



Gordon Lindhust MSP  
Convenor, Economy, Jobs and Fair Work Committee  
Scottish Parliament

By email only.

12 January 2018

Dear Mr Lindhurst

### **Financial Guidance and Claims Bill**

I refer to your letter of 20 December 2017 seeking our written evidence on the legislative consent memorandum (LCM) on the above Bill.

As you are aware the Bill's primarily makes provision for the:

1. establishment of a new financial guidance body – the Single Financial Guidance Body (SFGB);
2. funding of debt advice in Scotland, Wales and Northern Ireland; and
3. regulation of claims management services in England and Wales and Scotland.

In principle we are broadly supportive of the Bill's purpose and provisions.

We would agree with the Scottish Government's comments (paragraph 7 (iii)) that there is benefit in money guidance being delivered on a UK wide basis to assist with consistent and quality of advice. The creation of the Single Financial Guidance Body (SFGB) will assist in that regard.

We acknowledge that the Bill embeds measures to ensure that the Scottish Government is integrated into the work of the SFGB. Beyond that there will be a need for the SFGB to be resourced adequately to deal with Scottish dynamics and dimensions as a result of differences in legal systems, socio-economic factors and Government policies and priorities. Notwithstanding the measures within the Bill which ensures the Scottish Government is embedded within the governance structures, it is unclear how the Scottish Government plans to ensure its voice is heard with sufficient influence that it has a positive outcome on the work of the SFGB and deliver what is needed for Scotland.

We welcome the indication in paragraph 17 that the Scottish Government acknowledge that further work will be required to make decisions on how debt advice in Scotland is to be delivered and that they intend to undertake significant engagement with stakeholders to inform those decisions. We would welcome the opportunity to be involved in those discussions.

As you may be aware, Insolvency Practitioners (IPs) undertake a significant level of training, are required to pass strenuous exams and demonstrate substantial practical experience prior to being authorised to act as an IP. Thereafter they are heavily regulated and supervised on an ongoing basis. As a profession they are best placed to provide debt advice to those facing financial difficulties which include some of the most vulnerable in society. Most IPs will provide this debt advice free of charge.

You may be aware that the FCA took over the regulation of consumer credit from the Office of Fair Trading in 2014. Following this the parameters around the authorisation required to carry out the regulated activity of debt advice (or debt counselling as it is defined in legislation) changed considerably. The ability of IPs to provide debt advice to consumers was restricted to situations where there is reasonable contemplation that the IP will subsequently be appointed as a trustee under a trust deed or in a sequestration (the insolvency exclusion). To provide debt advice when the insolvency exclusion does not apply the IPs firm would have to seek full authorisation from the FCA – a costly and lengthy process. This also results in double regulation with the resultant additional costs which is detrimental to the Scottish economy.

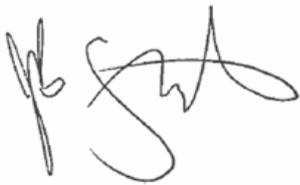
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As a consequence of the changes, there has been a limitation of access to debt advice for consumers and there is anecdotal evidence of increased waiting times to access debt advice through third sector debt advice services which were already overstretched. We would suggest that assurances are sought from the Scottish Government that they will use the opportunities which the Bill and its subordinate legislation provides to ensure that action is taken to tackle the above issue and ensure that capacity for debt advice is maximised. This will ensure that the people of Scotland can obtain appropriate debt advice when needed.

We take this opportunity to highlight that the proposed devolution of the levy associated with the debt advice function is anticipated to result in a significant additional level of funding flowing to Scottish Government. The Committee will be aware that proposals brought forward by the Scottish Government relating to the funding of the Accountant in Bankruptcy were revoked following previous evidence provided to the Committee. The Accountant in Bankruptcy is currently consulting on new proposals to which ICAS shall be submitting a response in due course. The Accountant in Bankruptcy, together with other agencies, provides financial support for the provision of debt advice in Scotland. Additional financial resources to support that provision will be a valuable benefit to the people of Scotland.

I trust the above is of assistance to the Committee in considering the LCM. I shall of course be pleased to provide any further information should this be necessary.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bruce Cartwright', written in a cursive style.

**Bruce Cartwright**  
**Chief Executive (Designate)**