

Scotland Bill

Money Advice Scotland

Introduction

Money Advice Scotland welcomes the opportunity to submit written evidence to the Devolution (Further Powers) Committee on the legislative proposals contained in the Scotland Bill. This evidence sets out our main concerns regarding the bill.

Money Advice Scotland is the national umbrella organisation in Scotland, which was set up in 1989 to promote and champion the development of free, independent, impartial, confidential money advice and financial inclusion. Our three objectives are:

- Leading and improving the education and training of money advisers in Scotland;
- Leading and improving the financial health and wellbeing of the people of Scotland;
- Leading and improving public and social policy in Scotland.

Some of our main concerns are not related directly to the detailed provisions of the Bill, but are important matters of policy, practice and funding in the context of further devolution.

General comments

1. *Funding of money advice services*

Levels of debt in Scotland are on the increase. Recent research from StepChange¹ found, for example, that its clients in Scotland had the highest rate of payday loan debt among the UK nations, with an average balance of over £1400. A significant increase in the numbers of people seeking debt advice is likely to be on the horizon, for the following reasons:

- the forthcoming anticipated rise in interest rates
- the issues around capping of pay day lending
- the anticipated exit from the marketplace of a number of Debt Management Companies, due to changes in regulation following the Financial Conduct Authority's recent thematic review of the quality of debt management advice, which will leave many people without access to advice.

It is therefore vital that adequate funding is made available to ensure that there are sufficient advisers available to provide debt advice. At present, local authorities are the primary funders of money advice services in Scotland, spending an estimated

¹ Step Change (2014) Scotland in the Red:
http://www.stepchange.org/Portals/0/documents/media/Scotland_in_the_Red.pdf

total of £20 million per annum.² Most local authorities provide money advice directly, as well as funding voluntary sector organisations, such as citizens' advice bureaux, to provide money advice.

While financial services will remain a reserved matter, money advice is currently devolved, and this needs to be better reflected in any future money advice strategy, to ensure that the available resources are put to the most effective use. We would like to see a much wider national strategy than the existing arrangements.

Currently the UK Money Advice Service, which was set up by the UK Government, funds some projects in Scotland, through funding allocated via the Scottish Legal Aid Board. The Money Advice Service is funded by the Financial Conduct Authority (FCA) through an allocation of the levy the FCA collects from the financial services firms it regulates. The Money Advice Trust, a charity which receives funds from the credit industry and distributes these to the money advice sector, also operates across the UK, but only a small proportion of these funds currently come to Scotland for the funding of money advice.

In our view there should be a national Money Advice Service for Scotland, which receives a fair and proportionate share of the UK levies collected from financial services providers. Such a national service could deal with the issues which are particular to the needs of the people of Scotland, from both a geographical and sociological point of view. If the funding of money advice was co-ordinated through a Scotland-wide strategy, there could be economies of scale and improvements in standards of money advice delivery. Also there would be a greater connection between the banks and advice providers if they are funding activity in Scotland.

We also note that clause 43 of the Scotland Bill provides that the provision of consumer advocacy and advice is to be devolved. Much of the work which is carried out by money advisers could be described as 'consumer advice'. According to the most recent data from Citizens' Advice Scotland³, the top three consumer issues brought to its bureaux and its consumer helpline in 2013/14 were: unsecured loans; credit/debit/store/charge cards; and bank accounts. We would therefore hope that a significant proportion of any funds made available for consumer advice in Scotland in the future might be targeted towards services offering money advice.

While ensuring the adequate provision of money advice is crucial, it is also vital that resources are allocated to financial capability programmes aimed at preventing people from getting into financial difficulty in the first place. The Bankruptcy and Debt Advice (Scotland) Act 2014 placed an emphasis on the provision of appropriate financial education, enshrining in law Scotland's Financial Health Service (SFHS), which was established in January 2015. The SFHS helpline is run by Money Advice Scotland on behalf of the Scottish Government. We also created a Financial Capability Team in November 2014, which is responsible for the national enactment

²Money Advice Service and the Improvement Service (2013) Money Advice Services Across Scotland's Local Authorities: http://www.improvementservice.org.uk/documents/money_advice/money-advice-services-across-scotlands-local-authorities.pdf

³ http://www.cas.org.uk/system/files/publications/Consumer%20Snapshot%20201314_0.pdf

of the Financial Capability e-Learning Module, an interactive online learning tool which has been created in conjunction with the Accountant in Bankruptcy and the Money Advice Service. The team is dedicated to the nationwide promotion of financial inclusion and is working continuously to develop relationships and networks across a range of local authorities and organisations.

2. Access to bank accounts

While financial services remain a reserved area, there are other mechanisms available to the Scottish Government to encourage banks to provide greater access to bank accounts for excluded groups. These include its work on financial capability and social inclusion, as well as on business and enterprise. Presently only one bank is likely to offer an undischarged bankrupt a bank account, but that bank has few branches in Scotland, and is planning to close a number of these. This makes such an account very difficult for some people to access, marginalising them further. With only one bank offering a bank account, this leaves many people out of the system. Given the number of banks in Scotland, it should be possible to provide bank accounts for such people.

If the Scottish banks were to offer access to bank accounts by undischarged bankrupts, this would enable people to get back on their feet and to gain a credit record, which in turn would enable them to save as well as to borrow in the future. This would be in keeping with the Scottish Government's current emphasis on helping people to rehabilitate themselves, and would allow individuals to contribute to the economy as a whole.

Comments on the provisions of the Bill

Part 3: Welfare Benefits and Employment Support

We support the Scottish Government's recent call for responsibility for the full devolution of working age benefits.⁴ If responsibility for all welfare benefits was brought together in one place, the system would be much more efficient and joined up than at present. The present arrangements are complex and confusing. Housing benefit, local housing allowance and council tax reduction are all administered through local authorities at present, as is the Scottish Welfare Fund. Other welfare benefits, however, are administered centrally by the Department for Work and Pensions.

If the same people were responsible for administering housing benefit, local housing allowance and council tax benefit, as well as other welfare benefits, this would make the system a lot simpler and would be easier for people to navigate. Bringing everything together would be more efficient, effective and save taxpayers' money, by avoiding duplication. At the same time, the system would allow for better understanding of a person and their needs as a whole. It would also help address some of the geographical difficulties which those in rural and remote areas can experience in accessing services.

⁴ Further Devolution Beyond the Smith Commission, June 2015
<http://www.gov.scot/Resource/0047/00479299.pdf>

We also believe that bringing the whole welfare system together in Scotland would benefit the economy, bringing more jobs in Scotland. It would also help to address some of the confusion which people can experience as to whether they need to approach a national agency or their local authority to deal with their problem.

Such a reform would require the joining up of the current central government functions of the DWP with those of local authorities, which would have much greater autonomy. There would be greater economies of scale and a better delivery of service. Local authorities already have responsibility for delivering welfare payments through the Scottish Welfare Fund, and for making decisions on other matters such as clothing grants and free school meals. We are aware of examples of good practice in some local authorities, where people are asked to complete one form with all of the necessary information, rather than having to complete several different forms for different agencies. We believe that, provided such a new system was adequately funded, such examples of good practice could be built upon, improving both the user's experience and outcomes for the taxpayer.

Part 4: Other Legislative Competence

Clause 33: tribunals

Our members include many experienced money advisers and welfare rights advisers, who are regularly involved in cases before the Social Security and Child Support Tribunal, for example. We therefore have an interest in the proposals to devolve responsibility for the management and operation of reserved tribunals operating in Scotland. While we support the devolution of this responsibility, we share the concerns expressed by Citizens' Advice Scotland⁵ that, as it stands, clause 33 reserves significant residual powers to the UK Government to modify the functions transferred and to impose conditions or restrictions on how they are exercised.

The wording of this clause essentially enables Westminster to make changes at any time by Order in Council, leading to continued uncertainty for users. This could allow the UK Government to introduce fees, for example, in relation to social security tribunals, as it has already done in employment tribunal cases.

We therefore support the alternative clause 33 proposed by the Scottish Government,⁶ which removes the residual powers, and makes clear that competence in relation to issues such as the appointment and management of tribunal members, rules of procedure and fees are to be devolved.

Clause 43 - Consumer advocacy and advice

Firstly, as noted above, much of the work which is carried out by money advisers could be described as 'consumer advice', and we would therefore hope that a

⁵ http://www.cas.org.uk/system/files/publications/scotland_bill_briefing_-_tribunals.pdf

⁶ Scottish Government (2015) Response to the Interim Report from the Devolution (Further Powers) Committee on the Smith Commission and the UK Government's Proposals.
<http://www.gov.scot/Resource/0047/00478767.pdf>

significant proportion of any funds made available for consumer advice in Scotland in the future might be targeted towards services offering money advice.

Secondly, we hope that any future consumer advocacy arrangements for Scotland will encompass the interests of consumers who are in debt, and those who use money advice services. As these are devolved issues, we assume that any Scottish consumer advocacy body would include these among its areas of work.

We note, however, that while clause 43 devolves responsibility for consumer advocacy in relation to consumer protection, weights and measures, energy, telecommunications and various other reserved areas of policy, it does not make reference to financial services. This raises a question as to where responsibility will lie for advocating on behalf of consumers of financial services in Scotland. Strong representation of consumer interests is important in ensuring that markets evolve and develop in the interests of consumers. This is particularly important in relation to financial services, which is a very important market for consumers, and is very complex to navigate and understand.

While the Financial Services Consumer Panel represents the interests of consumers at UK level, this exists under the auspices of the Financial Conduct Authority (FCA) to provide advice and challenge to the FCA. It therefore has a very different role to that of an independent consumer advocacy body. We therefore have some concerns as to which organisation will speak up for consumers of financial services in Scotland.

Thirdly, we support the Scottish Government's alternative clause 43, which devolves the remaining 'two pillars' of consumer enforcement and redress⁷. While we support this in principle, we would question how the devolution of consumer redress would work in practice. We support the Scottish Government's proposals to establish a single Scottish Consumer Ombudsman⁸, which should make it much simpler for consumers to know where to take their problem than at present, given the number and diversity of redress schemes. There is a question, however, as to how financial services complaints would be dealt with. The Scottish Government proposals suggest that financial services complaints might be dealt with through separate arrangements, as is the case in some other European countries. The UK's Financial Ombudsman Service (FOS) is one of the largest ombudsman schemes in the world, dealing with nearly 1.8 million initial enquiries and complaints in 2014-15.⁹ While it is not clear what proportion of these come from Scotland, this volume of business suggests that it may make sense to deal with financial services complaints separately.

Financial services will of course remain a reserved area, and the market for financial services is UK- wide, while FOS is funded through a UK- wide industry levy. We would therefore question whether it is feasible for a separate financial services redress scheme to be established in Scotland. An alternative approach might be to

⁷ See note 4 above

⁸ Scottish Government (2013) *Consumer Protection and Representation in an Independent Scotland: Options*, Edinburgh: Scottish Government: <http://www.gov.scot/resource/0043/00430128.pdf>

⁹ Financial Ombudsman Service (2013) Annual Review 2014-15 <http://www.financial-ombudsman.org.uk/publications/ar15/index.html>

set up some sort of arrangement with the existing FOS. This could perhaps involve the establishment of an office in Scotland, to deal with complaints from consumers in Scotland.

While we recognise that the FOS has been proactive in taking its outreach work to Scotland, we believe that there remains a perception among consumers that it is remote and inaccessible, given its London location, particularly when Scotland has such a strong financial sector. Establishing an FOS office in Scotland would have the advantage of greater accessibility for consumers than the current arrangements, while giving FOS the opportunity to build up a detailed knowledge and understanding of the particular issues which may arise in Scotland and the needs of Scotland's consumers, and to develop close working relationships with key stakeholders in Scotland.