

Financial Guidance and Claims Bill [HL]

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 13th July 2017, as follows –

Clause 1	Clauses 14 to 16
Schedules 1 and 2	Schedules 4 and 5
Clauses 2 to 13	Clauses 17 to 20
Schedule 3	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 5

LORD MCKENZIE OF LUTON

- 47A** Page 4, line 16, at end insert –
“() Guidance issued by the Secretary of State under subsection (1) is to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”
- 48** Page 4, line 17, after “directions” insert “and guidance”

Clause 6

LORD STEVENSON OF BALMACARA
BARONESS MEACHER

- 49** Page 4, line 23, leave out from “must” to end of line 24 and insert “create and publish a commissioning framework based on the competencies of the provider, against which it will satisfy itself when it commissions and procures services from –”
- LORD MCKENZIE OF LUTON
- 50** Page 4, line 23, after second “time” insert “, after consultation,”
- BARONESS ALTMANN
- 51** Page 4, line 27, leave out “advice” and insert “counselling”

Clause 6 - continued

52 Page 4, line 28, leave out “advice” and insert “counselling”

LORD MCKENZIE OF LUTON

53 Page 4, line 30, at end insert –

“and such standards must include measures of outcomes for members of the public as well as measures of outputs for persons providing information, guidance and advice in pursuance of the functions of the body.”

LORD STEVENSON OF BALMACARA
BARONESS MEACHER

54 Page 4, line 31, leave out subsection (2) and insert –

“(2) Before finalising the commissioning framework, the single financial guidance body must consult relevant bodies involved in the provision of information, guidance and advice, and obtain the approval of the FCA.”

55 Page 4, line 31, after “must” insert “consult the financial services industry, the devolved authorities, consumer representatives and the public and voluntary sectors, and”

THE EARL OF KINNOULL

56 Page 4, line 33, at end insert “and provide reasonable assistance in the interpretation of those standards to SFGB delivery partners.”

Clause 7

LORD STEVENSON OF BALMACARA
BARONESS MEACHER

57 Page 4, line 35, leave out subsection (1) and insert –

“(1) The single financial guidance body must monitor and report on its own and SFGB delivery partners’ compliance with the commissioning framework.”

BARONESS KRAMER
LORD SHARKEY

58 Page 4, line 36, at end insert “and must produce and place in the public domain an annual report of its assessment of such compliance.”

LORD STEVENSON OF BALMACARA

59 Page 4, line 38, leave out paragraphs (a) and (b) and insert –

- (a) whether the commissioning framework continues to be appropriate, and
- (b) how the single financial guidance body is monitoring the commissioning framework.”

Clause 7 - continued

BARONESS KRAMER
LORD SHARKEY

60 Page 5, line 4, at end insert –

“() Parliament.”

61 Page 5, line 6, at end insert –

“() The single financial guidance body must publish a substantive response within three months to any recommendations made by the FCA under subsection (4).”

After Clause 7

BARONESS DRAKE

62 Insert the following new Clause –

“Offence of falsely claiming to be giving guidance and advice on behalf of the single financial guidance body

- (1) It is an offence for a person who is not giving pensions guidance, money guidance or debt advice on behalf of the single financial guidance body –
 - (a) to describe themselves (in whatever terms) as a person who is doing so, or
 - (b) to behave, or otherwise hold themselves out, in a manner which indicates (or which is reasonably likely to be understood as indicating) that they are doing so.
- (2) In proceedings for an offence under this section, it is a defence for the accused to show that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (3) A person guilty of an offence under this section is liable on summary conviction –
 - (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine, or both;
 - (b) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both;
 - (c) in Northern Ireland, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both.”

63 Insert the following new Clause –

“FCA: requirement to signpost to the single financial guidance body for pension guidance, money guidance and debt advice

- (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) After section 137FBB insert –

“137FD FCA general rules: requirement to signpost to the single financial guidance body for pension guidance, money guidance and debt advice

After Clause 7 - continued

- (1) The FCA must make general rules requiring information about the availability of pensions guidance, money guidance and debt advice from the single financial guidance body to be given by relevant organisations to any category of individuals who may benefit.
- (2) Before the FCA publishes a draft of any rules to be made by virtue of this section, it must consult—
 - (a) the Secretary of State;
 - (b) the Treasury; and
 - (c) the single financial guidance body.”

Clause 8

LORD STEVENSON OF BALMACARA

64 Page 5, line 16, leave out from “to” to end of line 18 and insert “consultation on the single financial guidance body’s funding settlement and such arrangements with SFGB delivery partners as the Secretary of State thinks appropriate (including conditions as to any loan repayments).”

65 Page 5, line 18, at end insert—

- “() The single financial guidance body must monitor its use of financial assistance in order to inform the consultation under subsection (3).
- () The single financial guidance body must publish the results of its monitoring under subsection (4).”

Clause 11

LORD STEVENSON OF BALMACARA

66 Page 7, leave out lines 31 to 35 and insert—

- “() The Treasury may, following consultation with relevant bodies involved in the provision of information, guidance and advice, notify the FCA of the amount of the expenses incurred, or expected to be incurred, by the devolved authorities in connection with the provision of information and advice on debt to members of the public in Scotland, Wales and Northern Ireland.”

BARONESS ALTMANN

67 Page 7, line 33, leave out “and advice” and insert “, guidance and counselling”

Schedule 3

BARONESS DRAKE

68 Page 24, line 21, leave out paragraph 12 and insert—

- “12 For section 3S (the consumer financial education body) substitute—
“3S Duty of the FCA in respect of the single financial guidance body

Schedule 3 - continued

In discharging its duty to approve standards set by the single financial guidance body under section 6(2) of the Financial Guidance and Claims Act 2017, the FCA will act in the interests of consumers and promote financial inclusion.””

BARONESS ALTMANN

69 Page 27, line 5, leave out paragraph 33

Clause 14

LORD MCKENZIE OF LUTON

69ZA Page 11, line 1, leave out subsection 6 and insert –

“() When exercising the powers granted by subsection (1), the Secretary of State must adhere to the procedures set out in section 11 (procedure) of the Public Bodies Act 2011.”

LORD SHARKEY

Lord Sharkey gives notice of his intention to oppose the Question that Clause 14 stand part of the Bill.

Clause 16

LORD HUNT OF WIRRAL

69A Page 12, line 38, at end insert –

“(ba) arranging the provision of temporary replacement motor vehicles,”

69B Page 12, line 38, at end insert –

“(bb) commissioning the obtaining of medical evidence for personal injuries, within the meaning of the Civil Procedure Rules 1998,”

After Clause 16

LORD HOLMES OF RICHMOND
BARONESS MEACHER

70 Insert the following new Clause –

“Regulatory principles to be applied in respect of claims management services

- (1) In relation to the regulation of claims management services, the FCA must act according to the principles that –
 - (a) where appropriate, authorised persons should act honestly, fairly and professionally in accordance with the best interests of consumers who are their clients; and
 - (b) where appropriate, authorised persons should manage conflicts of interest fairly, both between themselves and their clients, and between clients.

After Clause 16 - continued

- (2) In this section, “authorised person” has the same meaning as in the Financial Services and Markets Act 2000, and “authorised persons” shall be construed accordingly.”

Clause 17

LORD HUNT OF WIRRAL

- 70A Page 14, line 33, at end insert “, and claims for personal injuries, within the meaning of the Civil Procedure Rules 1998.”

THE EARL OF KINNOULL

- 71 Page 15, line 6, at end insert—
“(6A) The FCA must provide reasonable assistance in the interpretation of the rules under this section for those providing claims management services.”

After Clause 17LORD SHARKEY
BARONESS KRAMER

- 72 Insert the following new Clause—
“Ban on unsolicited direct approaches by, on behalf of, or for the benefit of, companies carrying out claims management services

The FCA must, within the period of six months beginning with the day on which this Act comes into force, introduce a ban on unsolicited direct approaches to members of the public carried out by whatever means, including digital, by, on behalf of, or for the benefit of, companies carrying out claims management services.”

BARONESS ALTMANN

- 73 Insert the following new Clause—
“Prohibition on making unsolicited approaches for claims
- (1) A person must—
- (a) not use, nor instigate the use of a public electronic communications service for the purpose of making unsolicited telephone calls for direct marketing; and
 - (b) not transmit, nor instigate the transmission of, unsolicited communications for the purpose of direct marketing by means of electronic mail or otherwise,
- where—
- (i) the person making or instigating the call or transmitting or instigating the use of electronic mail is acting on behalf of a claims management service, or does so with a view to providing information to a claims management service, and
 - (ii) the purpose of the call or the electronic mail is to engage a consumer in commencing a claim.

After Clause 17 - continued

(2) In this section—

“call” means a connection established by means of a telephone service available to the public allowing two-way communication in real time;

“claim” means proceedings in which there is a claim for damages or compensation;

“claims management service” has the meaning given by section 419A of the Financial Services and Markets Act 2000;

“direct marketing” has the meaning given by section 11(3) of the Data Protection Act 1998;

“electronic mail” means any text, voice, sound or image message sent over a public electronic communications network which can be stored in the network or in the recipient’s terminal equipment until it is collected by the recipient and includes messages sent using a short message service;

“public electronic communications service” has the meaning given by section 151 of the Communications Act 2003;

“unsolicited” means an approach which has not been specifically requested, even if a person has asked to receive marketing information.”

Clause 18

THE EARL OF KINNOULL

74 Page 15, line 27, at end insert “and Scotland.”

Clause 19

LORD MCKENZIE OF LUTON
LORD STEVENSON OF BALMACARA

75 Page 16, line 2, at end insert—

“() The Secretary of State must make regulations under this section relating to the commencement of sections 1 to 7 within the period of 18 months beginning with the day on which this Act is passed.”

THE EARL OF KINNOULL

76 Page 16, line 12, at end insert—

“() the Scottish Ministers, in relation to Part 2 as it applies in Scotland.”

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7 September 2017
