

Cabinet Secretary for Economy, Jobs and Fair Work
Keith Brown MSP



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Gordon Lindhurst
Convener
Economy, Jobs and Fair Work Committee
Scottish Parliament

By email

25 January 2018

Dear Gordon,

FINANCIAL GUIDANCE AND CLAIMS BILL: REGULATION OF CLAIMS MANAGEMENT COMPANIES: FURTHER AMENDMENTS

I write to inform the Economy Committee of the Scottish Government's agreement to UK Government amendments in respect of the Financial Guidance and Claims Bill which will be lodged shortly.

These further amendments relate to the regulation of Claims Management Companies (CMCs) by the Financial Conduct Authority ("FCA") and will prevent a potential risk of CMCs trying to avoid FCA regulation, and fee capping, by becoming an alternative business structure under the Legal Services (Scotland) Act 2010 ("ABS"). In doing so, it is also important that whether a solicitor or CMC engages in non-incident financial services such as "PPI claims" that both are equally subject to the same fee-capping regime.

To deliver this aim across the jurisdictions, the amendments will provide the Law Society of Scotland with the power to impose a fee cap. While we consider that there is a very low risk in Scotland, we agree with the principle of equity across the jurisdictions and are therefore content that provision should be made for fee capping in Scotland. The power will be limited to PPI and similar claims and therefore any overlap with the provisions contained in the Civil Litigation (Expenses and Group Proceedings) Bill would be very small and could be managed in the detail of any rules of the Law Society of Scotland. Further, HM Treasury will have a delegated power to extend the Law Society's fee capping power by regulations should that prove necessary. In that event, any such regulations would need the consent of Scottish Ministers.

The existing provisions in the Bill have been addressed in the LCM which is currently being considered by the Committee, and I appeared before the Committee in this respect on 16 January 2018. We have considered the terms of that LCM in light of the further amendments to be tabled and consider that these do not require a supplementary LCM. We consider that the further amendments are related to, and consequent to, those arrangements for the regulation of CMCs in Scotland by the FCA which is covered in the LCM.

The amendments as tabled on 25 January 2018 will be available at:

<https://services.parliament.uk/bills/2017-19/financialguidanceandclaims/documents.html>

Our officials are working together to monitor progress of the Bill at Westminster and ensure that the Scottish Parliament has had the opportunity to consider consent prior to conclusion of the Bill.

I am sending a copy of this letter to Annabelle Ewing, Minister for Community Safety and Legal Affairs and I understand that she intends to write in similar terms to Margaret Mitchell, Convenor of the Justice Committee, given the link between the amendments and the Civil Litigation (Scotland) Bill which they are currently scrutinising.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'KB', with a long horizontal flourish extending to the right.

KEITH BROWN