moneyadvicescotland
Scotland's Money Charity

Written submission from Money Advice Scotland

Economy, Jobs and Fair Work Committee

Financial Guidance and Claims Bill LCM

About Money Advice Scotland

1. Money Advice Scotland is Scotland's Money Charity. Our mission is to be the driving force towards financial wellbeing for the people of Scotland.
2. We welcome the invitation from the Convener of the Economy, Jobs and Fair Work Committee seeking our views on the Financial Guidance and Claims Bill LCM. Our comments focus on the core functions of the Single Financial Guidance Body (SFGB) set out within the bill, and the regulation of Claims Management Companies (CMCs).

Pensions guidance

3. While we agree that there is no requirement for an LCM given that occupational and personal pensions is a reserved matter, we would highlight the importance of recognising how this policy area often interacts with the provision of debt advice.
4. Pension freedom has been heralded as one of the most radical reforms in a generation, allowing people to access pots from the age of 55 rather than being obliged to purchase an annuity. This brings added flexibility, however, it also creates potential complexity for people in debt.
5. From a money advice perspective, pension freedom raises the question of whether a person should draw down on these pots to pay off debts in the short-term, but with potential repercussions for future retirement income.
6. At present, there are very few individuals who may be described as "hybrid advisers" – that is advisers who hold joint permissions for both debt counselling and regulated pension advice – to advise whether a person should cash in a pension to repay debts.
7. A gap emerges within the advice process, therefore, where both the money adviser and the independent financial adviser (IFA) is only permitted to take on one half of the problem. The FCA are clear on the rules – money advisers shouldn't be straying

into pensions advice, and IFAs without debt counselling permissions should steer well clear of debt advice.

8. The number of people entering bankruptcy aged 55 or over increased by 20% between 2013-14 and 2016-17. Applications to the Debt Arrangement Scheme from people aged over 55 increased by 21% over the same period. If this trend continues, then a growing number of people in debt may be faced with a scenario where they are unable to access comprehensive advice.

9. In 2017, we published a joint research paper that highlights this gap in advice and identifies potential solutions going forward.[1] The SFGB and the Scottish Government will need to be mindful of these factors as it considers the implications of the bill.

Devolution of debt advice funding

10. Scotland has a distinct debt and insolvency landscape that is not always fully understood. We welcome the proposal to devolve debt advice funding and called for greater autonomy in this area during the early consultation phases on the new financial guidance body. While we recognise that this process is in its formative stages, it is important to take this opportunity to highlight some initial concerns.

11. It is imperative that the funding cascaded to local authorities or other funders is ring-fenced for the provision of debt advice. Funding of money advice services has declined significantly in recent years. Analysis from the Improvement Service estimates that spending by local authorities on money advice services reduced by around 15% between 2014-15 and 2015-16.[2] Devolution of debt advice funding should also provoke a closer examination of whether the current wider provision is adequate in the context of falling real incomes and rising consumer credit borrowing.

12. The decision to devolve debt advice funding arrives at the same time that the Money Advice Service has published a new five-year approach to commissioning.[3] The strategic plan identifies priority groups within the population who are most at risk of over-indebtedness.

13. In our view, if debt advice is to be devolved then the responsibility for identifying and targeting priority groups should also rest with the Scottish Government and the local authorities and advice agencies who will be delivering these services. Local agencies are often best placed to identify the needs of the local area and target services accordingly.

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[1] https://masassets.blob.core.windows.net/cms/files/000/000/821/original/MAS_The_Advice_Gap_October_2017_Final.pdf

[2] http://www.improvementservice.org.uk/documents/money_advice/MAPMF/MAPMF-data-analysis-2015-16/mapmf-data-analysis-report-2015-16.pdf

[3] https://masassets.blob.core.windows.net/cms/files/000/000/877/original/MAS0128_Debt_Commissioning_December_2017._v4.pdf

14. The provision of debt advice funding needs to be able to flex and react to meet the needs of clients. It seems somewhat counter-intuitive to give the Scottish Government greater remit in this area via devolution of debt advice funding, only for its priorities to remain pre-determined by the SFGB.

15. We welcome the commitment from the Scottish Government to undertake significant engagement with stakeholders and advice providers, and look forward to contributing to this process.

Money guidance

16. We agree that an LCM is required to cover aspects of the SFGB's money guidance function. There is a natural overlap between debt advice and money guidance, and this is equally apparent within the Money Advice Service's debt advice commissioning strategy for 2018-23.

17. The commissioning strategy considers it beneficial to deliver debt advice and money guidance in "a blended fashion." In our view, however, difficulties may arise within this scenario in the fact that the debt advice strand is commissioned by the Scottish Government, but the money guidance function remains the responsibility of the SFGB. The prospect of providing an integrated service in these circumstances seems laced with difficulty. Priorities of the two respective funders may not be analogous. This will also require services to report to two funding streams, leading to duplication of effort as well as the impact of lost time that would be better served dealing with clients.

18. Plans to integrate debt advice and financial capability also blurs an important distinction. Persistent low income is the primary cause of over-indebtedness, but by assimilating financial capability and debt advice, this assertion could be undermined – the message to clients could now be perceived as "you are in debt because you haven't managed your money well enough." At the point of crisis, the focus should be on the debt advice aspect to ensure that the adviser does not lose engagement with the client.

19. Integration is often a by-word for cuts. It is not difficult to foresee a scenario arising whereby the money guidance function is bolted on to the existing responsibilities of the debt adviser, without additional funding or resources. We have already noted our concerns about unsustainable reductions to the budgets. Debt advice providers should not be expected to do more with less.

Strategic financial capability

20. The Financial Guidance and Claims Bill requires the SFGB to work with the Scottish Government in co-ordinating a national strategy to improve financial capability, as well as the provision of financial education to children and young people.

21. We agree that this is an area that requires closer collaboration and coordination. Financial education has been a mandatory part of the curriculum in Scotland since 2008. In practice, however, provision can be patchy and inconsistent. The Curriculum for Excellence brings opportunities for financial education given its relevance across disciplines, although concerns have been raised about the confidence of teachers to deliver on this subject area.

22. Since 2015, our own financial capability project has delivered workshops in primary and secondary schools to over 2,000 pupils. We are aware that we are only one of a number of similar organisations (whether in the third sector or commercial sector) who deliver financial education.

23. External organisations have an important role to play in financial education, but improved consistency and coordination in provision is required. The disjointed approach from a number of unrelated providers means it is difficult to obtain a common standard of what works in financial capability interventions and, still more importantly, what does not work. In 2016-17, our Chief Executive chaired the What Works consortium (funded by the Money Advice Service) which brought agencies from across the UK together to develop a new competency framework for financial capability. This workstream is ongoing and will report shortly.

24. As we noted under paragraph 18, a distinction must be retained between debt advice and financial capability. No amount of financial capability is sufficient to protect against a level of income that falls below a basic standard. Low income – rather than low levels of financial capability – is the primary cause of over-indebtedness.

Regulation of Claims Management Companies (CMCs)

25. We welcome the proposed introduction of UK-wide regulation of CMCs by the FCA.

26. In terms of our own areas of interest, this has most relevance to the regulation of financial products and services, particularly in relation to PPI claims. To date, £28.8bn has been paid back to people who were mis-sold PPI and claimed compensation. In 2016, the National Audit Office reported that an estimated £3.8bn – £5bn was received by claims management companies between 2011 and 2015, representing a significant proportion of the compensation value.

27. The absence of adequate regulation (aligned to an initially low-profile public awareness campaign) has led to consumer detriment. A large number of people have effectively lost out twice: first in terms of the mis-selling of a product that was not required; and second by not receiving full compensation due to disproportionately high fees.

28. The proposed interim fee cap is welcome – particularly in light of the impending 29 August 2019 deadline for PPI compensation claims – but insufficient at 20 per cent. This still represents a considerable mark-up on the actual work undertaken, particularly when a number of trusted consumer websites provide guidance and templates to reclaim compensation at no charge.

29. If CMCs are to be regulated, we agree that it is sensible for this to be undertaken on a UK-wide basis. Currently, a gap exists whereby regulation is delivered by the Ministry of Justice Claims Management Regulation (CMR) Unit in England and Wales, but there is no equivalent mechanism in Scotland. This has led to concerns that unscrupulous firms may take advantage of the regulation gap in Scotland. To prevent this, we are of the view that consistency across the UK is desirable with the FCA well-placed to fulfil this role.

Financial Implications

30. We restate our call for the newly devolved funding to be ringfenced for the purposes of debt advice services.

31. As noted, the Scottish Government will receive c.£4.5m for the period between the establishment of the SFGB and the next UK Government Spending Review. Previously we noted concerns that the top-down approach to identifying need is something of a blunt instrument. When research from CACI showed Scotland to be the least over-indebted part of the UK, it appeared that the debt advice funding allocation from the FCA levy for Scotland was adjusted correspondingly. However, this analysis may overlook factors such as the additional cost of delivering debt advice services, particularly in remote and rural Scotland.

32. We would also urge the Scottish Government to resist any attempts to reduce the overall debt levy in the coming years. Indeed, our members have previously called for the levy to be extended to utility companies (such as gas and electricity providers and mobile phone operators) in response to the growing prevalence of these types of debts. The advice sector currently awaits the outcome of Peter Wyman's independent review of debt advice which may yet offer a clearer indication of the future of the levy.

33. As noted throughout this submission, demand for debt advice is on the increase, no doubt driven by the wider socio-economic context of stagnating incomes, rising inflation and the falling real value of benefits. Total outstanding consumer credit also continues to climb and now stands at £205.3bn according to the latest Bank of England release. Yet this only represents part of the debt picture as our members report the growing prevalence of what we refer to as living cost debts – people who are falling behind on essential bills such as rent, council tax and fuel bills.

34. We would call on the Scottish Government to ensure that the devolution of debt advice marks a refreshed commitment to a service that is essential to some of the most vulnerable people in society.

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