Financial Guidance and Claims Bill:

Legislative Consent Memorandum

Written briefing from Citizens Advice Scotland

Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Advice for Scotland provides information on rights and helps people solve their problems.

In 2016/17 the Citizens Advice network in Scotland helped over 310,000 clients in Scotland alone and dealt with over one million advice issues. With support from the network clients had financial gains of over £120 million and our Scottish self-help website Advice for Scotland received over 4 million unique page views.

Introduction

The Citizens Advice Service is the largest provider of independent debt advice in Scotland. In 2016/17, citizens advice bureaux in Scotland advised on 91,000 new debt issues for clients in Scotland, covering debt of almost £128m. The client financial gain as a result of this advice was £28m.

Citizens Advice Scotland (CAS) welcomes the opportunity to highlight issues relating to the LCM on the Financial Guidance and Claims Bill. The Citizens Advice Service in Scotland has been a key provider of debt, money advice and pensions guidance, and CAS works closely with the Money Advice Service (MAS) in delivering these services. The changes proposed by the Bill will have a significant impact on how our services are provided in the future and on how people are supported with their finances and debt.

Consultation with stakeholders

We welcome the commitment from the Scottish Government to engage with stakeholders to ensure that debt advice in Scotland is responsive to and reflective of the needs of consumers in Scotland. As the biggest independent provider of debt advice in the country, and a key delivery partner of Pensionwise and the Money Advice Service, the Scottish CAB Service needs to be integral to these discussions.

Debt advice

The Bill provides for the devolution of levy funding for debt advice to the Scottish Government. We broadly welcome this change, which should allow better targeting of funding to the areas and people who most require support. Due to the differences between Scotland and the UK as a whole, including devolved services and the geography of the country, priority groups can be different in Scotland.

However, this change comes at a time when the debt advice sector in Scotland is estimated to have lost 15% in local authority funding in the year 2015/16 and a third of councils have reduced funding again for 2016/17.[1] It is urgent that future funding of debt advice in Scotland is sufficient to ensure adequate coverage and consistency of debt advice services going forward. It is important that the funding to be devolved is used for frontline advice as much as possible.

CAS recently responded to the consultations on the Future Funding of Debt Advice and the MAS strategic approach to debt advice commissioning 2018-23. Both of these consultations will have an impact on how debt advice is funded and provided, and the devolution of funding and Bill in general represents an opportunity to make appropriate arrangements that meet the needs of Scottish consumers.

Money guidance

CAS welcomes the statutory objective on the Single Financial Guidance Body (SFGB) to work with the Scottish Government on the provision of information and advice, as well as on a national financial capability strategy. It is important that this joint working is embedded in the working practices of the two bodies.

The LCM recognises that some of the money guidance function falls within the competence of the Scottish Parliament, whilst other aspects remain in the competence of the UK Parliament. A UK wide approach, with aspects being designed in Scotland, could be a positive approach, ensuring consistency and clarity. However, there is potential for mixed messaging for consumers and for duplication (or gaps) in provision, so joint working between the governments needs to embedded at the earliest opportunity.

The Scottish Financial Capability Forum has developed a holistic strategy to seek to minimise gaps in money guidance, and CAS believes that support and resources for the development of

[1] http://www.improvementservice.org.uk/documents/money_advice/future-of-money-advice-services.pdf *and* http://www.improvementservice.org.uk/documents/money_advice/mapmf-impact-of-la-budget-cuts.pdf

this strategy is vital.

At the same time, the loss of the Money Advice Service face to face guidance provision in Scotland, which supported nearly 10,000 people yearly, has left a gap in financial capability provision, and the new money guidance body should seek to ensure adequate and commensurate resources are made available in Scotland for basic, ongoing financial capability work.

Just as we welcome the commitment to direct more funds to the front line, it is also important that the new guidance body works with providers on the front line to capture their expertise and experience. Regular, early engagement with existing debt advice providers is essential to ensure commissioning focuses on what works for clients and enables strategic, well-managed development.

The money advice guidance body needs to work closely with Scottish advice providers to ensure that there is a regional aspect to contract design. Scotland has different debt solutions to the rest of the UK, with extra requirements on debt advice providers for the Debt Arrangement Scheme and Bankruptcy and this difference needs to be captured in contract design.

Strategic Financial Capability

Scotland currently has a ten year Financial Capability Strategy with its action plans developed with a wide range of stakeholders. The strategy complements the overall UK strategy, but differs from the rest of the UK with specific Scottish activities. It is important that the long term strategy for Scotland continues to be supported and that the UK and the Scottish Governments work to this end.

False claims about provision of information

CAS supports the provision to make it an offence to defraud the public by impersonating the SFGB. In our experience, the launch of government schemes or organisations, particularly the Green Deal, has lead to scams that use the name to create credibility, therefore consumer protections in this area are to be welcomed.

Claims Management Companies

CAS supports the introduction of regulation of claims management companies by the Financial Conduct Authority to Scotland. This has previously been a gap in regulation, where consumers in Scotland had a lower level of protection than in the rest of the UK. While not a huge area of advice at citizens advice bureaux, there were 228 reports of issues with claims management companies by clients in 2016/17, with 46 different companies named in cases. Issues reported by consumers included unexpected charges after being told that the service was 'no win; no fee', cold calling, high cancellation fees, and probable scams. While relatively few of the companies involved appear to be based in Scotland, the extension of regulation to Scotland will provide greater consumer protection.

Breathing Space

The Financial Guidance and Claims Bill was amended in the House of Lords to include a six week breathing space for debtors. While this applies to England and Wales and not to Scotland, and therefore does not form part of the LCM, CAS believes it is worth examining the current situation in Scotland.

Scotland is currently the only part of the UK that allows debtors a statutory right to have their fees and interest frozen under the Scottish "debt arrangement scheme". Separately under the Bankruptcy and Debt Advice Scotland Act debtors are also provided with a legal moratorium on creditor action, for 6 weeks, whilst they seek advice on their options. There is currently no equivalent to these Scottish innovations elsewhere in the UK. In these countries arrangements to freeze interest and charges, and to suspend debt recovery and enforcement action, are made voluntarily between debtors and their creditors.

The six week moratorium for debtors in Scotland was a very welcome addition and has benefitted those seeking to repay their debts. However, the breathing space proposals for England and Wales may go beyond what is currently offered in Scotland. For example, these proposals would stop interest and charges being added to debts, whereas in Scotland the moratorium only prevents diligence and sequestration. Feedback from debt advisers also suggests that the six weeks isn't always long enough to put in place the statutory repayment plan. In light of the proposals for England and Wales, this would represent an opportunity for the Scottish Government to consider whether the moratorium in Scotland should freeze interest and charges on debts, and whether it should be longer than six weeks.