be disclosed as part of the publicly available information on the provider's website, but it should not always be necessary to disclose licensing information at the time when the nature and scope of the advice is known. For example, it would seem unnecessary when a customer visits a physical location in New Zealand – in these cases the customer should be able to rely on appropriate vigilance by the regulator. Confidence in advice in New Zealand can be increased by more general regulator awareness campaigns. However, as highlighted in the Discussion Paper, disclosure may be more necessary for on-line advice tools, where the status of the entity providing the advice is less obvious and more difficult to police.

It should be clear that the information on duties should be at a high level, as set out in the examples in the Discussion Paper, ie disclosure needs to reference that there are duties without requiring the detail of those duties.

The level of information required regarding the complaints process should be more tailored to what is relevant at each disclosure point. For example:

- publicly available information may include how to complain and a summary of the steps and timing that a customer can expect to resolve the complaint
- at the point of making a recommendation it is likely to be sufficient to note that there is a complaints process and detailed information is publicly available, rather than including information about the complaints process.

Question 8: Do you think that the regulations should provide prescribed text for the disclosure of these pieces of information?

The regulations could usefully prescribe what is set out in the examples in the Discussion Paper in respect of disclosure of duties, so that FAPs provide a consistent level of detail.

Question 9: Should consumers be informed of their ability to access a free dispute resolution service when making a complaint? Should this apply to all financial service providers who provide services to retail clients (in which case it might be implemented via the scheme rules rather than in regulations under the Bill)?

Disclosure of the ability to access a free dispute resolution service should only be required at the time the complaint cannot be settled or when the provider is offering a settlement. If disclosure is required at the time a complaint is made, the time taken to resolve complaints and customer frustration may increase, as customers may be encouraged to take complaints directly to the dispute resolution service - which will generally refer them back to the provider for consideration.

Information about the financial advice

- Limitations in the nature and scope of the advice

Question 10: Do you agree with the proposal in relation to the disclosure of nature and scope of advice, as set out on page 19? Why or why not?

We agree with the aim of providing consumers with relevant information they need at the point they need it. The amount of information required should be reduced for simple products, for

example, bank accounts or bank term deposits where the customer is already aware that they are interacting with the relevant bank (so that other providers products are unlikely to be available).

Question 11: How can the regulations ensure that consumers receive an accurate indication of the extent of the market that can (and will) be considered?

Disclosure about the extent of the market should not be required where a customer would expect that the FAP can only sell its own products. For example, Kiwibank only offers customers bank accounts at Kiwibank.

- **Costs to client**

Question 12: Do you agree with the proposal in relation to disclosure of costs to clients, as set out on page 20? Why or why not?

It should be clear that the disclosures relate to costs associated with the advice as set out in paragraphs 54 and 55. A retail client should be made aware of product documentation that sets out the fees as part of the advice, but disclosure regulations should not require the adviser to go through the product costs. Matters relating to informing the customer about product costs would be better left to the Code, allowing more flexibility to tailor the discussion about fees to the customer.

- **Commission payments and other incentives**

Question 14: Do you agree that commissions and other incentives should be disclosed in more general terms early, followed by more detailed disclosure later in the advice process?

We agree in principle, but recommend that some real examples are worked through in developing the detail of the regulations. We are concerned that:

- Publicly available disclosure could be either very generic or very complex, for example where there are number of incentive schemes reflecting the roles of different channels in an organisation or the roles of different staff members in a channel.
- Detailed disclosures for schemes involving 'balanced scorecards' may make the disclosure overly complex and unwieldy for customers, and it is not clear that they will always be helpful to customers in judging any conflict. Such schemes seem likely to increase in the industry over time, if direct commissions reduce.
- The treatment of incentives which are not based on sales, but are intended to reward good customer service would also need to be clear.

It would be helpful to publish examples of disclosure in particular incentive scenarios.

Question 15: If the regulations were to include a materiality test that would determine the commissions and incentives that needed to be disclosed, what would an appropriate test be?

We support the introduction of a materiality threshold which could include both a dollar amount and a percentage of salary.

- **Options for how to disclose commissions and other incentives**

Question 17: Which of the options (as set out in pages 21-22) do you prefer? What are these costs and benefits of the options?

If Option 1 is selected, the regulations should make it clear that no additional disclosure is required if only one product provider is available.

Option 2, disclosure of the dollar value for a particular sale, is likely to be very complex in situations where incentives are not based solely on sales, but, for example, on a balanced scorecard, or a mix of factors which may be outside the advisers direct control or removed in time from the sale (for example overall entity profitability).

The treatment of team awards would need to be clarified.

Interactions with any threshold would also need to be clear – for example if there is a balanced scorecard, and a short incentive scheme which would otherwise be below the threshold.

- Other conflicts of interest and affiliations

Question 18: Do you agree that those giving financial advice should be required to disclose all relevant potential conflicts of interest?

Disclosure of conflicts of interest should be general in nature and should not require the disclosure of commercially sensitive details. For example, details of \$ amounts or the % profit share in a profit sharing agreements between an FAP and a product provider.

Further, if the disclosure is the same at the time of the recommendation, as at the time that the scope and nature of the advice is known, the adviser should not have to re-disclose the information.

Information about the firm or individual giving advice

Question 21: Do you agree with the proposed requirement to disclose information relating to disciplinary history and bankruptcy or insolvency history? Why or why not?

More detail is required about what kind of disciplinary history and types of disciplinary proceedings would need to be disclosed. We do not believe that disclosure of internal disciplinary proceedings will be helpful:

- Employers will have different internal disciplinary processes or standards leading to inconsistency of treatment of staff across the market and difficulty for customers in making judgements based on the disclosure.
- In some cases an FAP may want to give an employee a warning, but also a chance to learn from a mistake. It would be undesirable if the effect of the requirement were to dis-incentivise companies from taking action, because of the risk of a disproportionate reaction from customers, or to act to reduce the supply of competent advisers.

Five years is a long time to have to disclose what could be a relatively minor infringement.

Question 22: Should the disclosure of information relating to disciplinary history and bankruptcy or insolvency history also apply to the directors of a financial advice provider?

Previous bankruptcy or insolvency information is relevant for the regulators to consider, and can be considered generically outside of an advice scenario. However, we do not think it should be included in disclosures to customers, as it risks increasing the volume of disclosure and distracting from important nature, scope and incentive disclosures which can only be judged in the customer's particular scenario.

The information will be less relevant in the case of an adviser and is more relevant to broking (holding of client money). However, any link between a previously bankrupt director and the

provider of a recommended product might be more relevant for disclosure under the conflicts requirement.

Question 23: Should financial advice providers also be required to disclose if they have been found to have contravened a financial advice duty?

In the event of a contravention, the regulator will need to make a decision about whether the FAP should be able to continue to provide advice in the relevant situations. Where the regulator is satisfied, regulations should not require the information to be automatically disclosed to the customer.

Requirements for disclosure provided through different methods

Question 26: Should the regulations allow for disclosure to be provided verbally? Why or why not?

It would be useful if the regulations allowed for verbal disclosure. However, if it is permitted, whether providers are willing to provide disclosure verbally will depend on the level of evidence that the regulator expects to see in practice. Verbal disclosure will only be taken up in practice if the FAP considers that it presents an acceptable risk profile. This depends upon clarity about the regulator's supervision and enforcement approach.

Requirements for financial advice given through different channels

Question 28: Should the regulations provide for any additional requirements that would apply when advice is given via a robo-advice platform or over the phone?

Regulations will need to consider the practicalities of disclosure over the phone. There is likely to be a need for reduced disclosures. The provision of verbal phone disclosures is fundamental. Without these the ability for people to get assistance over the phone, i.e. from a call centre, will be significantly reduced. For those without digital means (or desire/access to travel to a physical premise, if indeed one exists) it will create a high barrier to serve their financial needs – causing an unintended disadvantage to these groups.

Transition requirements

Question 34: Is it necessary for the disclosure regulations to provide a transitional period for the industry to comply with the new requirements beyond this nine-month period?

We consider it likely that more than nine months will be required to transition to the new regime. FAPs will need to develop new disclosures and system changes are likely to be needed, including potentially to evidence verbal disclosures. The build time for system changes will vary depending on the complexity of the requirements. For example, disclosure of a dollar value for a particular sale would take longer to implement. In addition, it may only be possible to make changes to incentive schemes to meet new expectations or to facilitate disclosures at specific times of year aligned to the staff performance and pay agreement cycle.

Disclosure to wholesale clients

Question 36: Should the regulations require the provision of additional information regarding the wholesale designation in some circumstances? If so, when would it be appropriate for this to take place?

The circumstances in which additional information would be required should be limited.

Submission template

Disclosure requirements in the new financial advice regime

Instructions

This is the submission template for the discussion document, *Disclosure requirements in the new financial advice regime*.

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in the discussion document by 5pm on **Friday 25 May 2018**. Please make your submission as follows:

1. Fill out your name and organisation in the table, “Your name and organisation”.
2. Fill out your responses to the consultation document questions in the table, “Responses to discussion document questions”. Your submission may respond to any or all of the questions in the discussion document. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.
3. We also encourage your input on any other relevant issues in the “Other comments” section below the table.
4. When sending your submission:
 - a. Delete these first two pages of instructions.
 - b. Include your e-mail address and telephone number in the e-mail or cover letter accompanying your submission – we may contact submitters directly if we require clarification of any matters in submissions.
 - c. If your submission contains any confidential information:
 - i. Please state this in the cover letter or e-mail accompanying your submission, and set out clearly which parts you consider should be withheld, together with the reasons for withholding the information. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act 1982.
 - ii. Indicate this on the front of your submission (e.g. the first page header may state “In Confidence”). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
 - iii. Please provide a separate version of your submission excluding the relevant information for publication on our website (unless you wish your submission to remain unpublished). If you do not wish your submission to be published, please clearly indicate this in the cover letter or e-mail accompanying your submission.

Note that submissions are subject to the Official Information Act 1982.

5. Send your submission:

- as a Microsoft Word document to faareview@mbie.govt.nz (preferred), or
- by mailing your submission to:

Financial Markets Policy
Building, Resources and Markets
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140
New Zealand

Please direct any questions that you have in relation to the submissions process to faareview@mbie.govt.nz.

Submission on discussion document: *Disclosure requirements in the new financial advice regime*

Your name and organisation

Name	Brian Klee
Organisation	<ul style="list-style-type: none"> Life Info Limited – www.life-info.org.nz Klee Consulting Services Limited – www.insuranceclaimsupport.co.nz

Responses to discussion document questions

1	<p><i>Do you agree with the objectives that we have identified? Are there any further objectives that the disclosure requirements should seek to achieve?</i></p> <hr/> <p>Yes, but similarly an appropriate disclosure regime for Insurance Product Providers.</p> <p>Regarding consumer information, our website Life Info has been established to provide <u>impartial</u> consumer-sensitive information. We are hoping that the Financial Services Council, (or even the FMA) can assist to provide long-term financial assistance for this initiative.</p>
The timing and form of disclosure	
2	<p><i>What are your views on the proposal that information be disclosed to consumers at different points in the advice process?</i></p> <hr/> <p>Lengthy initial disclosure tends to be overlooked by consumers during the introductory stages of obtaining financial advice. Splitting this up at specified points would be a significant improvement.</p>
3	<p><i>Will this approach improve the effectiveness of disclosure by increasing consumers’ engagement and understanding of the information they receive? Why or why not?</i></p> <hr/> <p>Yes, especially with insurance advice, e.g. replacing cover and issues that can arise during the underwriting phase. This can trigger critically information that must be disclosed to the consumer, not apparent during the initial stages.</p>
4	<p><i>Should those giving advice be required to tell consumers that they can access general information about the provider or refer to this general information in advertising material?</i></p> <hr/> <p>Yes, that would be reasonable, using “Links” during a Statement of Advice.</p>

The form of disclosure

5

If the regulations were to provide flexibility on the form and timing of disclosure, how can they be drafted in such a way to provide certainty to the industry of what is required?

Certainly, there can be a Base Disclosure requirement but then each there must be disclosure pertaining to the particular area of advice, i.e. investment, insurance, mortgage, etc.

6

Should a person who contravenes the presentational requirements under the proposal be subject to civil liability or should it be dealt with by an FMA stop order or similar regulatory response?

I have witnessed the benefits and skills of Dispute Resolution and I'm very much in favour of this format for consumers. For the less-serious contraventions, these bodies should manage and record these cases on behalf of the FMA. Only the more serious breaches should be referred to the FMA.

What information do customers require?

7

Do you agree that information relating to the licence, duties and complaints process should be made available to consumers?

I don't know any reasons of why not. Approved Financial Advice Qualifications (CFP, CLU, Diplomas, etc.) must be disclosed, just as other professions. Also, I believe each financial provider should be registered, rather than them being 'lost' within Financial Advice Providers.

8

Do you think that the regulations should provide prescribed text for the disclosure of these pieces of information?

Don't know – I would like to see the form before commenting.

9

Should consumers be informed of their ability to access a free dispute resolution service when making a complaint? Should this apply to all financial service providers who provide services to retail clients (in which case it might be implemented via the scheme rules rather than in regulations under the Bill)?

Definitely! Unfortunately, many feel they would have to employ the expensive services of a lawyer/barrister and dismiss their complaints. I know this from those I assistance with insurance claims after they have failed to get traction with their insurer.

I also believe that the thresholds must be increased, especially for insurance disputes.

Information about the financial advice

Limitations in the nature and scope of the advice

10

Do you agree with the proposal in relation to the disclosure of nature and scope of advice, as set out on page 19? Why or why not?

Yes, but also supported by disclosing the industry qualifications held by the financial adviser.

11

How can the regulations ensure that consumers receive an accurate indication of the extent of the market that can (and will) be considered?

Besides disclosing their industry qualifications, disclose which Financial Providers the financial adviser, or firm, can give advice on, and transact business on behalf of.

Costs to client

12

Do you agree with the proposal in relation to disclosure of costs to clients, as set out on page 20? Why or why not?

Broadly but it must be a fair-playing field, e.g. should those on salaries exceeding \$100,000 p.a. disclose like public company directors? Financial advisers need to disclose how they are paid and if it's commission, this should be presented in an approved form. Regarding insurance advice, if they are offering a selection of insurers, each insurer's commission rate should be presented.

13

What role, if any, should the disclosure regulations play in ensuring that consumers are aware of the other fees that they might be charged should they follow the advice (e.g. bank fees, insurance premiums, management fees)?

Again, no difference to my answer in 12 above.

Commission payments and other incentives

14

Do you agree that commissions and other incentives should be disclosed in more general terms early, followed by more detailed disclosure later in the advice process?

Incentives must be separated out from sales commissions. All 'soft dollar' payments received in each calendar year must be clearly defined and disclosed separately.

15

If the regulations were to include a materiality test that would determine the commissions and incentives that needed to be disclosed, what would an appropriate test be?

Insurance commissions should equate to the percentage of the initial annual premium and renewal premiums. This needs to be applied to both Upfront, 'Hybrid' and Level commissions. Fees would be the hourly rate, or percentage of any lump sum, and any other costs to be recovered.

Options for how to disclose commissions and other incentives	
16	<p><i>Is it necessary for the disclosure regulations to be prescriptive regarding the disclosure of commissions and other incentives? If so, why?</i></p> <hr/> <p>As above.</p>
17	<p><i>Which of the options (as set out in pages 21-22) do you prefer? What are these costs and benefits of the options?</i></p> <hr/> <p>A combination of Option 1 and 2. Option 1 for sales commission and Option 2 for incentives and other 'soft dollar' payments.</p>
Other conflicts of interest and affiliations	
18	<p><i>Do you agree that those giving financial advice should be required to disclose all relevant potential conflicts of interest?</i></p> <hr/> <p>Absolutely.</p>
19	<p><i>Are there any additional factors that might influence financial advice that should be disclosed?</i></p> <hr/> <p>Obviously, the limitations a financial adviser is under regarding which financial providers they can use. This applies to banks, sole agents, etc.</p>
20	<p><i>Should these factors be disclosed alongside information about the conduct and client care duties that financial advice will be subject to (as discussed on page 17)?</i></p> <hr/> <p>Yes, but I cannot totally agree with #45, i.e. "we do not think that requiring specific qualifications to be disclosed would necessarily benefit consumers." Qualifications are certainly relevant. I would expect that a person who holds industry qualifications (CFP or CLU), will take greater "client care" than someone new to financial services. However, your last sentence is correct.</p>

Information about the firm or individual giving advice

Details of relevant disciplinary history

21 *Do you agree with the proposed requirement to disclose information relating to disciplinary history and bankruptcy or insolvency history? Why or why not?*

A no-brainer – this must be mandatory.

22 *Should the disclosure of information relating to disciplinary history and bankruptcy or insolvency history also apply to the directors of a financial advice provider?*

Yes – as above.

23 *Should financial advice providers also be required to disclose if they have been found to have contravened a financial advice duty?*

Yes – as above.

Additional options

A prescribed summary document

24 *Do you think that a prescribed template will assist consumers in accessing the information that they require?*

No sure – I would like to view what's considered first.

25 *How could a prescribed template work in situations when advice is not provided in person (i.e. if it is provided over the phone or via an online platform)?*

n/a

Requirements for disclosure provided through different methods

26 *Should the regulations allow for disclosure to be provided verbally? Why or why not?*

Difficult to generalise but based on this content provided, no.

27 *If disclosure was provided verbally, should the regulations include any additional requirements?*

Documented client file notes.

Requirements for financial advice given through different channels	
28	<p><i>Should the regulations provide for any additional requirements that would apply when advice is given via a robo-advice platform or over the phone?</i></p> <p>I have no opinion at this stage other than phone conversations ought to be recorded.</p>
29	<p><i>Do consumers require any additional information when receiving financial advice via an online platform?</i></p> <p>Clearly, limitations.</p>
Disclosure when replacing a financial product	
30	<p><i>Should those advising consumers to replace financial products be required to provide a prescribed notification? If so, what should a prescribed notification contain?</i></p> <p>Yes – in relation to insurance, that prescribed by the Financial Services Council (FSC). Based on the research I undertook recently for a claim I am assisting with, less than 50% of the insurers require a formal disclosure document highlighting consumer risks. One insurer also states, in ‘fine print’, that if the existing contract is not cancelled, the new contract will be void. Insurer regulation is urgently required.</p>
31	<p><i>Should this apply to the financial advice given on the replacement of all financial advice products?</i></p> <p>Yes, especially to inform consumers of risks they need to be aware of.</p>
Information to existing financial advice clients	
32	<p><i>Should the regulations provide for reduced disclosure requirements for existing clients? If so, in what situations should it apply and what information should consumers receive?</i></p> <p>Yes, but changes must be disclosed.</p>
33	<p><i>Should there be a limit on the length of time that this relief would apply?</i></p> <p>Perhaps 3 years?</p>
Transitional requirements	
34	<p><i>Is it necessary for the disclosure regulations to provide a transitional period for the industry to comply with the new requirements beyond this nine-month period?</i></p> <p>Depends how long away insurer conduct reform is! See addition comments at the end...</p>
35	<p><i>Should the regulations include specific transitional provisions for AFAs authorised to provide personalised DIMS under the FA Act?</i></p> <p>No opinion</p>

Disclosure to wholesale clients	
36	<i>Should the regulations require the provision of additional information regarding the wholesale designation in some circumstances? If so, when would it be appropriate for this to take place?</i>
	No opinion
37	<i>Do you have any alternative suggestions for how the regulations could ensure that wholesale clients are aware of what it means to be deemed a wholesale client?</i>
	No opinion

Other comments

I am concerned that regulation around insurer conduct has taken too long to enact. It's universally recognised that a clear majority of financial advisers do a careful job advising consumers and it's only a very small majority that are guilty of misconduct.

Insurer conduct law reform is just as important as financial adviser regulation and these two should be introduced at the same time. It should be a 'top-down' approach, not 'bottom-up'. The Law Commission's recommendations were tabled 26 years ago!

I am pleased by Commerce Minister's announcement in Good Returns dated 22nd May, but how long is public consultation going to take?