PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCIAL GUIDANCE AND CLAIMS BILL
[*LORDS*]

First Sitting

Thursday 1 February 2018

(Morning)

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Monday 5 February 2018

The Committee consisted of the following Members:

Chairs: Andrew Rosindell, † Graham Stringer

† Amesbury, Mike *(Weaver Vale)* (Lab)
† Black, Mhairi *(Paisley and Renfrewshire South)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
Coyle, Neil *(Bermondsey and Old Southwark)* (Lab)
† Donelan, Michelle *(Chippenham)* (Con)
† Dromey, Jack *(Birmingham, Erdington)* (Lab)
† Fovargue, Yvonne *(Makerfield)* (Lab)
† Foxcroft, Vicky *(Lewisham, Deptford)* (Lab)
† Glen, John *(Economic Secretary to the Treasury)*
† Latham, Mrs Pauline *(Mid Derbyshire)* (Con)
† Mackinlay, Craig *(South Thanet)* (Con)
† Merriman, Huw *(Bexhill and Battle)* (Con)
† Milling, Amanda *(Cannock Chase)* (Con)
† Opperman, Guy *(Parliamentary Under-Secretary of State for Work and Pensions)*
† Reeves, Ellie *(Lewisham West and Penge)* (Lab)
Thomas, Gareth *(Harrow West)* (Lab/Co-op)
† Tracey, Craig *(North Warwickshire)* (Con)

Jyoti Chandola, Gail Bartlett, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 1 February 2018

(Morning)

[Graham Stringer *in the Chair*]

Financial Guidance and Claims Bill [*Lords*]

11.30 am

The Chair: Good morning. Before we begin line-by-line consideration, I have a few preliminary housekeeping announcements. Will Members please switch all electronic devices to silent? I notice some tea and coffee on the tables. I would be grateful if Members could please remove them and not bring them into the room. I will first call the Minister to move the programme motion agreed by the Programming Sub-Committee.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 11.30 am on Thursday 1 February) meet—

(a) at 2.00 pm on Thursday 1 February;

(b) at 9.25 am and 2.00 pm on Tuesday 6 February;

(2) the proceedings shall be taken in the following order: Clause 1; Schedules 1 and 2; Clauses 2 to 20; Schedule 3; Clauses 21 to 24; Schedules 4 and 5; Clauses 25 to 31; new Clauses; new Schedules; remaining proceedings on the Bill;

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 6 February.—*(Guy Opperman.)*

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—*(Guy Opperman.)*

The Chair: Mr Speaker has asked that we explain the procedure in more detail than used to be the case before we start our main proceedings.

We now begin line-by-line consideration of the Bill. The selection list for today is available in the room and on the Bill website. It shows how the selected amendments have been grouped together for debate. Amendments grouped together are generally on the same or a similar issue. The Member who has put their name to the lead amendment in a group is called first. Other Members are then free to catch my eye to speak on all or any of the amendments in the group. A Member may speak more than once in a single debate.

At the end of the debate on a group of amendments, I shall call the Member who moved the lead amendment again. Before they sit down, they will need to indicate whether they wish to withdraw the amendment or seek a decision. If any Member wishes to press any amendment or new clause in a group to a vote, they need to let me know. I shall work on the assumption that the Minister wishes to reach a decision on all Government amendments when we reach them.

Please note that decisions on amendments take place not in the order they are debated, but in the order they appear on the amendment paper. In other words, debate occurs according to the selection and grouping list; decisions are taken when we come to the clause that the amendment affects. Decisions on adding new clauses or schedules are taken towards the end of proceedings, but may be discussed earlier if grouped with other amendments.

I shall use my discretion to decide whether to allow separate stand part debates on individual clauses and schedules following the debates on relevant amendments. I hope that explanation is helpful to members of the Committee.

Clause 1

The single financial guidance body

The Parliamentary Under-Secretary of State for Work and Pensions (Guy Opperman): I beg to move amendment 1, in clause 1, page 2, line 6, at end insert 'and the devolved authorities.'

This amendment, together with amendment 18, will enable transfer schemes under Schedule 2 to transfer staff, property, rights and liabilities from the consumer financial education body to the devolved authorities. This may be necessary in view of the fact that the devolved authorities will be responsible for the provision of debt advice in their areas (see clause 15).

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

Government amendment 18.

Guy Opperman: It is a pleasure to work under your chairmanship, Mr Stringer, and I welcome all colleagues to the Committee. I am grateful to those Members of the House of Lords who contributed to the Bill—it started in the other place—expanding and improving it in a significant and important way.

The Bill builds on a Government commitment to ensure that members of the public can access good-quality, free-to-clients and impartial financial guidance and debt advice. Those services are currently provided by a number of different organisations, including financial services firms, utilities and those in the charity sector. Government-sponsored pensions guidance, money guidance and debt advice is provided by the Money Advice Service, the Pensions Advisory Service and the Department for Work and Pensions under the Pension Wise banner.

There have been a multitude of reviews, Select Committee assessments, consultations and calls for evidence since 2015, by which we reached the state in 2017 when the Bill was introduced in this Parliament. Consequently, clause 1 establishes a new non-departmental public body, to be referred to in legislation as the single financial guidance body. The clause introduces schedule 1, which provides details of the proposed governance and accountability of the new body. The provisions within the schedule deal with, for example, the appointment of the chair, non-executive members, executive members and staff, the delegation of duties within the body, the constitution of the committees, and the statutory reporting and accounting procedures.

Clause 1 allows the Secretary of State to make regulations to replace the phrase "single financial guidance body" in legislation with the actual name of the body—the

body will be named nearer to the time it becomes operational. The regulations that name the body will be created through a statutory instrument under the negative procedure, which is subject to annulment by either House of Parliament.

Clause 1 dissolves the consumer financial education body now known as the Money Advice Service. Schedule 2 allows the transfer of staff, property, rights and liabilities from the Pensions Advisory Service and Pension Wise—in effect from the Secretary of State to the new body. The schedule allows similar transfers from the Money Advice Service to the new body. I have met all three organisations and discussed the proposed merger with them. I can assure the House that all three are keen to merge, which is rare in Government mergers and should be applauded.

Amendments 1 and 18 are technical in nature and extend the power to make transfer schemes under schedule 2 to the devolved authority. Schedule 2 already allows the Secretary of State to transfer staff, property, rights and liabilities from the Money Advice Service to the new single financial guidance body. This is required to ensure continuity of provision, including on contracts held, and avoid disruption to services in the creation of the body. The devolved authorities will have responsibility for the provision of debt advice in their areas once the new body is established. Devolved authorities have been consulted on this and are very much in agreement. Amendment 1 therefore helps to avoid similar disruption to debt advice provision in the devolved authorities when the new body is established.

Jack Dromey (Birmingham, Erdington) (Lab): It is an honour to serve under your chairmanship, Mr Stringer. Let me start by paying tribute to the three organisations that are being merged into one—the Money Advice Service, the Pensions Advisory Service and Pension Wise—for the work they have done over many years. The Minister is right that all three agree about the good sense of bringing them together into one body. Why? Because all three know from experience, and have advocated, that high-quality advice—independent, trustworthy and there when it is needed—is of the highest importance, particularly in circumstances of redundancy, death or divorce, when the financial consequences for the citizen can be very serious.

I will give some examples. In Port Talbot, the staff supervisor told Michelle Cracknell, the chief executive of the Pensions Advisory Service, that he was distraught that he had been badly advised on pensions and that the 20 others on his shift had followed his lead. He burst into tears when he said, "It's not just the mistake that I've made; it's the mistake that others have made following my example." I remember a victim of domestic violence in my constituency saying, "I borrow to pay the debt, because I borrow to pay the debt, because I borrow to pay the debt." That is the downward spiral into which citizens all too often fall at a time of crisis in their lives. A Kingstanding dustman said to me, "I'm an agency worker on a zero-hours contract and I would love to buy a house, because my wife is pregnant and we're paying a fortune in rent." He went on to say, "It's not just that: because I'm on a zero-hours contract, I can't plan. I keep getting into debt. I've had bad advice."—he used stronger words than those—"Where do I turn?"

That is why we made it clear on Second Reading that this is a welcome Bill and a strong step in the right direction, and it has been strengthened by constructive debate in the other place. Our intention is to make a good Bill better still and to inject a sense of urgency into some of its proposals, because the dignity and financial wellbeing of our citizens, in opportunity or adversity, is of the highest importance.

We agree to the concept of the new organisation and support the direction of travel. We will seek to amend the Bill in certain key areas in order to strengthen it further, so that it delivers, particularly for those in desperate need and in circumstances in which there are still too many rogues taking advantage of the vulnerable. There is a joint determination across the House to ensure that nothing but the best is provided in the future for the British people. I am talking about high-quality advice that they can count on in all circumstances.

Mhairi Black (Paisley and Renfrewshire South) (SNP): I echo much of what the hon. Member for Birmingham, Erdington has just said. I am very grateful, on a Thursday morning, that the Bill is not contentious—I do not know about anyone else here, but I am not in the mood for arguing. We have proper concerns about only three areas of the Bill. The first relates to how young people are involved and educated through it. The second question is whether we can clear up some of the difficulties between guidance and advice. The third and most important issue is dealing with clause 5, because what we have from the Government now is wholly inadequate. With that said, I look forward to having genuine discussions in Committee.

Guy Opperman: I am grateful to colleagues for their comments, which I endorse. I look forward to responding to the specific points. I accept and anticipate that there will be a legitimate discussion as to the appropriate way forward in respect of default pensions guidance, on which I know both Opposition Front Benchers wish to address the Committee. I thank them for their comments.

Amendment 1 agreed to.

Clause 1, as amended, ordered to stand part of the Bill.

The Chair: We now come to amendment 23 to schedule 1, with which we will consider the question that schedule 1 be the First schedule to the Bill.

Jack Dromey: Are we not moving to clause 2?

The Chair: No.

Guy Opperman: No, it is your amendment 23, to schedule 1, in relation to the independence of the single financial guidance body.

Schedule 1

THE SINGLE FINANCIAL GUIDANCE BODY

Jack Dromey: I beg to move amendment 23, in schedule 1, page 27, line 9, at end insert—

"(3) The Secretary of State shall have regard to the desirability of ensuring that the single financial guidance body is as independent from Government as reasonably possible in determining its activities."

This amendment will ensure that the single financial guidance body has the autonomy to fulfil its functions.

The Chair: With this it will be convenient to discuss the following:

That schedule 1 be the First schedule to the Bill.

Jack Dromey: My apologies, Mr Stringer, for getting things in the wrong order—having been dealing this week with the issue of Carillion, the problems at Jaguar Land Rover, and GKN, I have to say that it has been a rather hectic few days.

The purpose of the amendment is to ensure that the single financial guidance body has the autonomy to fulfil its functions. The new body will be a publicly funded, non-departmental public body, answerable to the Secretary of State. As such, it is imperative that it have the correct amount of autonomy from Government to ensure that it can fulfil all its functions effectively. The new body will be tasked with carrying out a number of very important and critical functions, including starting a new era of enhanced financial guidance and education. Those will best be fulfilled by an independent, autonomous body, free from Government interference. It should be free to make decisions that let it do the job for which Parliament has voted. It should not be subject to the whims of whichever Government are in power, and the political winds those whims can bring. It should be free, as is often said, to speak truth unto power, and all too often the uncomfortable needs to be said and done. The new body should not feel constrained in so doing.

The new body's important functions include providing guidance to those who are making important financial decisions. The take-up of the services offered by Pension Wise, for instance, is extremely low. Of the 772,000 people who transferred some or all of their pension in 2017, only 66,000 had an appointment with Pension Wise, and an FCA survey found that only one in eight 55 to 64-year-olds who planned to retire in the next two years and who have a defined-contribution pension had used the Pension Wise service in a 12-month period.

The intention of all parties in the House is to have a new and effective organisation that ensures that in future we do not have that kind of problem of take-up by the citizen. We want to ensure that it is widely known that Pension Wise exists; that Pension Wise is vigorously advertising its purpose and function; and that, because we insist on independent advice being given, it is truly independent from Government.

I will just make one final point, which arises out of constructive discussions with the Minister. I am the first to recognise that there needs to be oversight and accountability. There must be oversight by, and accountability to, Parliament. Crucially, however, it would be inappropriate for the Government to interfere in the day-to-day conduct of the new organisation. It should be free to do its job and to do its job well, and therefore I hope that the Government will give the necessary assurances about it.

11.45 am

Yvonne Fovargue (Makerfield) (Lab): Has my hon. Friend read Peter Wyman's recent independent report on the debt advice landscape? He advocates that there should be somebody in charge of the whole debt landscape—almost a debt Tsar. That seems to be a really good idea, to maintain the independence of the debt landscape. Does my hon. Friend agree?

Jack Dromey: My hon. Friend, who is part of an honourable tradition of giving high-quality advice to people in times of need, particularly through citizens advice bureaux, is absolutely right. The evidence is damning; the need is apparent. It is now a question of how best that need is met. The new body is a step in the right direction, but it should not be the last word; it is the first "next step," but it is an important step in the right direction.

Guy Opperman: I am grateful to colleagues for their comments. The Bill sets out absolutely clearly that the single financial guidance body will be at arm's length from Government. That distance from Government means that the day-to-day decisions the new body makes will be independent, as they will be removed from Ministers and civil servants. Nevertheless, there is a sponsoring Minister, who remains answerable to Parliament for the activities of the new body, its effectiveness and its efficiency, including any failures, especially in the case of a body that receives public funds. It is important that there is a balance—I think all of us recognise that—between enabling the Department to fulfil its responsibilities to Parliament and to be accountable, and giving the new body the desired degree of independence.

Conferring functions on the new body involves a recognition that operational independence from Ministers in carrying out its functions is appropriate, and the new body will support delivery of the objectives of both the Treasury and the Department for Work and Pensions, to create a more effective system of publicly funded financial guidance and to give savers the confidence to save and access money in the future. The new body's activities will be funded by a levy on the financial services industry and on pension schemes.

On Second Reading the hon. Member for Makerfield addressed one of the criticisms levelled at the Money Advice Service. All of us support what MAS is trying to do, its broad objective and the efforts it is making. However, one of the strong criticisms of it in its early years, which came from both the independent Farnish review and the Treasury Committee, which obviously operates on a cross-party basis, was that MAS lacked accountability and that the activities it delivered, and the money it was spending, could not be held to account by Parliament and the respective Minister.

The Farnish review, which is one of the reasons we are creating this body in the way we are, suggested that the Money Advice Service accountability regime was weak, and recommended that it be strengthened. The Treasury Committee expressed concerns that the Money Advice Service had moved its service away from its intended focus. I am certain that the hon. Member for Makerfield will be directing it to have a "laser-like focus"—the expression she used on Second Reading—on commissioning services, towards direct delivery and building up its brand name.

Lord knows, all Governments like to be held to account by Oppositions, and quite rightly too, but let us imagine that the single financial guidance body chose to do something that any Member of the Opposition or of the Government felt was inappropriate. The inability to hold that body to account and to hold a Minister to account would not be something the House would want. In the circumstances, it is appropriate that the responsible Minister is able to make representations, but it is very much a partnership system that needs to

work well between the body and the Government, and there must be clarity about expectations and the approaches to accountability.

The correct way forward is to have a framework document setting out that particular method of working. That framework document approach, setting out the partnership so that there is due accountability to Parliament, while at the same time allowing the body to get on with the job that we all agree it should be doing, is well established and has been under successive Governments. In the circumstances, I believe that placing the requirement in legislation, as set out in amendment 23, is both unnecessary and undesirable, and I urge the hon. Gentleman to withdraw his amendment.

Jack Dromey: The Minister has said some helpful things, and he is absolutely right that it is about getting the right balance between accountability and operational independence. The proposal for a framework document is welcome. I simply ask that there is consultation on the nature of that framework document, including with stakeholders, at the appropriate stage.

On the establishment of the new body, the governance of it and precisely how that will be structured, we have heard what has been said thus far, but it will be important that we have high-quality and independent individuals engaged in the governance, including on a day-to-day basis.

On the basis of what I and the Minister have said, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 2

TRANSFER SCHEMES UNDER SECTION 1

Amendment made: 18, in schedule 2, page 32, line 3, at end insert "and the devolved authorities."—*(Guy Opperman.)*

See explanatory statement for amendment 1.

Schedule 2, as amended, agreed to.

Clause 2

OBJECTIVES

Mhairi Black: I beg to move amendment 37, in clause 2, page 2, line 19, leave out from "accordingly" to end of line 20 and insert—

"(da) to ensure the needs of people in vulnerable circumstances, including but not exclusively—

(i) those who suffer long-term sickness or disability,

(ii) carers,

(iii) those on low incomes, and

(iv) recipients of benefits,

are met and that resources are allocated in such a way as to allow specially trained advisers and guidance to be made available to them."

This amendment would require that specially trained advisers and guidance are made available to people in vulnerable circumstances and would provide an indicative list of what vulnerable circumstances might include.

The amendment came about because we were chuffed, when reading the Bill, to see that there was a mention of vulnerable people, especially given the nature of pensions and how much is at stake with them, but to be honest we felt that the wording was a little weak. I would like the wording tightened up to ensure that it is clear and means what I think it does. That is why we have suggested what we consider "vulnerable people" to mean, and it will be good to see whether the Government are happy to accept that.

We want to make sure that the new body is as accessible as possible for all people, regardless of their circumstances. Specially trained advisers and resources should make up part of that new body, so that people can have confidence and the ability to make the right decisions. I do not think that the amendment is that contentious; it just tidies up the Government's wording.

Jack Dromey: I rise to support the proposition. We will deal with the issues of vulnerability and disability later in the Bill, but although it is true that not everyone who needs urgent and independent advice is necessarily in circumstances of vulnerability, the nature of the world of work and of the economy means that a lot of people's backs are against the wall, especially after the high-profile collapses of late. We should make explicit what is implicit: the new body should proceed in the right way. I hope the Minister will give the assurance that everyone who turns to it will receive high-quality independent advice. A specific focus on support for the vulnerable is a legitimate objective.

Guy Opperman: I am keen to give assurance on that specific point. If the hon. Member for Paisley and Renfrewshire South will allow me, I will walk her through how we got to the situation where the Government chose to amend the Bill to add in the vulnerable circumstances clause that is the basis for her amendment. The Government take the view that the amendment is not necessary in the circumstances, and I will explain why.

The body's activity towards the people who are most in need and in vulnerable circumstances has been the priority of all parties since the creation of the Bill. Vulnerable circumstances were not originally spelt out, but they were certainly spelt out on Second Reading in the House of Lords. There was extensive debate in the House of Lords on a cross-party basis with representations by Baroness Finlay, Baroness Coussins, Baroness Hollins and the Labour Lord, Lord McKenzie, about the need for clarity on access to financial guidance and awareness of financial services for people who find themselves in vulnerable circumstances.

The Government decided in the other place to state explicitly in clause 2(1)(d) that the body's objectives include the need to support people in "vulnerable circumstances" when exercising its functions. An amendment was introduced to strengthen the objectives to ensure that the body's

"information, guidance and advice is available to those most in need…bearing in mind in particular the needs of people in vulnerable circumstances".

The Government's amendment has created a statutory framework that will give clear direction to the new body to support people in those circumstances. That means that the body will be required to focus its efforts and resources on that area, and will look at the best ways to provide guidance to vulnerable people in different places.

A general principle of the Bill, which I will expand on in relation to this and other points, is that there is a danger of being overly prescriptive to a body that one is setting up with the specific purpose that it has the latitude to exercise the appropriate commissioning and employment of charities and organisations in particular places. Asking the body to have a generality

[Guy Opperman]

of specially trained advisers and guidance risks being too prescriptive in the Bill. We want to ensure that the body has the latitude to take advantage of its expertise to find the best interventions and the best channels to address the needs of people in vulnerable circumstances now and in the future. That is not to say that the body itself may not choose to do exactly what the hon. Member for Paisley and Renfrewshire South has fairly set out, but that is for the body to do under the circumstances that it sees fit.

The risk outlined on Second Reading—I can see that I will have to refer to the hon. Member for Makerfield on several occasions—was the danger of duplication. Whether or not one feels that the Government or individual local authorities are providing appropriate services, other services are being provided, whether that is universal support or the visiting service, that support claimants with a face-to-face service and by offering to manage their claims. There is a duplication risk, which was the specific problem of the Money Advice Service in the past.

The general point is that we believe that it is wrong to be too prescriptive and to predefine a whole series of obligations, functions and capabilities of this organisation. That does not mean that we will not have a discussion going forward, nor that the body will not address these specific points, but I do not want to predefine and subdivide every single part. It should be left to the body to make those decisions as it goes forward. That does not in any way diminish the need for these things to be addressed, but I would not want that in the Bill. It is for the body, when it is fully formed, to address those points. In the circumstances, I invite the hon. Member for Paisley and Renfrewshire South to withdraw the amendment, having taken due note of the assurances that I have given.

12 noon

Mhairi Black: I appreciate what the Minister says, but it is strange to say that the amendment is too prescriptive after talking about how important it is that the Bill has cross-party support and saying that it is about trying to bring about genuine change. I do not see what is contentious about fleshing out what vulnerable people means. The only downside that I can see to having the amendment in the Bill is the possibility of helping too many people. I appreciate that the Minister says that it is up to the body to decide, but that is where we will have to disagree, because I think that the purpose of the Bill is to ensure that people do not fall through the cracks anymore, so I would not be comfortable withdrawing the amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 1, Noes 9.

Division No. 1]

AYES

Black, Mhairi

NOES

Burghart, Alex	Merriman, Huw
Donelan, Michelle	Milling, Amanda
Glen, John	Opperman, Guy
Latham, Mrs Pauline	Tracey, Craig
Mackinlay, Craig	

Question accordingly negatived.

Jack Dromey: I beg to move amendment 24, in clause 2, page 2, line 32, at end insert—

"(4) In the case of members of the public who are self-employed "information, guidance and advice" also includes information and advice on business-related debt, in addition to personal debt."

This amendment would extend the single financial guidance body's remit to advise the self-employed on business finances and debts.

The Chair: With this it will be convenient to discuss amendment 25, in clause 2, page 2, line 32, at end insert—

"(4) In the case of members of the public who are self-employed—

(a) "financial matters" also includes information and advice on business-related debt, in addition to personal debt", and

(b) "financial affairs" includes business-related financial affairs, in addition to personal financial affairs."

This amendment would extend the single financial guidance body's remit to advise the self-employed on business finances and debts.

Jack Dromey: Although self-employed people will be able to access the help of the new body for their personal finances, they will not be able to use it for their business finances. We have listened very carefully to the voice of the self-employed—on one hand organisations such as the Federation of Small Businesses, and on the other hand people I have spoken to in my own constituency, including taxi drivers and construction workers who are self-employed and, indeed, an individual who ran a fruit and veg shop in Erdington High Street and got into financial difficulties.

I have seen how self-employed people badly need advice and guidance, and there is all too often an overlap between their personal advice and guidance and that for the business in which they are engaged. That is why we say that evidence shows that, for the self-employed, the line between personal and business finances is usually blurred and can be very difficult to manage, particularly for those just setting out as self-employed people. The number of self-employed people is higher than ever before in our economy, so they need to be able to rely on the new body for advice and guidance when they need it.

Figures released last year suggest that the number of self-employed workers in the United Kingdom rose by 23%—from 3.8 million to 4.7 million—between 2007 and 2017. That represents a shift in the nature of the world of work and the way the British economy is working. Self-employed people now represent about 15% of the workforce, and 91% of businesses say they hire contractors. The majority of self-employed people are sole traders, and there is no legal distinction between them as individuals and as businesses. There were 3.4 million sole traders in 2017. The biggest increase in self-employed people was among women.

Although self-employment is a positive choice for most, there is a real problem with the conscription of some into reluctant self-employment. Either way, the average earnings of the self-employed are significantly lower than those of the employed. The figures vary—I would be the first to acknowledge that—but there has been growth in self-employment in higher-skilled, higher-paying areas, such as advertising, public administration and banking. Although some workers enjoy greater

flexibility and control over their working patterns, self-employment can nevertheless have a negative impact on their access to finance.

As self-employment has increased, so has demand for advice about business-related debts. Last year, 36,421 people were helped by the business debt line run by the national charity the Money Advice Trust, which does outstanding work and gave us very good advice and guidance about the Bill. Demand for the debt line has increased from 24,000 in 2016 to 36,421. The Money Advice Trust says, and I think it is right, that it expects the rise in demand to continue.

The amendments would ensure that the SFGB provided self-employed people with information, advice and guidance about their business-related, not just their personal, debt and finances, with a focus on those who are most in need, in line with the body's wider objectives. The amendments would apply to its debt advice and money guidance functions. As Lord Haskel said in the other place,

"the work of the SFGB should include the self-employed and micro-businesses, particularly at a time when the line between company employment and self-employment is becoming very blurred."—[*Official Report, House of Lords,* 5 July 2017; Vol. 783, c. 933.]

Personal and business finances are closely intertwined for many self-employed people. Some 48% of self-employed people use a only personal current account for their business, and a further 17% use both a personal and a business account, according to the Financial Conduct Authority's "Financial Lives" survey in 2017. The Money Advice Trust report, "The cost of doing business", which is based on extended interviews with business debt line clients, found that almost seven in 10 of those who had taken out a personal loan were using it to prop up their business. Research by the University of Bristol's personal finance research centre identified two key areas of overlap between business and personal finances: first, general living expenses, especially for those who live on their business premises; and, secondly, the use of personal credit to manage cash flow where necessary. Given the intertwining of business and personal finances for many self-employed people, if the SFGB does not offer information, advice and guidance on both, it will not be able to provide that growing section of the population with the support it needs.

I very much hope that the Minister will respond constructively to what we are saying and look at what might happen if the Government choose not to amend the Bill. I reserve my right to come back on that after hearing the Minister's response.

Yvonne Fovargue: I want to make a short contribution about how the finances of the self-employed are muddied with their personal finances. I had a meeting recently with Amigo Loans, a guarantor loan provider. It said that an increasing part of its business is loaning to people in a personal capacity, although they know it is for business purposes. Is that a business debt or a personal one? The fact that it does not look at the business plan might make it a personal debt, although I do think it ought to be looking at the business plan. Is it a personal debt or a business debt for the guarantor who guarantees the debt? In a lot of cases, it is fairly unclear where the line lies. To have a firm demarcation line where no business debts are dealt with is probably detrimental.

Guy Opperman: I am grateful to colleagues for making this point, and I recognise that it is not a simple issue. To pretend that the dividing line is absolutely precise and clear would be naive and wrong. The hon. Member for Birmingham, Erdington and I discussed this issue yesterday. I will go away and consider the matter prior to Report and Third Reading. However, today I will oppose the amendment and I shall try to explain why. I will also explain why the Money Advice Service does not seek the change and answer some of the questions asked by the hon. Member for Makerfield.

The Money Advice Service provides a range of information and guidance, via webchat, telephone and online, specifically for the self-employed. That includes information and guidance on matters such as tax, national insurance, personal and business insurance, and guidance on the steps to consider when starting a new business. It also signposts to other free, impartial and expert services for self-employed people in respect of their business, including the Department for Business, Energy and Industrial Strategy's business support helpline, the Money Advice Trust, which is funded and supported by the Government, and the comprehensive information on gov.uk.

Recognising the complex nature of a self-employed person's finances, MAS also supports the provision of debt advice to self-employed people. This is a service that provides debt advice specifically for people who are self-employed. In relation to the Pensions Advisory Service and Pension Wise, pensions guidance is offered to everyone; those services are available to all, regardless of whether someone is self-employed.

When the single financial guidance body takes over the services, I see no reason why those services would not continue. There should be ongoing provision of that degree of support. We want the new body to continue the research and work that is already done by existing organisations, identify where there are gaps in financial guidance and debt advice provision, and look for ways to fill those gaps.

Through its strategic function, the body must develop a national strategy to improve the financial capability of members of the public and their ability to manage debt. To do that, it will work with a range of industry, charity, public sector and voluntary sector organisations to develop a strategy where they work together to address this problem and others in respect of people's financial guidance and debt advice needs.

The single financial guidance body will not operate in a vacuum. As I alluded to earlier, there is online business advice, whether provided by Her Majesty's Revenue and Customs or BEIS, and I would go further than that and give an example. The Start Up Loans Company helps people to get started in business. Self-evidently, it is funded by BEIS, and it works in partnership with the British Business Bank. It is a requirement of Start Up Loans Company finance partners to ensure that, as part of their service to the self-employed, they consider how someone could service any debts they have in respect of their business. They also do further signposting.

12.15 pm

There is a risk, particularly in these circumstances and at this stage, that we may duplicate a pre-existing Government service, which the Money Advice Service and others have warned against in the past. I have asked

what the Money Advice Service's view is. I stress that I do not have a direct quote, but I have been told that its broad interpretation of the amendment is that it is unnecessary at this stage, as MAS already signposts and funds initiatives, and its commissioning strategy already identifies the self-employed as a priority. It does not favour the amendment, especially if it would mean straying into supporting businesses rather than lone traders.

Let me finish with two points. A self-employed person is personally liable for their business debts. However, where a self-employed person trades as a limited company, we get into the question of how microbusinesses are run. That goes back to the point I made to the hon. Member for Makerfield: it would be a danger if the single financial guidance body were seen as a panacea for all problems, and in these particular circumstances I am certain that it is not appropriate for it to become the adviser to microbusinesses. It simply does not have the capability, that is not its core specialism, and there are other organisations to which it can refer and signpost people.

I take entirely the legitimate point about the grey area that Citizens Advice and others see on a regular basis—we all see it, too, when a gentleman comes into a surgery with a sheaf of papers, plonks them on our desk and says, "Please solve that"—but I do not believe it is appropriate for the Government to shape the body in that way at this moment. I will discuss the issue further with the Money Advice Service, but for present purposes, I oppose the amendment.

Craig Mackinlay (South Thanet) (Con): On the question of what is a personal debt and what is a self-employment or business-type debt, if a self-employed person who is a sole trader—that is, unincorporated—takes on a loan for a van or something else, that by its very nature becomes a personal debt. That is the nature of being a sole trader. Complications may arise where that person, who to all other intents is self-employed, trades as a micro limited company. If, because of difficulties accessing credit through the limited company, that person decided to take a personal loan and then provide it as a director's loan account to his or her own limited company, what status would that loan have? I imagine in law—

The Chair: Order. I remind the hon. Gentleman that interventions should be brief and to the point. I am happy to call him if he wants to make a speech, but he must keep his interventions a good deal shorter than that.

Craig Mackinlay: Thank you for that advice, Mr Stringer. This is of course a complicated area, which requires a little extra explanation. In that instance, the bank or credit provider would recognise that as a personal loan. I wonder whether that would be covered by the advice that may be available.

Guy Opperman: I recognise my hon. Friend's expertise in such matters, and I thank him for his intervention. Support for self-employed people is covered by the Bill, because the self-employed are members of the public, in the way he outlined. Any personal business debt of a self-employed person is covered in respect of them being an individual member of the public.

I take my hon. Friend's point about loans. I am delighted to say that I am not able to answer it right now, but I will definitely get back to him. In seriousness, we need to consider that point and work out whether there is any way of changing it and taking on board the views of the organisations that have practised in this area for some considerable time. I will certainly write to him with a specific answer and circulate that answer to all Committee members.

Jack Dromey: The hon. Member for South Thanet is absolutely right, and his examples about the complexity we face are fascinating. The Minister's response has been helpful. The new service is welcome; there is a degree of confusion about exactly what it can do for the self-employed, but that has already been substantially clarified. We recognise the complexity the hon. Gentleman summed up so well, so if the issue of business advice—if I can use that as a shorthand term—is not addressed effectively at this stage of the Bill, it will have to be addressed at another stage. Even if we cannot make progress in Committee, the Minister's undertaking to engage in discussions will be warmly welcomed by organisations such as the Money Advice Trust and the Federation of Small Businesses.

Guy Opperman: May I briefly clarify a point that I should have addressed in my response? I applaud the Money Advice Trust's work, but in the briefing that it submitted to our Committee, it seeks broader business support, arguing that the single financial guidance body should address a host of other things and be available to small businesses more broadly—a mission creep that I would oppose. The MAT is a laudable charity and I respect entirely its good work, but that is a classic example of the mission creep that we want to avoid. Both the hon. Gentleman and I support the charity and its good works, but I believe that there is a limit to the assistance that the FSGB should give to that charity and its objectives.

Jack Dromey: It is legitimate mission creep. What is good about our exchange is that we recognise that making progress with the issues identified by the MAT and the hon. Member for South Thanet may be difficult in Committee, but we can move forward at a later stage. The Minister's point is absolutely right, but no one is suggesting that we should duplicate the functions of other bodies. If we can move forward at a later stage, jointly engaging with the organisations that represent the self-employed and those who advise them, it will be welcomed both by the organisations concerned and by the self-employed who need that advice and guidance. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mhairi Black: I beg to move amendment 38, in clause 2, page 2, line 32, at end insert—

"(4) The single financial guidance body must, within three months of being established, define the following terms within the context of its objectives and functions—

(a) "information",

(b) "guidance" and

(c) "advice"."

This amendment would require the new body to define "information", "guidance" and "advice" so that consumers are better able to understand which of the three would be most helpful to them.

The Chair: With this it will be convenient to consider clause stand part.

Mhairi Black: The amendment is pretty straightforward and sensible. It would clarify the important differences between information, guidance and advice, which we know have a major impact on people's decisions and how reliable they are if things go wrong. It is not often that parliamentarians admit ignorance, but before I became pensions spokesperson, I did not realise that there was any official difference between the three terms. I am a Member of Parliament and I have only recently found that out, so the Committee can imagine what it must be like for the general public. As long as the Government clarify the definitions of the three terms, I will be happy to withdraw the amendment.

Yvonne Fovargue: I support the hon. Lady's request for definition of the terms, although I recognise that it is difficult not to stray into other areas. A further concern is that the information, guidance and advice need to be free and impartial. There are too many pensions providers that spend a lot of money—I heard of one spending £15 million—on ensuring their advice is compliant with all the FCA impartiality rules. As somebody said, if pension providers are spending £15 million on making their advice impartial, they must be expecting some return on their investment. That worries me—that people are gently steered towards a particular product if they go to a particular service.

I believe that some of the comparison websites that people use are not always impartial. If they take money for the top rankings, they are not providing a properly impartial service. People do not understand the differences between those comparison website that have paid-for rankings at the top and those that are completely impartial, based on objective criteria. Guidance on the types of investment can be different when it leads to a product sale, unlike when it is just helping a consumer through their options, completely free of any sales pitch.

Craig Tracey (North Warwickshire) (Con): I declare an interest as chairman of the all-party parliamentary group on insurance and financial services. I welcome the Bill in general, and from my conversations with the insurance industry I know that it is very supportive of the Bill and of the establishment of the single financial guidance body as great step forward to having access to guidance at relevant points in life. Because of the welcome pension freedoms, that guidance has become more essential than ever before.

There is good practice in the industry already—for example, Aviva insurance is running its MOT at 50 scheme, on which the preliminary feedback has been very positive. The results show that getting advice made people far more engaged with their finances and more likely to plan for their retirement, and many went on to seek regulated advice. The crucial point that Aviva made was that by delivering the MOT at 50, people had time to change their plans, think realistically about the future to meet their retirement objectives.

I want the Minister to give clarification on three points. First, what will the Bill provide for consumers? From the APPG's and my perspective, it should look at providing financial resilience, promoting early intervention to prepare for life events, and raising awareness of the benefits of protection products, which are particularly helpful for the self-employed—things such as income protection, critical illness and life insurance. In my experience as a broker, people generally only took those when it was too late and when they had had a bad experience. If we can help to advise people ahead of incidents, that would be really useful.

Secondly, could we have clarification on the timeline for implementing the SFGB and assurances that transitional agreements will provide certainty of access to guidance for consumers, and certainty for providers in relation to signposting arrangements? Thirdly, will the Minister set out how the new body will set standards to be approved by the FCA? The Bill says that that should happen, but it does not specify how it should be approached or how it intends to set out the strategy. Could the Minister provide some guidance on that? I appreciate that the answer to the third point might be quite detailed and I will be happy if we wants to write to me with the information. I look forward to his response.

Jack Dromey: On the pensions dashboard—

The Chair: We are still on clause 2. Is the hon. Gentleman clear about that?

Guy Opperman: To echo what the hon. Member for Birmingham, Erdington said, it has been a long week and I think we will all have situations where we start addressing particular clauses at the wrong time.

The Chair: I hope not.

Guy Opperman: I hope not, too, but I have done so well thus far and it cannot last. I will try to address in their entirety the three specific points raised by the hon. Members for Paisley and Renfrewshire South and for Makerfield and by my hon. Friend the Member for North Warwickshire.

The first point is about whether the body itself will provide free and impartial advice and services. The shake of the head betrays the hon. Member for Makerfield. I draw her attention to clause 3, which I suggest she clearly has not read as much as she should have, because the House of Lords made sure that the provision was in the Bill. I accept that I am slightly straying off the subject of clause 2, but she will see that subsections (4), (5) and (6) of clause 3 set out that the function is to provide to members of the public free—

12.30 pm

Mhairi Black: I understand the reference that the Minister makes to the functions described in clause 3, but the functions are meaningless so long as people do not understand what the difference is between information, guidance and advice.

Guy Opperman: I will come to the comprehension point in a second, if the hon. Lady will permit. I will deal with all three points.

After the legislation was suitably amended, debated, discussed and agreed with their lordships, it was specifically written into the Bill that the information, guidance and advice should be free and impartial. I take the point that the hon. Member for Makerfield raises, but I hope that she is reassured that that has been specifically written into the Bill, and is addressed there.

[Guy Opperman]

On the definition of terms, may I address the points made by the hon. Member for Paisley and Renfrewshire South that go to the fundamentals of her amendment? One of the key recommendations of the financial advice market review—sometimes known as FAMR—was to clarify the regulatory definition of financial advice. The Government consulted on revising the definition of regulated advice in the existing Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, so that regulated advice was based on a personal recommendation. That definition is in line with the EU definition set out in the markets in financial instruments directive 2004, catchily known as MFID. The Government agreed that revision, which came into force in early January 2018. We therefore suggest that introducing a new definition of advice in the Bill is unnecessary and potentially duplicative. It would cut across existing regulatory architecture, not just in respect of what the Bill is trying to do and the clients it covers, but across other aspects of the Treasury and dealings with the Financial Conduct Authority and industry and consumer groups. In addition, using legislation to establish definitions for those terms would not provide the flexibility in the future to adapt the definitions appropriately, if and when that needed to take place.

I also take issue with a number of points regarding the amendment. First, the three organisations that we are merging to form the single body do not seek the definitions that the hon. Member for Paisley and Renfrewshire South is seeking to persuade us of. Those organisations are a pretty good guide to what the Government are doing, because we have consulted at length, asked them what they want us to do, and they most definitely have not said, "Go away and define those individual points." They want the degree of latitude to continue.

Secondly, the hon. Lady asked the body to do this within three months. To answer my hon. Friend the Member for North Warwickshire on timings, we hope that the body will be created—subject to the good will of the House and Her Majesty signing on the dotted line—between the end of October and the beginning of December. Asking the body to make, within three months of its creation, having merged three organisations, a definition that would probably apply across all financial sectors is, with respect, putting quite a big burden on the body. Also, it is not the appropriate organisation to do that. That should be done by the independent Financial Conduct Authority, suitably engaged in consultation with wider parties. We have done that in relation to advice; that is why we had the FAMR review. To be fair to the FCA, it took two years of long, hard struggle to come up with the specific definition that all parties were content with. I go back to the point that while those particular points are not sought by the individuals, I believe that it is not appropriate to give the definitions.

My hon. Friend the Member for North Warwickshire asked about timings. We will be up and running, with a fair wind, in winter 2018—but beware of Ministers who say when things will happen, and of course winter in parliamentary terms can stretch a long time. The standards by which the single financial guidance body will be judged are set out in clause 10, on which I am delighted to be addressing the Committee this afternoon, so I will not go into detail about the standards now but will ensure I set out a bit of detail in answer to that question when we debate clause 10, so bear with me. He also made a point about resilience and life events, which I will address briefly.

A simple point is made about resilience, as set out in clause 2 through the various objectives described, whether the consumer protection or the strategic function. It is also fundamentally set out in clause 3(9), which mentions "financial capability of members of the public".

One may use "resilience" or "capability", but the words—without getting too much into definitions—are all but interchangeable and, in the circumstances, we believe that those provisions address capability and the points made by my hon. Friend.

Regarding preparation for life events, my hon. Friend is a passionate supporter, as am I, of the concept of the mid-life MOT, which has been pioneered by certain companies, including Aviva. As a Government, in particular the Department for Work and Pensions, we are looking at the idea of people, at different critical points of their life, the middle point in particular, assessing where they are in terms of finances, pensions, guidance and everything. That seems eminently sensible to us, and we encourage all private sector organisations to do it. We are formulating plans.

Yvonne Fovargue: But does the Minister agree that it is not only major life events that can cause a problem? In connection with financial resilience, we all know that it might be the broken washing machine that can cause a bump for people who do not have that amount of savings. On financial capability, does the Bill look at addressing the need for people to build up a small pot of savings?

Guy Opperman: The answer is yes. Capability is about the ability to deal with life events, whether the traditional ones such as marriage, birth of a child, retirement or the middle of one's life generally, or—the hon. Lady is dead right—the washing machine or the car breaking down. There is formulated, as I am sure she is aware, things such as the sidecar proposal that is attached to auto-enrolment specifically to provide a savings pot to deal with life events, so that people are not affected by the sudden events involving £100 or £200 and so on. The Department is definitely working on such things, as we will seek to work with the single financial guidance body to ensure that it formulates those strategies. As the BBC puts it, there are other providers, such as Moneybox, Plum or—the name of the third one that I am particularly impressed by—Chip, which allow people to make small savings through day-to-day earnings and usage, giving them a pocket of savings to deal with things. We very much support all such organisations, and I utterly endorse the points made.

Mhairi Black: The logic behind the amendment is that right now we have hit a fork in the pensions road, because we are recognising that we might not be able to sustain a lot of the things in place now into the future. People are making decisions about their pensions when, to be frank, they do not have a clue about what they are doing, and they are ending up in horrendous situations because of a lack of understanding and of clarity. To me it seems perfectly reasonable to point out that those three terms, which may be used interchangeably in general conversation, in reality can have a massive impact on an individual.

The Government are promoting an ethos of educating and informing people, to ensure they make the right decision, and I do not see how the amendment waters that down in any sense. I know the Minister is saying that the body needs freedom, and so we cannot define terms as precisely as we would like, but that sounds like the Government are saying that we just have to trust the body's good will. This is a Government Bill, so why not strengthen it where we can? In that spirit, I am happy to withdraw the amendment on the basis that my later amendments are given due consideration, and that the Minister takes on board what I said. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 2 ordered to stand part of the Bill.

Clause 3

FUNCTIONS

Jack Dromey: I beg to move amendment 26, in clause 3, page 3, line 5, at end insert

"including by means of provision to the public of a pensions dashboard within the meaning of subsection (11)."

This amendment would require the single financial guidance body to provide for the public a pensions dashboard as part of its pension guidance function.

The Chair: With this it will be convenient to discuss the following:

Amendment 31, in clause 3, page 3, line 34, at end insert—

'(11) In this section and section 5, "pensions dashboard" means a publicly available service where members of the public can securely view details of their state and other pensions savings."

This amendment defines "pensions dashboard" for the purposes of Amendment 26 and 32.

Amendment 32, in clause 5, page 4, line 12, at end insert

"including by means of provision to the public of a pensions dashboard within the meaning of section 3(11)."

This amendment would require the single financial guidance body to provide for the public a pensions dashboard as part of its pension guidance function.

Jack Dromey: The lead amendment defines a pensions dashboard. It would require the single financial guidance body to provide for the public a pensions dashboard as part of its pension guidance function.

The idea of a pensions dashboard as a one-stop shop, enabling people to look at their pension scheme assets in one place, has been considered for a long time. We should have introduced one years ago. Many people across the country have very little idea of the value of their pension schemes—they may be in multiple schemes, and as a result they may have no idea what the returns might be. Pensions are a grey area for millions of people who believe they do not need to worry about it in the here and now, and that they will be able to deal with it when the time comes, but that is simply not the best or the most productive approach.

If someone has a solid awareness of the state their pension schemes, they have a much better insight into their future earnings after they retire, and they know whether they should put more—or perhaps, on occasion, less—money into their pension pot now. Crucially, this is about getting people to look forward and save for the future. A person moving jobs may have up to 11 small pension pots—that was the case for somebody I encountered recently—but perhaps only one provider has up-to-date details about them.

Government policy needs to be clear about whether and how the use of the dashboard can measurably reduce the small pots problem, and improve the position of savers whose funds are sitting in legacy products that offer poor value. We should introduce a pensions dashboard as a single public service dashboard overseen and hosted by the new single financial guidance body. It should be a safe viewing place, where an individual can see all the necessary information on their state and other pensions savings.

Although we did not press the amendment to a vote on Second Reading—indeed, depending on the Minister's response, we may not do so today—we raised this issue because we urge the Government to look at making it a statutory duty, including for pension providers, to engage with the publicly owned dashboard, and thus to ensure that everyone has a complete picture of their pension situation when using it. The data should only be visible one way. Pension providers should not be able to see an individual's pension dashboard. They must, however, be obliged to provide data towards it. If the direction of travel is in favour of a pensions dashboard—if that is common ground—the issue of what I describe as a duty to co-operate with the new mechanism is of the highest importance. If the dashboard is to be successful, all providers must release their data into it, although there still are some big, significant questions to be answered about governance, implementation and consumer protection—I would be the first to accept that—before the Government can move to compel all providers to provide the data that the industry is calling for.

Within the dashboard, there should be a pension finder service—an engine that sends out messages to search the records of all providers and schemes to see whether there is a match for the customer's details. The engine would then collect that data to populate the consumer's front-end viewing space.

The data of millions would be accessible through the dashboard, so I stress again: high standards, tough regulation and sound governance will be required to ensure that there is no abuse of a mechanism that is absolutely crucial to help people plan for the future. There are problems to be overcome, but a dashboard can make pensions guidance more effective. Individuals would have greater knowledge, which would improve the guidance conversation, with less time spent on working out what people have and more on giving the quality guidance that they need.

The direction of travel is common ground. We ask the Minister to brief the Committee on where the Government's plans have reached, and I will respond accordingly.

12.45 pm

Guy Opperman: I am delighted to have the opportunity to update the Committee on the pensions dashboard, which is a project I have very much taken to heart in the seven months I have had this job. I am massively committed to it. I endorse utterly the broad thrust of what the hon. Member for Birmingham, Erdington

[Guy Opperman]

says. It is a groundbreaking project that will provide the holy grail of access to the variety of pension pots we have, in various shapes and forms, as we get older in life—state pension, private pensions or other types of pensions—on one accessible portal.

However, the proposal to launch the dashboard was taken only in autumn last year. The Department for Work and Pensions is undertaking a feasibility study, which will be finished in March. I propose to report to the House of Commons by written or oral statement before the end of this term. The objective, which is very ambitious, is to launch the dashboard in some shape or form by May 2019.

I resist the amendment on the simple basis that, although it is very possible that the single financial guidance body will ultimately run the dashboard, that simply cannot be said at the present stage. There are a considerable number of complexities with the dashboard: the retention of a huge amount of different types of data, whether from state pension data or private pensions; who has access to that data; who controls it; and whether that is something that should be done by the Government, as ultimately the most trusted provider—regardless of whether one trusts or does not trust any particular Government—or by a relatively independent quango such as the single financial guidance body. There is an issue about what body would take it forward and hold the data, and the extent to which the data is accessible, to whom and in what way. There is a lot of devil in the detail, but the objective is utterly clear.

The amendment seeks to put in the Bill that the single financial guidance body will be in charge of the pensions dashboard and will take it forward. This slightly goes to the earlier point from the hon. Member for Paisley and Renfrewshire South about three months. I would be nervous of saying to the single financial guidance body, which has a big job ahead of it, that it is being set up to merge these organisations, provide all these services, do all of the things we want it to do, and then say, "By the way, on top of that, you have to do the single most complex piece of administration of all aspects of all pensions straightaway within six months of your creation." In my view, that would be a significant burden on that body at a very early stage. If it was a business, we would be asking, "Why deviate from the core purpose right now?"

It is possible that once the dashboard is up and running, the logical organisation to take it forward and run it would be the single financial guidance body, but I would be reluctant to commit to that in the Bill. I certainly do not want it to take that on right at the very start. I am happy to work with the hon. Member for Birmingham, Erdington and colleagues across the House as we go forward. I do not think there is a single naysayer to the project, but one should not underestimate its size or complexity.

For present purposes, I will resist the three amendments. I am happy to sit down with the hon. Gentleman and other Committee members and explain the issue in more detail, as I did when I appeared before my hon. Friend the Member for Brentwood and Ongar and his colleagues on the Work and Pensions Committee. The Chair of that Committee was very dubious about the likelihood of a dashboard coming into existence. He said that it would not happen during his lifetime, but I robustly assured him that it would. I hope that it will be up and running by May 2019, and that the body will advise it. I therefore respectfully resist the amendments.

Jack Dromey: I agree that this is a groundbreaking proposal. We have believed for some years that a pensions dashboard is essential, and there is common ground across the House that one should be introduced. We will not press the amendment to a vote, but we argue that such a dashboard should be part of the core purpose of the new SFGB.

What the Minister said is helpful. It is right that there is a feasibility study that includes investigation of the complexities, not least because, as I mentioned, on the one hand we want individuals to have access to high-quality advice and guidance, but on the other we have to protect data and ensure that individuals are not put at risk as a consequence of data leaks of one kind or another. I would be the first to recognise the complexity of that, and I welcome the fact that there will be a report in March.

Let me make two concluding points. We strongly believe that the SFGB is the best mechanism, but let us have that discussion at the next stage. I welcome what the Minister said about being prepared to sit down and talk that through at the next stage, including with the industry and stakeholders. All that is already happening, but it needs to be done in respect of the construction and final shape of the dashboard and precisely where it is located. I look forward to those discussions at the next stage and, on that basis, I beg to ask leave to withdraw the amendment.

The Chair: Does the Committee agree that the amendment be withdrawn?

Guy Opperman: With respect, Mr Stringer, I think you mean "amendments". We are dealing with amendments 26, 31 and 32.

The Chair: I apologise for not using the plural. The Minister is absolutely right.

Amendment, by leave, withdrawn.

Jack Dromey: I beg to move amendment 27, in clause 3, page 3, line 27, after "develop" insert "deliver".

This amendment would strengthen the SFGBs strategic function to support and co-ordinate a national strategy to a "develop and deliver" function.

The Chair: With this it will be convenient to discuss the following:

Amendment 29, in clause 3, page 3, line 31, at end insert—

"(d) financial guidance relevant to the modern labour market."

This amendment creates a duty for the single financial guidance body to develop and co-ordinate a national strategy to improve financial guidance relevant to the modern labour market.

Amendment 39, in clause 3, page 3, line 31, at end insert—

"(d) the uptake of financial advice from the single financial guidance body by members of the public, and

(e) the understanding of pensions amongst those between the ages of 18 and 55."

This amendment would add improving uptake of financial advice from the single financial guidance body, and improve understanding of pensions amongst people aged 18 to 55 to the requirements under the body's strategic function.

Jack Dromey: These amendments deal with developing and delivering the function of the SFGB and with the notion of a national strategy to improve financial guidance relevant to the modern labour market.

Amendment 27 would strengthen the SFGB's strategic function to support and co-ordinate a national strategy to what we call a "develop and deliver" function. We propose that the new body should not only play a part in developing and devising the national strategy for increased financial education and inclusion, but be tasked with delivering that function. As the primary body for advice and guidance on financial services, it will be best placed to deliver a scheme that seems to target a specific area of need—financial illiteracy—for many people in the United Kingdom.

As we have stated from the start, this is a two-topic Bill. The first concerns the establishment of a new arm's length entity to replace the three existing publicly funded consumer bodies. The SFGB will have a strategic function to support and co-ordinate the development of a national strategy. The Bill's stated aim, which we support, is to increase financial capability, reduce problem debt and improve public understanding of occupational and personal pensions. Especially given the appointment of a Minister for Financial Inclusion, the SFGB's strategic function could be strengthened to a "develop and deliver" function, despite the fact that the body may have limited leverage in certain areas.

As stated in the Lords Committee on Financial Exclusion, a real strength of the Money Advice Service is its focus on what works and on gathering together an evidence hub. We do not want to see momentum lost—*[Interruption.]* I am confident, given Government Members' reaction, that no one wants to see that work slip through our fingers; that would be a missed opportunity. The Committee concluded that

"it is important for the Government and service providers to continue to develop a greater knowledge of 'what works' when seeking to deliver increased financial capability."

Sadly, there are many recent examples of vulnerable individuals who have been preyed upon by so-called introducers at a time when the state of their pension scheme has been in question—in particular, British Steel workers in Port Talbot and, more recently, Carillion workers. Earlier, I told hon. Members about a shift supervisor breaking down in tears because he made a wrong decision after receiving bad advice, and because 20 others on his shift had followed his bad advice. He said that he would never forgive himself. Introducers—vultures—pounce upon workers at a time when they are unsure about their future financial situation, and persuade them to transfer their pension savings to a different scheme that will lose them money and often attracts high fees. Such examples illustrate the need for a national strategy to improve the financial education available to the British public.

The admirable Michelle Cracknell, chief executive of the Pensions Advisory Service, makes the point that we have the green cross code—I am sure all hon. Members have seen it—to encourage the safe crossing of streets. It is inculcated in people's minds and has been very effectively promoted. I went through it with my own kids. She says that, likewise—although not perhaps in the same way—we should encourage people to pause, think and get it right, particularly in circumstances of adversity. We should also help people plan for the future. Either way, that "Where do I turn?" is absolutely crucial. The new body will be a welcome step in the right direction, but we need to deliver a dynamic new body that works hard to create awareness.

The amendment would create a duty for the single financial guidance body to develop and co-ordinate a national strategy to improve financial guidance relevant to the modern labour market. Due to the increasingly fragmented and insecure nature of the contemporary labour market, many people are sadly perpetually in a precarious financial situation. I have seen that at first hand time and again in my constituency and in my former role at Unite the union. That group, now commonly known as the precariat, includes self-employed people, workers on zero-hours contracts, part-time workers, workers in the gig economy and those who are conscripted into bogus self-employment. I stress once again that I always draw a distinction between the admirable people—there are many—who want to work on a self-employed basis, and those who are given no alternative, including by employers such as Uber.

Due to the nature of their work and their hours, those people often find it difficult to access basic financial services. It can be hard for them to rent a home, to get a mortgage, to find home or contents insurance, and to access credit. That has contributed to record low levels of disposable income, alongside the longest wage stagnation in 150 years. Figures released last year suggest that the number of self-employed workers in the UK rose by 23% between 2007 and 2017, from 3.8 million to 4.7 million. Many of them are desperately in need of high-quality advice and guidance. What we are seeing is a shift in the nature of the world of work and the way that the British economy is working. The self-employed now represent 15% of the workforce and 91% of businesses. Although that can mean many enjoying greater flexibility and control over their working lives, it can have a negative impact on their access to finance.

A 2017 FCA report showed that consumers with no permanent address or who move regularly, which is often a characteristic of insecure employment, can regularly have problems opening bank accounts and accessing insurance and credit. That is a common situation for many people in the current labour market, particularly young people in metropolitan areas. Due to short-term tenancies and insecure working patterns, many people move on a regular basis. That can leave them open to problems accessing basic financial services and they may need guidance on the best way to go about that. The amendment proposes that the new body would need to devise its strategy and financial guidance taking into account the contemporary labour market and the challenges it delivers.

There is no question but that we have a rapidly changing labour market, with many badly in need of advice and support, as a consequence of patterns of employment. The Government have recognised the need for a focus on the issues about the modern labour market through the Matthew Taylor report. The amendment sits comfortably in the context of the overall

[Jack Dromey]

scrutiny by the Government and Parliament on how we respond on what is permissible in the future in terms of patterns of employment, and how to, in the here and now, give support to people in insecure employment that time and again they so badly need.

The Chair: Just before I call the Government Whip, let me clarify my previous remarks about amendments being withdrawn. I was a little too eager to agree with the Minister. The question before us then was whether the amendment should be made. We were discussing two other amendments with that, but they were not for decision, so it was singular and not plural—I am just trying to be helpful, Minister.

Ordered, That the debate be now adjourned.—*(Amanda Milling.)*

1.2 pm

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCIAL GUIDANCE AND CLAIMS BILL
[*LORDS*]

Second Sitting

Thursday 1 February 2018

(Afternoon)

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not later than

Monday 5 February 2018

The Committee consisted of the following Members:

Chairs: † Andrew Rosindell, Graham Stringer

† Amesbury, Mike *(Weaver Vale)* (Lab)
† Black, Mhairi *(Paisley and Renfrewshire South)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
Coyle, Neil *(Bermondsey and Old Southwark)* (Lab)
† Donelan, Michelle *(Chippenham)* (Con)
† Dromey, Jack *(Birmingham, Erdington)* (Lab)
† Fovargue, Yvonne *(Makerfield)* (Lab)
† Foxcroft, Vicky *(Lewisham, Deptford)* (Lab)
† Glen, John *(Economic Secretary to the Treasury)*
† Latham, Mrs Pauline *(Mid Derbyshire)* (Con)
† Mackinlay, Craig *(South Thanet)* (Con)
† Merriman, Huw *(Bexhill and Battle)* (Con)
† Milling, Amanda *(Cannock Chase)* (Con)
† Opperman, Guy *(Parliamentary Under-Secretary of State for Work and Pensions)*
† Reeves, Ellie *(Lewisham West and Penge)* (Lab)
Thomas, Gareth *(Harrow West)* (Lab/Co-op)
† Tracey, Craig *(North Warwickshire)* (Con)

Jyoti Chandola, Gail Bartlett, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 1 February 2018

(Afternoon)

[Andrew Rosindell *in the Chair*]

Financial Guidance and Claims Bill [*Lords*]

2 pm

The Chair: Welcome to the afternoon sitting. I must first inform the Committee that the question that schedule 1 be the First schedule to the Bill was not put at the appropriate point this morning. To rectify this error, I must now put the question.

Schedule 1 agreed to.

Clause 3

Functions

Amendment proposed (this day): 27, in clause 3, page 3, line 27, after "develop" insert "deliver".—*(Jack Dromey.)*

This amendment would strengthen the SFGB's strategic function to support and co-ordinate a national strategy to a "develop and deliver" function.

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following:

Amendment 29, in clause 3, page 3, line 31, at end insert—

"(d) financial guidance relevant to the modern labour market."

This amendment creates a duty for the single financial guidance body to develop and co-ordinate a national strategy to improve financial guidance relevant to the modern labour market.

Amendment 39, in clause 3, page 3, line 31, at end insert—

"(d) the uptake of financial advice from the single financial guidance body by members of the public, and

(e) the understanding of pensions amongst those between the ages of 18 and 55."

This amendment would add improving uptake of financial advice from the single financial guidance body, and improve understanding of pensions amongst people aged 18 to 55 to the requirements under the body's strategic function.

The Parliamentary Under-Secretary of State for Work and Pensions (Guy Opperman): I had anticipated that we would deal with amendments 27, 29 and 39 together. I thought that they would have been grouped, but I will address amendment 27 to start, and take your guidance from there, Mr Rosindell.

The hon. Member for Birmingham, Erdington proposes in amendment 27 to amend the Bill by a single word. The strategic function of the Bill as drafted and its three elements have been carefully designed, and I believe that the amendment should not be made. Through its strategic function, the guidance body will bring together interested partners in the sector, various services, the public and voluntary sectors and the devolved administrations with the aim of improving the ability of members of the public to manage their finances effectively. To that end, the body will develop and co-ordinate a national strategy.

The Money Advice Service has been undertaking that vital role to date, and key stakeholders agree that that important work should continue and be expanded. The national strategy will succeed only if the new body works effectively with its many partner organisations in the financial services and other sectors in a collective effort with shared ownership and accountability. Indeed, the premise of the national strategy is that one organisation working independently has little chance of making a great impact, but many working together have more. The role of the new body will be to drive the process forward and oversee its implementation, but not to be solely responsible for the delivery of the strategy in its entirety. For those good reasons, I urge the hon. Member for Birmingham, Erdington to withdraw the amendment.

Jack Dromey (Birmingham, Erdington) (Lab): It is a pleasure to serve under your chairmanship, Mr Rosindell. Briefly, in the words of the Minister, a national strategy will be pursued at the next stages, including a range of stakeholders and, I suspect, other enforcement bodies. Flowing from what the Minister said, the question is who will drive that at the next stages. The single financial guidance body will clearly and undoubtedly have a pivotal and central function.

Guy Opperman *indicated assent.*

Jack Dromey: I see the Minister nodding his head in agreement. In those circumstances, we look for a dynamic body to do precisely that: drive the national strategy. On that basis, I am content not to press the amendment.

The Chair: Amendment 29 is part of the same group. Does the Minister wish to speak?

Guy Opperman: Amendment 29 seeks to add another strand to the three existing areas of the strategy set out in the Bill. The Government agree with the hon. Gentleman on the overall principle that the strategy of the new body needs to be future-proof and flexible, to meet the challenges that an evolving modern economy might bring. Clearly the Taylor review is relevant to all those factors, but we do not believe that the amendment is necessary. It lacks a specific focus and would risk diverting focus and resources from the areas that we believe the body should prioritise through its strategic function. As I understand it, the amendment is not sought by existing providers. In the circumstances, I ask the hon. Gentleman not to press the amendment.

Jack Dromey: It is not for one moment our intention to divert focus from the body's core and strategic function. All I would say is that the changes taking place in the modern labour market are immense, complex and often profoundly disturbing. To give one example from my personal history, in 2003-04, alongside Gillian Shephard, I chaired the coalition of support that resulted in the Gangmasters (Licensing) Act 2004. From plough to plate—

from the National Farmers Union to the supermarkets—it sought to tackle some of the worst abuses of workers and the undercutting of reputable providers by rogues. My experience—like that of all Committee members, I suspect—is that there is much in the modern workplace and the world of work that is profoundly disturbing and needs to be tackled. Having said that, the Minister said himself that the body would take account of the demands in the modern labour market.

As far as the Taylor process is concerned, I know Matthew very well and his report contains some valuable proposals, although I do not agree with them all. It is helpful that on the Government's part there has been a focus on the modern labour market, including the gig economy. In those circumstances, particularly in the light of what the Minister said about the context of the Taylor review and the demands of the modern labour market, I shall not press the amendment.

The Chair: To clarify, amendments 27, 29 and 39 are part of a single group, so any Member who wishes to speak to any of the three amendments must do so now.

Jack Dromey: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Jack Dromey: I beg to move amendment 28, in clause 3, page 3, line 31, at end insert—

"(9A) In seeking to improve the provision of financial education to children and young people, the single financial guidance body may advise the Secretary of State that—

(a) Ofsted should take into account the financial education provided by schools when carrying out inspections, and

(b) financial education should be added to the primary school education curriculum."

This amendment allows the single financial guidance body to, as part of its function to improve the provision of financial education to children and young people, advise the Secretary of State that Ofsted should take account of financial education when carrying out inspections, and that financial education should be added to the primary school curriculum.

Some hon. Members may be surprised by the amendment, but I will explain why it is important. We believe that the provision of financial education to young adults in further and higher education—let alone to primary school children—needs to be improved. Young adults are an important age group not particularly well served under current arrangements. We believe that, where appropriate, education providers should incorporate financial education modules into programmes of study.

Thousands of young people throughout the country leave school without the necessary financial knowledge to approach critical situations such as applying for credit and mortgages. Research shows that 37% of 18 to 24-year-olds hold one or more credit cards, an overdraft or another form of borrowing, with average combined debts of £2,989, not including student loans or mortgages. The House of Lords Select Committee on Financial Exclusion heard that 51% of 18 to 24-year-olds regularly worry about money. Generally, half of all UK adults modestly rate themselves as having some understanding of financial products and services, while 15% say that they have a very good understanding and a minority of just 5% admit to having no understanding. Just 54% of the C2, D and E social classes say that they have some understanding or a very good understanding of financial products and services.

In September 2014, in a welcome move by the then coalition Government, financial education was added to the statutory national curriculum for secondary schools in England. Since then, schools have been required to include financial education as part of mathematics and citizenship teaching at key stages 3 and 4. However, there is still no requirement for English primary schools to include financial education as part of their teaching. In addition, as only 35% of state-funded secondary schools are now maintained schools, the obligation to teach financial education does not apply to nearly two thirds of all state secondary schools.

As the hon. Member for North Swindon (Justin Tomlinson) said on Second Reading:

"We live in a very complex society, with direct debits, standing orders and complicated marketing messages coming forward. Making sure that we equip all people of all ages to make informed decisions is an absolute priority."—[*Official Report, Financial Guidance and Claims Public Bill Committee,* 22 January 2018; c. 62.]

The hon. Member for Solihull (Julian Knight) said:

"The development of key skills and knowledge about money matters helps pupils and, indeed, their parents to make wise choices in later life, when innovations in financial technology and online consumer tools—not to mention the march towards a cashless society—will make previous experience and the advice of their elders an unreliable guide." —[*Official Report, Financial Guidance and Claims Public Bill Committee,* 22 January 2018; c. 95.]

In a world in which credit and financial services are more readily available than ever, it is vital that Britain's young people are given the financial education they need to approach those challenges when they leave education. In the view of the Opposition, it is only through mandatory financial education in both primary and secondary schools that we can be confident that young people will be equipped both to achieve the best possible start in life, and to avoid being exploited by the ruthless.

Returning to my first point, some may ask whether financial education should be taught in primary schools. My experience is that it is crucial that children at young age—primary school age—are involved in crucial discussions that help them to understand the future and the challenges they will face. I will give two examples.

First, Jaguar Land Rover—an excellent company; the Jaguar plant is in my constituency—has a highly developed programme of operating in primary schools. That is because it is the kind of company that looks ahead two to five years, five to 10 years and 10 to 20 years. It always has a particular problem in the recruitment of skilled labour, and it wants, through its work in primary schools, to open up the horizons of primary school children more generally. That is very important in a constituency such as mine, which is rich in talent but is one of the poorest in the country and has high unemployment. In particular, JLR wants to encourage young girls to see themselves as having a future in engineering and car manufacturing. Its strong view is that, without starting that work at that age, by the time people get to secondary school and beyond, preconceptions are formed about what is appropriate for a young girl, and ultimately a woman, to do.

[Jack Dromey]

My second example is controversial, although it has cross-party support. I have worked very closely with the admirable Dot Com Children's Foundation, which collaborates with the police and local authorities. I have seen it at first hand its programme in primary schools that uses a comic book format to teach children to spot risk and harm, to reject any obscene approaches and to know with whom they should talk if they feel themselves threatened. When we embarked down this path in Birmingham, where more than 100 primary schools have now used the programme, I remember some parents saying, "What? At primary school age?" Actually, in a non-threatening way, we absolutely want to make a start in helping children to understand the difference between family and friends on the one hand and those who would seek to exploit them on the other.

I am giving examples of important areas in which primary school children are equipped to deal with the modern world. And coming back to the issue of financial guidance, I suspect that not many primary school children have credit cards. Having said that, however, as they grow up they will need to know how to manage their finances, how to avoid exploitation by those who would seek to exploit their vulnerability and how to get the best possible start in life.

2.15 pm

Yvonne Fovargue (Makerfield) (Lab): I rise to recount some of my own experience. I was fortunate enough to employ a financial capability adviser from 2000 to 2010, when I left, although I have to say that every time we applied for funding he changed his job title. That adviser went into primary schools as well.

I am wary about adding things to the curriculum, because I understand that teachers are hard-pressed, but it does not have to be teachers who do this work. We sent in the adviser; he did a recognised course with a teacher, which gave the teacher confidence to carry on his work later. The primary school children were really engaged in the lesson, because somebody from outside had come in, and we also went in with the credit unions, to encourage the children to start an early habit of saving, as well.

That is when children are really keen. It is competitive—who can save the most in their little account out of their pocket money and so on? It was really successful. The schools liked it. I would love to get the funding to go back now, to see how those "adults" are coping after having had that education at primary school level, but unfortunately that was not possible. However, I believe that that work helped.

Guy Opperman: The hon. Lady will be very pleased to know that Her Majesty's Treasury, present in the form of the Economic Secretary to the Treasury, provides the LifeSavers programme, which I am lucky to have bid for on behalf of my constituency, and which does exactly what she has just described. Her speech might be seen as a bid to continue the LifeSavers programme—it obviously has a life span—and then she would be able to bid for her community to be part of the programme in partnership with the Church of England and whichever credit union she wishes to support.

Yvonne Fovargue: I shall make sure that Unify, my local credit union, gets a copy of that information.

One of the side effects of sending the adviser into schools, badged as the citizens advice bureau adviser, was that we encountered an upsurge in parents coming to us who were prepared to discuss their debts. It was as if having someone there who was talking to the children made them examine their finances; the children were going home and saying, "Look! We've been looking at this!" prompting their parents to examine their own finances, and then they already knew where to go to talk about their debt. So the work had that unintended consequence, which I must admit we found hard to deal with, given the resources we had. Nevertheless, it was really beneficial, so I would encourage the Minister to consider that as a proposal.

Guy Opperman: I should have said before that it is a pleasure to serve under your chairmanship for the first time, Mr Rosindell, and I welcome you to the Committee.

The hon. Member for Makerfield is right that a significant number of organisations provide, in a primary school setting, particular aspects of financial education in various shapes and forms, whether it is the Association for Citizenship Teaching, MyBnk, the Personal Finance Education Group or a variety of other organisations, and I would happily talk for some considerable period of time and overindulge the Committee on LifeSavers. As she knows, I set up a community bank in my constituency with Archbishop John Sentamu on 5 November 2015, and that community bank has bid for the LifeSavers project in Northumberland, and provides six schools with that financial education. We run six different banks in six different schools in my community. That work is extraordinarily successful. The original pioneer is in Lewisham, which I know the Opposition Whip, the hon. Member for Lewisham, Deptford, will be interested to hear, and the success rate has been wonderful.

The proposal is that the single financial guidance body should have a look at, and then come up with a strategic assessment of, what the provision of financial education of children and young people should be. I take issue with the Opposition on whether Ofsted should judge schools on the basis of financial education. I say, with respect, that it most definitely should not. Ofsted itself does not seek that, so I definitely disagree with paragraph (a) of the amendment. Ofsted, which has been consulted in broad terms, thinks that it would be inappropriate to inspect financial education specifically, since it usually inspects not individual subjects but the curriculum as a whole.

On the broader points raised by the hon. Member for Birmingham, Erdington, the curriculum is ultimately a matter for the Department for Education. He is right that financial education was brought into the secondary context under the coalition Government. Successive Governments have drilled down on the importance of maths, which is an absolute prerequisite and is fundamental to the education of our young people. The maths curriculum has been strengthened to give pupils from five to 16 the necessary maths skills, and I am sure he has seen in his own constituency the success of mental maths and advanced maths in primary schools. We responded to the House of Lords Committee's report on financial exclusion in a similar way—I make the same case here.

It will be for the single financial guidance body to target specific areas of need, and to match individual funders and providers of education projects and initiatives aimed at children. The amendment is very broad brush.

I would prefer the guidance body to be able to zero in on particular areas. That is the purpose of making overall assessment one of its strategic functions. That means that it will be better able to deliver what we all want: enhanced financial education for our children.

We agree about objectives, but I am not sure that we agree about the way forward for delivery. With respect, I invite the hon. Gentleman to withdraw his amendment.

Jack Dromey: My hon. Friend the Member for Makerfield made a powerful point about the importance of primary schools as places of contact—sometimes the only place of contact—with people who are struggling in their lives. My experience from a number of projects is that what is done in primary school reads across to a child's parents, so her point is very valuable indeed.

We can question how this should be done, but it is now public policy that children should be involved in financial education. A valuable start has been made with secondary schools, and we will seek at subsequent stages of the Bill to engage with the Government about how that might be extended further. There are questions about the context for that, including the overall maths context, but that can be teased out at the next stage.

Finally, if there is a coalition of support in the Committee for lobbying the Treasury on LifeSavers, I say: "Yes please, but don't stop at LifeSavers." On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Jack Dromey: I beg to move amendment 30, in clause 3, page 3, line 32, at end insert—

> "(d) the understanding members of the public have on how the duties placed on financial service providers under the Equality Act 2010, including the requirements on service providers to make reasonable adjustments, can enhance their ability to manage their financial affairs."

This amendment would ensure members of the public are informed about what financial services companies need to do to comply with the Equality Act, in particular the duty to put in place reasonable adjustments for disabled customers.

The purpose of the amendment is to ensure that members of the public are informed about what financial services companies need to do to comply with the Equality Act 2010—in particular, but not exclusively, the duty to put in place reasonable adjustments for disabled customers. We are rightly proud of that landmark Act in this country, and I am particularly proud that it was introduced by a Labour Government. There have been subsequent problems with its implementation and, dare I say, without wishing to divert into areas where we would disagree, the implementation of clause 1 of the Equality Act is yet to take place. Having said that, on disability matters, there would certainly be consensus around ensuring that people who have problems with their health and who have disabilities of different kinds get the support that they need and are not taken advantage of.

Under the Act, a person is disabled if they have a "physical or mental impairment" that has

"a substantial and long-term adverse effect"

on their ability

"to carry out normal day-to-day activities".

In that case, a duty to provide goods, facilities or services falls on providers, employers and a range of other parties. People automatically meet the disability definition under the Act from the day that they are diagnosed with a condition such as cancer, multiple sclerosis or HIV infection.

If an organisation that provides goods, facilities or services to the public finds that there are barriers to disabled people in the way it operates, it has an obligation to act, including to consider making reasonable adjustments. If those adjustments are reasonable for that organisation to make, it must make them. That duty is sometimes described as anticipatory, which means that an organisation cannot wait until a disabled person wants to use its goods, facilities or services, but must think in advance and on an ongoing basis about what disabled people with a range of impairments might reasonably need.

An organisation is not required to do more than is reasonable for it to do—I stress that again—but that depends, among other factors, on its size and nature, and on the nature of the goods, facilities and services it provides. Making disabled customers and their advocates aware of that duty means that they will be able to ask their financial service provider to potentially adjust the GFS it offers and to remove any barriers.

Although I would be the first to accept that there is good practice in the sector when it comes to making adjustments for visual and hearing impairments, that is rarely done in the context of the legal framework. In certain circumstances, where that is not done and where conditions such as a cancer diagnosis or neuro-diverse disabilities such as autism, brain injuries and dementia are not considered, that means that people are let down and there is a failure to comply with the terms of the law. For example, the Alzheimer's Society reports that 66% of people with dementia need some assistance when using a bank and 80% of carers said that banks need a greater understanding of lasting powers of attorney. On the one hand, there is the legal obligation, and on the other, there is an undoubted need for it to be complied with.

There is no reference to the duty to make reasonable adjustments in the Financial Conduct Authority's handbook. Frankly, I am surprised at that. The handbook contains provisions set out in legislation that are relevant to the FCA and other provisions made by way of instruments by the FCA. It contains a mixture of rules, which are binding obligations that can result in enforcement action if not adhered to, as well as guidance. The amendment will ensure that disabled people or their advocates are informed about the duty to make reasonable adjustments and that they can use that information to ask financial service providers to make adjustments to the goods, facilities and services they provide, which could include removing physical barriers or making services dementia-friendly.

Guy Opperman: It is a pleasure to respond to the hon. Gentleman's speech. I will make three key points: I will discuss whether the Equality Act applies to this body in future; I want to give some assurances to the House on an ongoing basis, because that really matters; and I will briefly deal with the point about the duty of care.

2.30 pm

It may have escaped the notice of some Committee members, who will have read every single paragraph and every line of every bit of this Bill, but fortunately I have been advised that paragraph 25 of schedule 3, on page 36, helpfully states that the Equality Act, rightly

lauded by the hon. Member for Birmingham, Erdington, will apply to the single financial guidance body, which will be specifically treated like all public bodies. All Bills have or should have such a provision, to be fair. I believe that the 2010 Act is applicable; if there was any doubt, I hope that that will allay that particular concern. Obviously, it has to integrate the same duties of equality as all other public bodies.

I want to put on the record—this applies to all financial services, including the actions of the single financial guidance body—that if there is any doubt that an organisation is not complying with the Equality Act, there is a process that an individual can go through. They can make a complaint to the Financial Ombudsman Service, which is able to consider an individual firm's compliance with the Equality Act and decide whether the individual consumer has been dealt with fairly and reasonably. More widely, a consumer can contact the Equality and Human Rights Commission, and there are plenty of examples of abuses being brought to its attention.

The FCA produced its consumer approach document on 6 November 2017, which sets out a vision of a well-functioning market for consumers and its strategy for achieving that, particularly relating to vulnerable and excluded consumers. Do I pretend that every single organisation is perfect in every way? No, of course I do not. However, I note that in her speech on Second Reading, my hon. Friend the Member for Mid Derbyshire mentioned the difficulty suffered by her constituent, whose name I think was Jacci. To its credit, Santander—I believe that was the bank—treated Jacci extremely well. My hon. Friend the Member for North Swindon (Justin Tomlinson) gave a similar example of Nationwide treating his constituent very well.

I pay credit to Macmillan for its campaign on duty of care, and numerous other organisations could be named. The long and the short of it is that clearly, as a general obligation, there is a duty of care to all customers, both in contract law, because it is a service provided for a fee, and in the law of negligence if there is any breach. I am delighted that the Economic Secretary has indicated on behalf of the Treasury that he met Macmillan's chief executive officer to discuss the duty of care.

Last Monday and today's debates have shown that all financial services, and all public organisations, have a specific and important duty to all their customers and the consumers that we all serve. I hope that that message has got across to them. There are valuable examples of where they have done it right, and without any shadow of a doubt we should be lauding them. However, in terms of the statutory process in which we are engaged regarding amendment 30 and the application of the Equality Act, I invite the hon. Member for Birmingham, Erdington to withdraw his amendment.

Jack Dromey: I actually met Jacci and did a conference with her, and I thought what the hon. Member for Mid Derbyshire said on Second Reading was very powerful and moving, telling the story of a wonderful person and using it as proof positive of why we need to ensure—

Mrs Pauline Latham (Mid Derbyshire) (Con): Is it not true that other financial institutions could do what Santander did and voluntarily sign up to her "Dying to Work" campaign, which would help everybody that they deal with?

Jack Dromey: I strongly agree with the hon. Lady, and that is something we might pursue, including on a joint basis, at the next stages. The "Dying to Work" campaign's objectives are right. To make the obvious point, she will have seen at first hand what a battle it is for people like Jacci, and I am sure that all of us have come across some very powerful cases in our constituencies. The banks and the financial institutions should absolutely, without hesitation, follow Santander's lead. Santander is to be congratulated for what it did. Do we have a marketplace where everyone conducts themselves in the same way? No, we do not, so the hon. Lady raises a very valuable point.

In terms of the Minister's response, it is welcome that, following Second Reading, the situation with regard to the Bill is unambiguous. I want to make two additional points. First, we will return to duty of care later. Secondly, the issue of enforcement is very important. The Equality and Human Rights Commission will have a watchdog role to play, but it is important that, from the start, the single financial guidance body is obliged in law to build into the culture of its operation, as we have argued, oversight of how financial institutions conduct themselves in terms of services, goods and facilities for the disabled.

Guy Opperman: I assure the hon. Gentleman that the whole reason we introduced the vulnerable circumstances provision in the Bill was to address that exact point. I cannot stress enough, and I have made the point repeatedly today, that the objective specifically enshrined in the Bill is that the particular needs of people in vulnerable circumstances need to be borne in mind.

Jack Dromey: That is welcome. All I will say is that, in our experience, there can be a law or a set of legal obligations, but are they necessarily carried out in practice? In fact, to take the Santander example once again, it took a view that it should do the right thing and that it was obliged by law to do so, but not every provider necessarily takes the same view. The issue of enforcement is key. I stress again that the Equality and Human Rights Commission has a role to play, but at the heart of the SFGB's operation should be action to ensure that the disabled are not disadvantaged. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clauses 3 ordered to stand part of the Bill.

Clause 4 ordered to stand part of the Bill.

Clause 5

SPECIFIC REQUIREMENTS AS TO THE PENSIONS GUIDANCE FUNCTION

Jack Dromey: I beg to move amendment 33, in clause 5, page 4, line 13, leave out subsection (2) and insert—

"(2) In section 137FB of the Financial Services and Markets Act 2000 (FCA general rules: disclosure of information about the availability of pensions guidance) after subsection (3) insert—

'(3A) In determining what provision to include in the rules, the FCA must include a requirement for members of a scheme, or survivors of members of a scheme, to indicate before gaining access to or arranging individual transfer of their pension assets either—

(a) that they have received information and guidance made available under section 5 of the Financial Guidance and Claims Act 2017 (specific requirements as to the pensions guidance function), or

(b) that they understand the nature and purpose of that information and guidance and have chosen not to receive it.

(3B) The rules—

(a) must impose an obligation on the trustees or managers of a relevant pension scheme to satisfy themselves that the requirement under subsection (3A) has been complied with,

(b) may make provision about what is to be, or not to be, treated as a sufficient indication under subsection (3A) (which may, in particular, require indication on more than one occasion in specified cases or circumstances),

(c) must specify that accessing a website or receiving published information does not alone amount to receiving information and guidance for the purposes of the requirement under subsection (3A), and

(d) may include exceptions for specified cases (which may include cases of assets below a specified value, cases where information, guidance or advice has already been received, cases of transfers by way of consolidation and any other cases specified in the rules).'"

This amendment would strengthen the provision in the Bill for requiring members of pension schemes to be given access to guidance in specified circumstances, so as to ensure that guidance was actually received or expressly refused.

The Chair: With this it will be convenient to discuss the following:

Government amendment 2.

Amendment 40, in clause 5, page 4, line 24, leave out "may" and insert "must".

This amendment paves the way for Amendment 41.

Amendment 41, in clause 5, page 4, line 25, leave out from "manager" to end of line 26 and insert "to ensure that, either—

(a) the members of the scheme or survivors of members of the scheme receive information and guidance made available under section 5 of the Financial Guidance and Claims Act 2017 (specific requirements as to the pensions guidance function), or

(b) they understand the nature and purpose of that information and have chosen not to receive it,

before proceeding."

This amendment would require guidance to be provided to members of a relevant pension scheme or their survivors unless they chose to opt out.

Clause stand part.

Government amendment 19.

Government new clause 1—*Personal pension schemes: requirements to recommend guidance etc.*

Government new clause 2—*Occupational pension schemes: requirements to recommend guidance etc.*

Jack Dromey: Amendment 33 would strengthen the Bill's provision for requiring members of pension schemes to be given access to guidance in specified circumstances, so as to ensure that the guidance was actually received or expressly refused. As I will come to argue later, that is an absolutely key point. I underline once again that the term "expressly" is crucial and should lie at the heart of the Bill and what happens during the next stages.

Our proposed default guidance would strengthen the Bill and ensure that more people were protected when transferring their pension assets. Currently, the system of checks and balances for those looking to move their pension assets from a defined benefit scheme are very strong. Members are offered guidance at the time and those moving more than £30,000 must undertake mandatory guidance. However, at a time when more and more defined-benefit schemes are closing than ever before, there is no such safety net for those on defined-contribution schemes. In our very strong view, default guidance would provide such checks and balances for those transferring assets with more value than they may have ever seen before in their lives.

Although the guidance offered by Pension Wise to those seeking to transfer their pension is of great value to many people, the take-up is relatively low and many enter into transactions without proper prior knowledge of their options and the consequences. Once again I refer to the story I told earlier today about the Port Talbot steelworker weeping because of the consequences of his actions and the 20 people he was responsible for who followed his lead.

The lack of a provision for default guidance has resulted in many members of schemes suffering detriment through scams or through making the wrong choice. The current system of signposting advice by pension providers to members of schemes who want to transfer or withdraw their pension pot is not working as it should. The providers, particularly the rogues, have no business interest in making sure that their members receive the appropriate advice and, as such, it is not made as clear as it should be. The right kind of default guidance—strong default guidance—would promote shopping around, better informed decision making and protection against scams.

The amendment would mean that members of a scheme, or survivors of members of a scheme, must either indicate that they have received the appropriate guidance before accessing the pension assets, or explicitly state that they do not wish to receive it. They must state explicitly and beyond any doubt that that is their choice

The service given by Pension Wise is highly respected and is appreciated when it is given. Between February 2016 and January 2017, 94% of people who completed an appointment were satisfied and 93% felt informed about their pension options, compared with 56% of a control group who had not used the service. However, as Pension Wise would be the first to acknowledge, the take-up of the service is extremely low. The number of appointments made with Pension Wise is rising—there were 66,000 in 2016-17—but that is still extremely low compared with the number of pension scheme members exercising pension freedoms.

Latest figures from HM Revenue and Customs show that some 772,000 people withdrew more than £6.5 billion from their pension pots in 2017. An FCA survey found that only one in eight 55 to 64-year-olds who plan to retire in the next two years and who have a defined-contribution pension had used the Pension Wise service in a 12-month period. Although traffic to Pension Wise's website is quite high, it is not a sufficient substitute for access to tailored and personalised advice. As Baroness Altmann said in the Work and Pensions Committee,

"When you introduce pension freedom into a marketplace that has never really been encouraged to engage with pensions and mostly does not understand much about them, obviously you need an expert to help you."

[Jack Dromey]

The National Employment Savings Trust has said that it was concerned

"that people appear to be making decisions based solely on a read of the Pension Wise website",

and from what we have been told about the experience of others, that is absolutely right. The main means of promoting Pension Wise advice is through signposting by pension providers and through advertising.

2.45 pm

The Government have said that

"demand for Pension Wise has been very responsive to paid advertising",

but the DWP cut the advertising budget by 10% to just £4.5 million in 2017-18. Currently, pension providers are required to inform members of the availability of pensions guidance—this is known as signposting—at various stages of the pension freedoms decision-making process.

Under current arrangements, between four and six months before the intended retirement date, the scheme member must be sent a "wake-up pack" including, among other documents, a "clear and prominent statement" signposting to free, impartial pensions guidance alongside a recommendation to seek appropriate guidance or advice. Next, there is a reminder, six weeks before the client's retirement date. After that there are further signposts to Pension Wise when there is communication with clients about their decumulation options or about facilitating access to pension funds; then, if appropriate, there is a further signpost to guidance as part of risk warnings when the client has made a decision to access pension savings.

When the Work and Pensions Committee looked at the prospect of mandatory guidance, it was told that it would cause "anger and dissatisfaction" with the pensions system and would be likely to lead to a watering down of the guidance given as it would become just a box-ticking exercise. Default guidance means that everyone will be made either to take the guidance or explicitly state that they do not want it—a system that should lead to an increase in the take-up of guidance. A Conservative Member, the hon. Member for East Renfrewshire (Paul Masterton), said on Second Reading:

"I remain hugely attracted to the principle of default guidance, mirroring the approach taken to auto-enrolment"—

a good parallel—

"with statutory opt-out provisions…if we are looking for something as close as possible to a silver bullet, default guidance is probably it."—[*Official Report*, 22 January 2018; Vol. 635, c. 78.]

I could not agree more strongly.

A system of default guidance would be of particular benefit now to those Carillion workers—who knows who will be next?—who may be looking to transfer their pension pot in the coming months, not least to avoid such tragic stories as the one I have told today about Port Talbot steelworkers. Many have been approached by "introducers" looking to make money out of their precarious position. Default guidance would at least give them the chance to receive expert and impartial advice before taking such an important decision.

The Minister has made welcome statements and the Government made positive noises on Second Reading about the need for what is sometimes termed a "further nudge" towards the guidance given by Pension Wise, rather than the current system of signposting. It is unclear why the Government refuse to accept the amendment suggested by the Work and Pensions Committee, which we support. The Government's watering down—that is what it is—of the Lords amendment on default guidance is wrong. In the words of Baroness Altmann,

"the Government seems to have bowed to industry pressure and proposes to weaken consumer protection for pension customers. By removing a clause introduced in the House of Lords, designed to protect consumers' pensions better, more people are at risk of losing their hard-earned savings in scams, frauds and unwise pension withdrawals."

She is absolutely right.

We wait to hear what the Minister will say. We are not satisfied with what the Government have said thus far. It comes down to the simple reality that there is access to high-quality independent guidance that people can count on, and that if people choose not to take it that must be explicit beyond any doubt. It must be unambiguous so that there can be complete confidence that we will not have people, at a time of crisis in their lives, being seduced into making bad decisions for their future.

Has there been some movement? Yes. Have the Government yet gone far enough? No. I wait to hear from the Minister.

Guy Opperman: May I be clear, Mr Rosindell, that I should speak to amendment 33 and the Government new clauses in the round?

The Chair: Yes.

Guy Opperman: I am grateful. I will therefore attempt to answer the points made by the hon. Member for Paisley and Renfrewshire South as well. I will take her points first, because there is a sequential approach.

Effectively, we are all dealing with three drafts. The House of Lords, in its wisdom, produced clause 5(2). Subsequently, the Work and Pensions Committee, of which my hon. Friend the Member for Brentwood and Ongar is a member, assessed that and produced what is in reality Labour's amendment 33—the amendment is a straightforward lift from that Select Committee. The Government then went away and produced new clauses 1 and 2 to see if we could improve on it.

I take on board everything that the hon. Member for Birmingham, Erdington said. It is manifestly the case that we all want to see the full guidance. We are about to have a precise discussion as to which is the best way to get to the objective we all seek. The Work and Pensions Committee was sure, as are the Government, that clause 5(2) is not good enough and we can improve it massively. Therefore, with no disrespect to the hon. Lady, we will reject her amendments because they are to clause 5(2).

The principle is the same: how can we best improve the drafting from the House of Lords? There are a variety of points, and I hope the Committee will bear with me as I set out a little detail. The Government amendments are specifically in keeping with the intent of the Work and Pensions Committee, and go further. They make provision for all schemes providing flexible benefits, including all defined-contribution schemes regardless of whether they are personal, stakeholder or occupational pension schemes, including in Northern Ireland.

I will make two points at the outset. First, the Work and Pensions Committee's recommendation does not include occupational pensions, so in any event it is

fundamentally deficient, because one would definitely want that. Secondly, Northern Ireland is not included. While there is no representative from Northern Ireland on the Committee—the hon. Member for Strangford (Jim Shannon) has not intervened like he normally does—we are in a situation where I have due respect to our good brethren from Northern Ireland, and we are including Northern Ireland in the provisions, which neither of the other provisions had done.

The Government amendments will ensure that there is what we consider proper consideration and co-operation between the Financial Conduct Authority, the Secretary of State and the single financial guidance body so that the FCA rules and regulations are effective, workable and consistent. This is a discrete, important point. The Work and Pensions Committee amendment would require the FCA to impose rules on pension scheme members, but the FCA's general rules do not entitle that, so the amendment is defective in that way. It also sets out delivery channel exclusions, which would not be appropriate for primary legislation.

The proposal is that there regulations should be informed by consultation. I think all parties agree on that but suggest different mechanisms to get there. Before the hon. Member for Birmingham, Erdington jumps to his feet, I get that such a consultation needs to be speedy—this is not something for the long grass. The regulations will then reflect informed consultation, with all bodies working together to create the right integrated form, allowing for updates and changes in technology, current user needs, best practice and research on existing rules and regulations as well as taking into account potential exceptions.

It is a brave Minister who starts to give exceptions to the rule, but I will give an example that may assist the Committee. If an individual has very, very small pots, as many people do—perhaps of £10 or £12—and wishes to transfer them or consolidate them, the nature of the advice, guidance and default in relation to that person will possibly be very different to the British steel worker we are dealing with in south Wales or Scunthorpe.

On the specific amendments, we with the broad consensus that we can do more. I have set out new clause 1, which is the effective replacement of clause 5(2). The specifics are that we believe that there are greater criteria and tests in the Government amendments than there are in the Work and Pensions Committee amendment.

Alex Burghart (Brentwood and Ongar) (Con): I speak as a member of the Work and Pensions Committee. As we set out, clause 5(2) is an improvement on the original legislation. I believe that the amendment made by the Opposition—it is very flattering to see the wording from the Work and Pensions Committee report—was an improvement on that, but new clause 1 and 2 are an improvement on that amendment for the reasons the Minister has set out. All schemes are involved, and the Opposition amendment places the onus on the individual, whereas the Government's amendments place the onus on trustees or management, which is a preferable way of proceeding. Does the Minister agree?

Guy Opperman: My hon. Friend is right to make that point. The provider will be required to ask members and other beneficiaries looking to access or transfer their pension benefits if they have received either pensions guidance or independent financial advice. If the member indicates that they have not received guidance or advice, the provider will have to recommend that they seek it. The provider will also have to ask the member whether they want to wait while they access guidance or advice, or, crucially, to confirm that they want to proceed without receiving it.

That will do two things from a behavioural nudge perspective—I suspect we will talk about behavioural nudges at great length. First, asking the scheme member if they would like to wait before accessing their pensions benefits so that they can receive guidance will give a clear steer that receiving guidance is the default option. Secondly, asking people to confirm that they want to access their pension without first receiving guidance ensures that the scheme member has to take an active decision to opt out. We believe that that strikes the right balance. It ensures that people are encouraged to take guidance without removing the element of personal choice. It also does not inconvenience those who have already accessed appropriate guidance or independent financial advice.

I could give a number of different quotes, but I will cite Tom Selby, the senior analyst at AJ Bell, who described the original auto guidance idea as weak and said that our proposal represents an improvement. He said:

> "Automatically enrolling members into guidance for each transfer or every time they took money from their own pension pot—when they have already decided what they want to do—would have caused massive delayed and huge complaints."

It was by no means clear, previously, that

> "it would have a material impact on the take-up of guidance. It therefore risked being…ineffective."

He added:

> "The new amendment is a vast improvement and, in the short term, should help increase awareness of the importance and value of advice and guidance. It also gives the Financial Conduct Authority breathing room to consult on alternative nudges towards guidance that have been shown by research to be effective."

The amendments also ensure that the occupational pension schemes that provide flexible benefit are covered—they are not covered by the Work and Pensions Committee's suggestion—including those in Northern Ireland. Our proposals seek to ensure consistency of approach between personal and stakeholder pension schemes, which are regulated by the FCA, and occupational pension schemes.

Mike Amesbury (Weaver Vale) (Lab): It is a pleasure to serve under your chairmanship, Mr Rosindell. I have a point of clarity. Surely a move from recommended guidance to default guidance would result in a higher up-take of independent advice and guidance.

Guy Opperman: We are into behavioural economics and nudge theory. In broad terms, imposing greater barriers to force people to do things should in principle get a greater take-up. However, there is a fine line. If we place too many hurdles in the way of the individual, they will not move anything even if it is in their interest, and they simply will not engage with the process. While one may agree or disagree with the concept of pension freedoms and having the ability to choose whether to consolidate pots or access them to do with them whatever one wishes, that freedom is available. One therefore has to be careful because, if there are too many barriers in the way, people simply will not engage with that policy.

3 pm

No doubt I will soon be passed some very technical note giving a much better answer than I have given, in which case I will be happy to try to expand on it. The principle is that we all want more people to take guidance when they need it. That is the whole concept of the behavioural nudges that we are trying to wrestle with to find the right way forward. I will move on, but if I need to come back to the hon. Member for Weaver Vale in more detail, I will.

We believe that the amendments provide a skeleton on which a nudge can be grafted, and that they provide latitude for the rules and regulations, which should be consulted on as a matter of speed, to set out exactly how the interaction between the scheme and the member will take place, including how the questions and recommendations in individual cases are phrases, so as to make the nudge as effective as possible. Within that framework, the FCA and the Department will, for example, require schemes to provide members with a separate letter expressly recommending that they either take pensions guidance or indicate in writing that they do not want that guidance.

The amendments will also provide scope for the FCA and the Department to update rules on technology and customer needs as they change over time. Again, I could list various organisations that support the Government's approach, but the Association of British Insurers highlights that

"it is important that any amendment gives the FCA and DWP scope to make rules that will have the desired impact on consumer behaviour and should allow government and the industry to find the right practical solution, having worked through the challenges."

I cannot overstate that we are all in the same ballpark in desiring pensions guidance to be effective on an ongoing basis, and it is right that the details should be set out speedily and that the rules and regulations should come forward as a matter of urgency.

To summarise, the Government amendments will mean that anyone not taking guidance or advice before accessing their pension benefits will be doing so after being asked explicitly to opt out of receiving it. I accept that the detail is still to be set out. I will make it utterly clear on the Floor of the House.

I have addressed the point on clause 5(2) and set out the numerous ways in which we consider that the Work and Pensions Committee—I revere and respect its great leader and all its members—is wrong in its approach. I should have made the point at the outset that, although I will seek to amend the Bill and will resist any Opposition amendments, I am very happy to go away and assess the nature of the debate and to try to provide more detail on Report and Third Reading. However, for the present purposes, I commend the Government amendments to the Committee and will resist the others.

Yvonne Fovargue: With respect, I think the Minister probably underestimates the public's disengagement with pensions. I sat through many pensions discussions when I worked with Citizens Advice, and also discussions on my own pension, and I stared out the window and wondered when I could stick nails under my fingernails—and I was vaguely interested in the subject.

I praise the work of the Behavioural Insights Team, of which I am a big fan. It is about time we made policy based on what people actually do, rather than what we think they should logically do. It has some interesting analysis. The extent of consumer distrust and disengagement was evident from the trials of the Behavioural Insights Team's pre-retirement "wake-up" packs last year. Those trials were run in collaboration with Pension Wise, the free pension guidance provider. The packs had a limited impact on the number of customers who subsequently used guidance. The strongest performing wake-up pack increased customers' likelihood of calling Pension Wise by only 3.5%. Nothing indicates better the impact of disengagement and distrust and the low capability. It is unrealistic to expect customers to absorb the level of information required from provider communications or online contact. The FCA's retirement outcomes review found that only 10% of customers had even read the pre-retirement wake-up guides, which also indicates why provider signposting is likely to have a limited impact.

Pension providers have exploited that inertia. Three previous investigations into the old annuity market identified low levels of shopping around and poor awareness of the available product options. That is still evident today on a timeline that has been produced, showing attempts since 2001 to make an impact on people's awareness of pensions.

The FCA retirement outcomes review interim report said:

"We are concerned that consumers motivated by mistrust in pensions"—

I do not think that trust has been increased by such matters as Carillion, the state pension scheme or women of state pension age. It brings distrust of the whole pensions system, whether state pensions, occupational pensions or cash purchase pensions, which make it extremely difficult to understand what will be paid at retirement age.

The report goes on to say that such people

"may be making uninformed decisions that result in paying more tax than they would have paid otherwise…or missing out on the benefits of staying invested"

and that they

"do not always take advantage of the help and guidance".

People need to take advantage of that before making a decision. It is not like switching bank accounts. People cannot switch pensions for a year and then think, "Actually, I'm not very happy and I want to go back." It is a long-term decision, and an important one.

Let us stop pretending that the wake-up packs are a legitimate source of information, and not build on them. I am pleased that we will consider measures further, but they need to be strengthened now. New clause 1 does not strengthen anything; it weakens it. Relying on looking at it later is not good enough for something as important as a pension.

Mhairi Black (Paisley and Renfrewshire South) (SNP): I apologise for my lateness, Chair; there were travel disruptions outwith my control. No discourteousness was intended. I appreciate the Minister saying that he would get in touch with me about my amendment.

Guy Opperman: On the hon. Lady's previous amendment, which we did not get to, I will write to her before Report or Third Reading with a detailed answer.

Mhairi Black: I also appreciate the Minister's honesty in getting straight to the point and saying that he will reject amendments 40 to 41. To return to my point, I think that if we do not strengthen clause 5, it will be a

real missed opportunity. The Lords amendment was a welcome move in the right direction—that is why I was quite looking forward to building on it—so it is a disappointment to hear him say that the Government will carry on with this watered-down version.

It seems totally counter-productive if we are now at a stage where we acknowledge as we write policy that people do not understand pensions and they do not have a clue about them, on the whole. That is the gist. People want someone to hold their hand through the process, not ask them, "Have you had advice?" "No, I haven't." "Right. Okay, we'll move on." The Minister said that the onus would be put on the individual. To me, what the Government are suggesting does put the onus on the individual rather than on an independent body to hold people's hands and guide them through the process. It seems like a missed opportunity. Forgive me if this is the wrong time, but I will press amendments 40 and 41 to a vote at the appropriate time.

Craig Mackinlay (South Thanet) (Con): It is always a pleasure to serve under your chairmanship, Mr Rosindell. I declare a couple of interests: I am a member of the Institute of Chartered Accountants in England and Wales and of the Chartered Institute of Taxation. Part of the Chartered Institute of Taxation has a low-income tax reform group, which includes a couple of charities that play a leading role in helping those who are on low pay: TaxAid and Tax Help for Older People. Before my time in Parliament, I was the north Kent volunteer, as a member of the Chartered Institute of Taxation, for Tax Help for Older People. Often there would be a widow or widower facing consequences that they did not quite know how to deal with, and that would be where the charity came in to help. Obviously, a lot of that work now happens through our surgeries on a weekly basis.

We live in a different world now, with auto-enrolment accumulating very nicely among millions of people across the country. If we are having difficulty today, we will have some very serious money in the future that needs to be dealt with, and people will need appropriate advice. I mentioned on Second Reading that the amounts involved across the country over the next 10, 15 or 20 years could amount to literally hundreds of billions of pounds.

Even without auto-enrolment, there are a number of choices that people need to take on board. Someone may be lucky enough to have a defined-benefits scheme. They are in the descendancy, for many reasons, but I have heard of instances of people who work for banks, in particular, having a defined-benefits scheme. They could be cashing that in, and thinking about a change to a different scheme of up to 50 times the annuity rate. Again, we are talking about very big figures.

People need to make a number of choices at various stages when approaching retirement: whether they should have a defined-contribution pot; whether an annuity is right for them—probably not a decision that many people are making, given the current low interest rates—and whether to change provider. I can see there being hundreds of thousands, if not millions, of people in a few years' time who have been using NEST, for instance—the easy provider that many small employers are using—reaching the age of 55 or above and asking themselves, "Well, what now? Would changing to a different provider be better for me? Would a draw-down facility on my pension by best? Should I consider the inheritance tax benefits?" We are now in a new world where pensions are a very generous potential inheritance tax-saving product. They might also ask, "What are the factors of my health?" Health might play a very big part in whether someone wants to take all their income now as a full draw-down, or eek it out into the future. There will be a multitude of choices that people should make. People's personal tax position should also never be forgotten, so that they take their pension in the most efficient way possible.

I would call this group of amendments, very simply, "the scam blockage and advice enlightenment measures." They are very welcome and, from what I have seen of the Government's proposals, I am fully supportive of them. I think they take on board the suggestions of the Work and Pensions Committee. However, I have spoken many times, and remain concerned, about what constitutes advice. I note in new clause 1(1)(d) that the FCA will be entitled to put together rules about what constitutes advice.

I remain concerned that somebody with a smaller pot—perhaps a pot of £30,000, which will be a very common position for many people to be in under auto-enrolment in the future—may get involved with SFGB and take the full advice. They will be told, "These options are available to you." However, I do not think that the legislation provides for advising people what the best provider and tax situation is for them. It is still hoped in new clause 1, as good as it is, that people go and get advice. That advice is simply not available in the market because independent financial advisers will look at a small pot and say, "Well, for the fees involved, I don't really want to take you on."

I have spent considerable time pushing for flexibility under FCA rules to allow people to see an IFA on almost a no-liability basis. Instead of the IFA having to do a full "know your client" assessment, which takes a long time and costs a lot of money, I propose an appointment with no liability on the IFA's part. That would at least give people some help and guidance, which is infinitely better than none.

3.15 pm

That point leads me to the role of organisations that work closely with people, such as citizens advice bureaux, Age UK, TaxAid and Tax Help for Older People. Those organisations are trusted by Her Majesty's Revenue and Customs as semi-agents, as it were. As advisers working for free, they should be able to get involved with people's affairs without going through the whole rigmarole of engagement letters and liability. There is a case to be made that some of those institutions accepted by HMRC, such as Tax Help for Older People and specialists within Age UK and citizens advice bureaux, should be able to tick the box to say, "Yes, guidance has been given, we have had an assessment, and it is now safe to proceed under Government new clause 1."

That is a very broad interpretation of where we are. I am not sure how we can put it into the Bill on Report, but it relates to an issue that I will continue to raise throughout my time in Parliament: people need advice. Allowing advice on the basis of no liability for the advisers would at least mean advice being given where none is given at the moment.

Jack Dromey: This has been a good debate, with some powerful contributions. I absolutely agree with the hon. Member for South Thanet on the scale of

[Jack Dromey]

some of the problems. Those include some welcome problems with auto-enrolment, but also situations in which people with their backs against the wall are being taken advantage of. The sheer scale is immense, so it is hugely important to get this right. As the hon. Gentleman said so compellingly, it is crucial that we should be confident that the mechanism for default guidance is robust and will work.

My hon. Friend the Member for Makerfield made a typically powerful and well informed contribution. A provider recently spoke to me about "pension ignorance"—I am not sure that I would quite use those words, because they sound a wee bit insulting, but I know what he meant. There is a lack of knowledge about pension entitlements, because pensions are very often seen as being in the distance. My hon. Friend was absolutely right to raise that point. As I argued earlier, neither the take-up of currently available advice nor the trials to improve take-up inspire us to believe that the Government have got it right yet.

The Minister described our amendment as the Labour amendment, which of course it is—we tabled it. However, I dare to say that it was the product of the Work and Pensions Committee, working on a cross-party basis—a collective wisdom with which we agree. The Minister's point about the importance of looking at pensions in the round is correct, because we are looking at the totality of pension arrangements for the future. He said, with good intent, that there would be a speedy process to consider regulations at a future stage. The problem is that we have to get it right when we specify in the Bill what the expectations of Parliament are.

Let us compare the Government's proposals with the status quo. Interesting work has been done to compare the FCA's conduct of business sourcebook—COBS—with Government new clause 1. It would seem that the Government have not moved as far as they should have, so it is important that we get this crucial issue right in the Bill. Of course the Minister is right when he says that circumstances vary enormously, but we strongly believe that there is an absolute principle that must be enshrined in law. Crucially, it is not about erecting barriers. On the contrary, we want to help people to make their decision and ensure that they have access to the advice and guidance necessary when they come to make that decision.

The wording proposed is not yet good enough. Ultimately, we seek an outcome in the Bill that puts it beyond any doubt that the individual can be shown to have made a conscious decision and to have decided not to access that guidance. The Minister has referred to a nudge, which has its place but, frankly, a nudge alone, in the traditional sense of the word, is not enough at this stage. We need a strong statutory obligation and entitlement. I stress again that the consequences of what happens if things go badly wrong are heartbreaking. We have all seen it. That is why there is a determination across the House to ensure that some of the abuses of the past are not carried forward. For that to be the case, we need strong and unambiguous law.

The Minister has said that the Bill is a skeleton that we can put flesh on the bones of. The hon. Member for South Thanet made the point, which I understand, that this will be a significant issue on Report. To be frank, there is no flesh on these bones to show what needs to be done at the next stage. I hope that the Minister will listen not only to us and to the Work and Pensions Committee, but to the widespread expressions of people who are reputable in a vast industry—of course, there are people to the contrary, but they are not particularly fazed by what we propose—who recognise the importance of what we are arguing. I hope that the Minister will hear their voices as well as ours.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 8.

Division No. 2]

AYES

Amesbury, Mike	Fovargue, Yvonne
Black, Mhairi	Foxcroft, Vicky
Dromey, Jack	Reeves, Ellie

NOES

Burghart, Alex	Mackinlay, Craig
Donelan, Michelle	Milling, Amanda
Glen, John	Opperman, Guy
Latham, Mrs Pauline	Tracey, Craig

Question accordingly negatived.

Amendment made: 2, in clause 5, page 4, line 13, leave out subsection (2).—*(Guy Opperman.)*

This amendment removes subsection (2) of clause 5 (inserted by the Lords), which required the FCA to make rules requiring trustees or managers of personal and stakeholder pension schemes to ask whether members have received guidance before accessing or transferring their pension. This duty is developed in the new clauses inserted by NC1 and NC2.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6

Delegation of functions to delivery partner organisations

Question proposed, That the clause stand part of the Bill.

Guy Opperman: In the circumstances, I am delighted to say that I do not believe this clause is controversial.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

Debt respite scheme: advice to the Secretary of State

Jack Dromey: I beg to move amendment 34, in clause 7, page 5, line 24, leave out subsection (1) and insert—

"(1) The Secretary of State must, within the period of six months beginning with the day on which this Act comes into force, introduce a debt respite scheme."

This amendment will require the Secretary of State to set up a debt respite scheme within 6 months of this Act coming into force.

The Chair: With this it will be convenient to consider the following:

Amendment 35, in clause 7, page 5, line 35, leave out subsections (3) to (5).

This amendment is consequential to Amendment 34.

Clauses 7 and 8 stand part.

Jack Dromey: The amendment would require the Secretary of State to set up a debt respite scheme within six months of the Bill coming into force.

A "breathing space" is a scheme that stops debts from increasing by freezing interest and charges, and halting enforcement action, allowing families the time and space they need to get back on their feet. This morning I told the story of a victim of domestic violence who fled and then got herself into a downward spiral of debt. She said: "I borrowed to pay my debts. I then had to borrow to pay my debts. I then had to borrow to pay my debts." What she would have greatly enjoyed, if it had been in operation at the time, is a breathing space to halt the downward spiral and allow her to sort out her finances, and indeed her life and the lives of her children.

While we welcome the fact that the Government have committed to a debt respite scheme with the introduction of the new body, those vulnerable people who are stuck in a cycle of problem debt cannot afford to wait. A debt respite scheme gives people who are suffering from debt problems the breathing space to stabilise their financial situation and get on a more stable footing.

One survey showed that 60% of people said that their financial situation had stabilised once all of their creditors agreed to freeze further interest charges and enforcement action. In a world where credit is easier to access than ever before, it is all the more likely that some will fall into problems with debt. Therefore, it is incumbent on the Government to ensure that these people are not left to suffer alone, and that they receive the support and guidance they need to climb back out of the downward spiral of debt.

StepChange, a debt charity, has estimated the wider social costs of current debt problems to be £8.3 billion. Currently, 2.9 million households are at crisis point with severe, unmanageable debt problems. Some 21 million people are struggling with their bills; 18 million people are worried about making their income last until payday; and research by the Money Advice Service found that, for nearly 9 million people, financial difficulty had progressed to more serious and persistent arrears, with bills and debts described as an ever more heavy burden.

Debt has wider social effects. StepChange polled its clients. Seventy-four per cent. said that debt had affected their sleep patterns; 43% said that debt worries left them unable to concentrate at work; 6% said it caused changes to work attendance, such as arriving late or taking more time off; and 2% said that it led to them losing their job. If that evidence was scaled up, it would point to 2.9 million people with severe debt problems, which potentially means nearly 60,000 people out of work as a result of problem debt.

In addition, 57% of indebted parents said debt put their current or most recent relationship under strain. Some 7% said their relationship actually broke up because of debt, and children in households experiencing debt problems were more than twice as likely to say they had been bullied at school.

3.30 pm

I am sure that every member of the Committee has personal experience of heartbreaking cases in their constituencies where people are immersed in debt, and of the price they pay and how they suffer. Crucially, debt respite gives them the time and opportunity to sort their lives out. I know that the Minister agrees in principle and that there is common ground across the House that a debt respite scheme should be established, but it is a question of how quickly that can be made to happen. It is our strong view that it ought to be achievable within six months of the Bill becoming law.

Michelle Donelan (Chippenham) (Con): Does the hon. Gentleman agree that rushing a scheme could impact the effectiveness of debt respite? Although I completely agree with everything he said about the problems that can be incurred via debt, it is important to get this crucial element of the Bill correct and to liaise with organisations such as StepChange and the others he mentioned.

Jack Dromey: The hon. Lady is absolutely right. It is important that we get this right at the next stages of the Bill. I do not disagree for one moment. Having said that, let me distinguish between two things. Making substantial changes to the machinery of government to deliver a new function willed by Parliament can take a long time, so the SFGB probably will not be operational until May 2019. I understand that. However, it is not beyond the wit of man or woman to send an unambiguous message now, on the face of the Bill, to those who are responsible for unreasonable pressure being put on people in debt that they are not allowed to do so. Introducing that within six months of the Bill becoming law is eminently achievable.

I stress again that I am the first to recognise that great change sometimes takes time to implement, but to be frank, given the times we are living through, I do not want people who could get respite to spend another six months not getting it. There is no good reason not to give them respite. As I said when we started this morning, we want to strengthen a good Bill, and inject into it a greater sense of urgency as appropriate.

Yvonne Fovargue: I thank the Minister for his letter about breathing space and the other issues, but it gave me another question for him. He mentioned a six-week breathing space period. I have said this many times: please, please talk to debt advisers. Six weeks is really not enough time.

Alex Burghart: I appreciate the point the hon. Lady is about to make, because I heard her make it in the Chamber the other day, but does she acknowledge that the six-week breathing space in Scotland has been effective? That is an interesting example of effective legislation coming out of the Scottish Parliament. Although a longer breathing space may be preferable, six weeks has been shown to be effective up there.

Yvonne Fovargue: It may have been shown to be effective, but it has not been shown to be the right amount of time. The average debt in Scotland takes four months to handle, so six weeks is not the right amount of time. People have regularly asked for extensions to the six weeks.

Alex Burghart: To re-emphasise the point—I promise not to come back on it again—that the six-week breathing space in Scotland has led to a reduction in bankruptcies. It has been successful in that respect. It is wrong to suggest that six weeks is wholly inadequate.

Yvonne Fovargue: The number of bankruptcies is not the issue; they are actually quite rare. A very small proportion of the people who go to debt organisations are made bankrupt. It takes most people with the average amount of consumer debt four to six months to deal with it. Those are not people who would ever have looked at bankruptcy. Bankruptcy is not appropriate for them and would not even be considered.

The average number of consumer debts is rising, and creditors are slow at responding. People often forget to bring in a debt, and so they have to write to all the creditors and redo the statements. Six weeks is just about better than nothing, but I would say, from my long experience of dealing with debts, that four months is probably the minimum. We want to prevent creditors from delaying it until the six weeks is over and people have to go for extensions, which may or may not be granted. Some creditors—I have to be honest—delay it simply so they are not part of the solution.

Although I still think the length of time is inadequate, I welcome the proposal for a breathing space. Another issue with the length of time is that it is very difficult for people who suffer from depression or low-level mental health problems to make regular appointments, and they are often asked to come in all the time to deal with their debt. That needs to be taken into account. I welcome the move, but please do not be wedded to six weeks.

The Economic Secretary to the Treasury (John Glen): It is a pleasure to serve under your chairmanship, Mr Rosindell, and to participate in this stage of the process. I feel a bit like poacher turned gamekeeper, given that I was a member of the Work and Pensions Committee a few years ago when many of these matters were discussed. I remember having long discussions with my hon. Friend the Member for South Thanet and the hon. Member for Paisley and Renfrewshire South. It is still a matter of great sadness that I have not been to Paisley.

Amendments 34 and 35 would require the Government to implement a breathing space scheme within six months of the Bill's receiving Royal Assent. It is legitimate to press that point, because everybody on this Committee—this was striking on Second Reading—is concerned and feels a sense of urgency. Before I became a Minister, I spent time working with Members of other parties on the all-party group on hunger and food poverty. I visited South Shields and saw at first hand, in a community that is very different from mine in Salisbury, the distress that debt can cause. Now that I am a Minister and in a position to do something, I am extremely focused on ensuring that this happens.

Members of all parties agree that creating a breathing space scheme will have significant benefits for thousands of the most vulnerable families. However, it will need to be designed properly and implemented in partnership with the debt advice sector and creditors. Creating a scheme will ensure that vulnerable consumers have time to assess their financial situation and begin to deal with their debts. The Government are committed to establishing a scheme as quickly and effectively as possible, including through the passage of the Bill. I am pleased that clauses 7 and 8 provide for the scheme's introduction, but it is worth acknowledging how complex some of these situations are and how complex the scheme may need to be. It includes both a breathing space and a statutory debt management plan. It involves significant co-operation among creditors, debt advisers and those accessing a breathing space, who in many cases could be leading chaotic lives.

I listened carefully to the hon. Member for Makerfield on Second Reading. I always have great respect for her when she speaks in the House. Today she talked about needing four months, and on Second Reading she talked about needing six months. She cited an example of somebody who may think they have all their debts lined up, and then another materialises later on. Those are the sort of complex situations that we need to come to terms with in the design of the scheme. There are significant questions about how debtors can access the scheme, which debts are included, how flexible the scheme can be, and how it ties in with existing statutory debt solutions.

Mike Amesbury: What does the Minister mean by "as quickly and as effectively as possible"? Would he give us a timeframe?

John Glen: I will come to that point and will be as explicit as I can, giving an indicative timeframe.

The scheme needs to be properly designed with consultation with experts in the debt advice and creditor sectors. That is key to ensuring that it works in practice and properly benefits the lives of the vulnerable people that we all want it to support.

The Government are clear that it will not be possible to conclude that process within six months of Royal Assent, which is what the amendment would require. However, I agree with the hon. Member for Makerfield that we must work quickly to establish the scheme, given the benefits it could bring to indebted individuals. To that extent, the Government have set out a clear timeline for the implementation of breathing space.

My officials are currently working hard to analyse responses to the Government's call for evidence on the scheme, which closed on 16 January. Following that process, we will consult on a single policy design proposal this summer. In tandem, we will ask the new body for advice on specific aspects of the scheme that it is well placed to advise on, to ensure the scheme is rolled out smoothly and embedded in the practices of the debt advice and creditor sectors. We will seek that advice immediately after the body is established, and it will be very tightly framed to ensure that the process does not delay the scheme's introduction.

Throughout the period, my officials will be drafting regulations to introduce the scheme and I can confirm that they will be laid as soon as possible in 2019. I feel the frustration of Members on, I suspect, both sides of the Committee. All I can say is that I will be doing everything I can and will be working very closely with the Under-Secretary of State for Work and Pensions, my hon. Friend the Member for Hexham, to make sure that we do this as quickly as possible.

Yvonne Fovargue: As one of those people who are feeling the frustration with the 2019 date, why do we have to wait for the establishment of this body when all

the debt charities and most of the creditors have been pressing for a breathing space under the old system? Why do we have to wait for the new body to do that?

John Glen: I acknowledge the problem, but having taken the trouble to move three entities into one single body and to make it an authoritative place for people to go to for reliable advice across different elements, it would be appropriate, given how central the debt problem is, for it to have a meaningful contribution to establishing the parameters of the scheme. That seems consistent with the objectives that we have set out and discussed, although I acknowledge the wide—although not complete—consensus.

I will reflect on the point made by my hon. Friend the Member for Brentwood and Ongar about the Scottish experience. It is interesting and instructive that that has iterated quite significantly over time over many years, albeit with a significantly smaller cohort of just 2,000 people. That tells us that lessons have to be learned through experience of work on the ground. I am extremely anxious that we get the best possible scheme designed by the time the process is concluded. This process balances speed with getting the policy right.

Yvonne Fovargue: I would also mention the independent review of the debt advice provision. It concluded very speedily. It was a very short process, and concluded over the Christmas period, in January. Will the recommendations in that have to wait to 2019 to be implemented? Some of them seem extremely sensible.

John Glen: I am grateful to the hon. Lady for making that point. I am aware of that report, which came through on 25 January. I have seen a summary of its recommendations. Officials are looking at it and I will be dealing with it as quickly as I can. I was assisted with typical helpfulness from colleagues on the House of Lords stipulation. The House of Lords was very keen that the new body should have input into the formulation of the scheme and the respite period—that is worthy of consideration.

3.45 pm

I have explained why we cannot accept the amendment. I cannot emphasise enough that requiring the scheme to be set up before the end of the year would risk the scheme not working for consumers or not being utilised by the sector in the optimal way. The scheme was a key manifesto commitment that we are working on apace, but it is too important a policy to be rushed through, as the amendment proposes. I am extremely focused on the policy. Given my experience, I have set out that it is one of the most important things that I will do in my time in office. I am committed to seeing it through. I hope that Members are reassured by that and that the hon. Member for Birmingham, Erdington will withdraw the amendment.

Jack Dromey: The Minister speaks with obvious sincerity, which is welcome. As has repeatedly come up in our proceedings today, whether our experience is from our constituency or otherwise, we have all seen the price that people pay as they sink ever more deeply into debt. I do not mind admitting that there was one particular case—it is not appropriate to go into the details—where, when my constituent walked out the room, I was in tears because of what had happened to her. Her life was in a downward spiral. There is common ground and obvious sincerity, so the Government should act.

We will not push the amendment to a vote, but I suggest that the Government reflect further and come back on Report with the best possible timescale for implementation. I agree with my hon. Friend the Member for Makerfield: we should not necessarily have to await the formation of the new body. The scheme is a related matter to the function of the body—of that there is no doubt—but we have seen experiences such as the arrangements in Scotland. We also have the collective wisdom of the discussions in the sector and in the House of Lords. Everyone is determined to get it right. We just do not think that the scheme should be introduced a year beyond the Bill coming into effect in three or four months' time. We would be talking about it being a year and a half before we ultimately see this welcome mechanism introduced.

In not pushing the amendment to a vote at this stage, I ask the Government to reflect further and come back on Report on two things. First, we want clarity on what the Government think is necessary. The Minister has gone a long way towards that. We want clarity about how one goes about arriving at the default scheme. That relates to the mechanisms and who should be engaged. The Minister has referred to that already. Secondly, we want the quickest possible timescale to get the scheme introduced. If the Minister will respond accordingly on Report, I am prepared to withdraw the amendment.

John Glen: I am grateful for the hon. Gentleman indicating that he will withdraw the amendment. I observed closely what he said on clarity on the default scheme and having the quickest mechanism possible to bring it forward. I will reflect with my colleague the Under-Secretary of State for Work and Pensions, my hon. Friend the Member for Hexham and provide an update on Report.

Jack Dromey: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 7 ordered to stand part of the Bill.

Clause 8 ordered to stand part of the Bill.

Clause 9

Guidance and directions from the Secretary of State

Question proposed, That the clause stand part of the Bill.

Guy Opperman: The clause gives the power to give guidance to the single financial guidance body and directions specifically on the way it exercises its functions. I do not believe that it is contentions.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

Clause 10

SETTING STANDARDS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clause 11 stand part.

Guy Opperman: I will briefly address the matter of the standards, which the clause will require the single financial guidance body to set out, and their enforcement and monitoring. The clause will require the FCA to review those standards and how the body is monitoring and enforcing those standards. We believe that is appropriate in the circumstances, and that we are creating this body with a degree of scrutiny in the right and proper way.

Jack Dromey: We rehearsed this morning the importance of the independence of the body, in terms of its operational role, on the one hand. On the other hand, there is common ground that there should be proper accountability and oversight. We are content with the proposed arrangements.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clause 11 ordered to stand part of the Bill.

Clause 12

FINANCIAL ASSISTANCE FROM THE SECRETARY OF STATE

Jack Dromey: I beg to move amendment 36, in clause 12, page 8, line 10, leave out from "State" to "financial" and insert "must provide".

This amendment proposes to adjust Clause 12(2) to strengthen the provisions on financial assistance from the Secretary of State related to the operation of the SFGB

The Chair: With this it will be convenient to discuss clause stand part.

Jack Dromey: The amendment proposes to adjust clause 12 to strengthen the provisions on financial assistance from the Secretary of State related to the operation of the single financial guidance body. The intention of the new body is to increase the number of people who receive financial guidance and advice—indeed, the ambition is to greatly increase it. This function is key to increasing financial awareness, education and inclusion across the country.

While the current services provided by the three bodies to be merged are greatly valued and appreciated by those who use them, I think there is common ground that they are not used enough. A primary function of the new body needs to be to increase take-up of the services it offers. For example, take-up of the services offered by Pension Wise is extremely low. The latest figures from HM Revenue and Customs show that some 772,000 people withdrew more than £6.5 billion from their pension pots in 2017. However, only 66,000 appointments were made with Pension Wise in 2016-17—approximately 8.5% of people.

An FCA survey found that one in eight 55 to 64-year-olds who planned to retire in the next two years and who have a defined contribution pension had used the Pension Wise service in a 12-month period. The FCA also found that 25% of pension transfers are withdrawing all, or virtually all, of the pension, with 19% withdrawing virtually all and 6% withdrawing all. What plan do the Government have for those who have withdrawn all their pension and may end up with nothing later in life? They may end up falling into the arms of the taxpayer, and the Government need to prepare for that.

While traffic to Pension Wise's website is quite high, it is not a sufficient substitute for access to tailored and personal advice. Also, many of those looking for advice may not be completely digitally aware. As Baroness Altmann said in the other place,

"When you introduce pension freedom into a marketplace that has never really been encouraged to engage with pensions and mostly does not understand much about them, obviously you need an expert to help you."

NEST has said that it is concerned

"that people appear to be making decisions based solely on a read of the Pension Wise website".

If those looking to transfer their pension are only accessing the Pension Wise website, it means that they will not get the tailored specialist advice that they need at such a time. We must therefore ensure that as many as possible of the 772,000 people who take advantage of their pension freedoms every year receive the guidance that they need to make informed and reasoned decisions about what are usually large sums of money.

For this reason, having set out why this body matters and the scale of likely demand at the next stages, we are surprised that the Government, from some of the things that they have said, appear to expect to make a financial saving from the formation of the new body. The Government's impact assessment states:

"One structure replacing three will reduce cost of guidance provision, releasing funds through these efficiencies…savings could be used to reduce the levies that industry pay to finance the government's guidance provision."

With the greatest respect, that is the last thing that should happen. We do not believe that the Government should use the formation of the new body to make savings and pass them on as reductions in the amount paid by the industry to finance the body. The industry has a responsibility to finance the body adequately through the levy system. The industry and the Government should use the efficiencies created by the new structure, as well as additional money in grants and levies, as appropriate, to drastically increase the services provided. In our view, that is essential to the success of the SFGB if it is to deliver the complete guidance service that people need.

I had a fascinating discussion earlier this week with the chief executive of the Pensions Advisory Service, and she referred to the extraordinary statistics on TPAS's work and the take-up of it. She made the point, absolutely rightly, that more could be done with existing resources and economies of scale from bringing together the three organisations, but she went on to make the compelling point that so great is the likely demand at the next stages that much more will need to be done to finance the new body. Inescapably, unless it is properly resourced, the new body will not be able to discharge the functions that will fall upon it.

The chief executive gave some examples. She made the point again about not duplicating work done by other areas of Government such as research, and said that, in TPAS's experience, some things that are key to the services that it provides include, of course, the dashboard and the website, but also face-to-face guidance, which is crucial time and again. She talked about the specialisms necessary to help and inform decisions about options, saying that we should not dumb things down by having people give guidance by just reading off a list. She said that an advertising programme ought to be part of what the Government do, and that it could be done in a number of different ways. She also spoke about what I call the Carillion capacity—the capacity to respond at a time of crisis—as well the promotion of financial public awareness, which we debated earlier.

In conclusion, we hope for a statement from the Government that makes the point that the purpose of the new body is not to save money but to provide the kind of service that all people in all circumstances ought to be able to count on. The industry must play its part, but Government must be unambiguous that the body will be properly and fully resourced.

4 pm

Guy Opperman: Can I answer the point raised directly? It is absolutely the case that merging three bodies and having one building rather than three will create some degree of potential cost efficiencies, but we are absolutely of the view that those efficiencies should then be directed into frontline services. I can unequivocally give that assurance to the Committee.

The hon. Gentleman referred to the original response to the consultation. It is true that there is an expectation that rationalising the provision will create some operational efficiencies. One would expect that. However, that same response made it very clear that the intention was for any savings to be channelled to frontline delivery of debt advice, and money and pensions guidance. I could not be any clearer on that in any way whatsoever.

I manifestly want to make that point, but I also disagree that there will be an insufficiency of funding, and the reason for that, it seems to me, is threefold. First, this is effectively not taxpayer-funded; it is done by a levy. The levy is a moveable feast, depending upon the need identified by the individual organisation, and it is something that can be assessed and increased on an ongoing basis, to provide the service that, it seems to me, we all wish to ensure is there. Secondly, there is capacity to top up the levy, should the Secretary of State wish to do so, and the financial guidance body on an ongoing basis, and that additional funding can be provided.

The proposed amendment has the bizarre, counter-intuitive effect of removing the discretionary nature of the financial assistance that the Secretary of State can provide. I simply make the point that while we are keen to ensure that this body is run more efficiently, in terms of amalgamating most probably into the High Holborn offices of the Money Advice Service, we certainly believe that this is something the levy will be able to fund, and if it is the case that this expands the provision—the House of Lords seems to have done so and this House may do so as well—then the levy may go up to accommodate the need as has been described. With those assurances, I respectfully ask the hon. Gentleman to withdraw his amendment.

Jack Dromey: The assurance that this is not a cost-saving measure is very welcome, but I stress again: is there an economy of scale? Are there possibilities, for example, of freeing up, by locating in one location, which is very likely to be the case? All of that is absolutely true, but right at the start, as we go down this path, to see a welcome mechanism created, we need to be confident, and to send a message to the people out there that they can be confident, that the new organisation will be effective, dynamic and properly resourced. Therefore, on the basis of the assurances given, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 12 ordered to stand part of the Bill.

Clauses 13 to 20 ordered to stand part of the Bill.

Schedule 3

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 1

Amendment made: 19, in schedule 3, page 34, line 22, leave out paragraph 13—*(Guy Opperman.)*

This amendment removes the amendment to s.137FB of the Financial Services and Markets Act 2000 in the Schedule 3 which was needed in consequence of the Bill, because this is now dealt with in the new clause inserted by NC1.

Schedule 3, as amended, agreed to.

Clauses 21 to 23 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —(*Amanda Milling.*)

4.8 pm

Adjourned till Tuesday 6 February at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

FGCB 01 The Claims Guys

FGCB 02 John Lamidey MBE

FGCB 03 Equity Release Council

FGCB 04 Gary Nixon

FGCB 05 Jon Platt, Managing Director, JMP Partnership (IW) Ltd

FGCB 06 Frankly Hughes Limited

FGCB 07 Low Incomes Tax Reform Group

FGCB 08 Just Group

FGCB 09 ABTA - The Travel Association

FGCB 10 Consumer Finance Association (CFA)

FGCB 11 Fair Telecoms Campaign

FGCB 12 Lloyds Banking Group

FGCB 13 Association of Personal Injury Lawyers (APIL)

FGCB 14 Age UK

FGCB 15 BlackLion Law LLP

FGCB 16 Alliance of Claims Companies

FGCB 17 Macmillan Cancer Support

FGCB 18 Association of British Insurers (ABI)

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCIAL GUIDANCE AND CLAIMS BILL [*LORDS*]

Third Sitting

Tuesday 6 February 2018

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No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 10 February 2018

The Committee consisted of the following Members:

Chairs: † Andrew Rosindell, Graham Stringer

† Amesbury, Mike *(Weaver Vale)* (Lab)
† Black, Mhairi *(Paisley and Renfrewshire South)* (SNP)
† Burghart, Alex *(Brentwood and Ongar)* (Con)
† Coyle, Neil *(Bermondsey and Old Southwark)* (Lab)
† Donelan, Michelle *(Chippenham)* (Con)
† Dromey, Jack *(Birmingham, Erdington)* (Lab)
† Fovargue, Yvonne *(Makerfield)* (Lab)
† Foxcroft, Vicky *(Lewisham, Deptford)* (Lab)
† Glen, John *(Economic Secretary to the Treasury)*
† Latham, Mrs Pauline *(Mid Derbyshire)* (Con)
† Mackinlay, Craig *(South Thanet)* (Con)
† Merriman, Huw *(Bexhill and Battle)* (Con)
† Milling, Amanda *(Cannock Chase)* (Con)
† Opperman, Guy *(Parliamentary Under-Secretary of State for Work and Pensions)*
† Reeves, Ellie *(Lewisham West and Penge)* (Lab)
† Thomas, Gareth *(Harrow West)* (Lab/Co-op)
† Tracey, Craig *(North Warwickshire)* (Con)

Jyoti Chandola, Gail Bartlett, *Committee Clerks*

† **attended the Committee**

Public Bill Committee

Tuesday 6 February 2018

[Andrew Rosindell *in the Chair*]

Financial Guidance and Claims Bill [*Lords*]

Clause 24

Transfer to FCA of regulation of claims management services

9.25 am

The Economic Secretary to the Treasury (John Glen): I beg to move Government amendment 3, in clause 24, page 17, line 21, at end insert—

"( ) In section 1H (interpretation provisions for FCA's objectives)—

(a) in subsection (2), at the end of paragraph (c) insert 'or to engage in claims management activity';

(b) in subsection (8), at the appropriate place insert—

'"engage in claims management activity" has the meaning given in section 21;'."

The result of this amendment of the Financial Services and Markets Act 2000 would be that references in the FCA's statutory objectives to "regulated financial services" include services provided by authorised persons in communicating, or approving the communication by others of, invitations to engage in claims management activity.

The Chair: With this it will be convenient to discuss the following:

Government amendment 4.

Clause stand part.

That schedule 4 be the Fourth schedule to the Bill.

New clause 7—*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) authorised persons should act honestly, fairly and professionally in accordance with the best interests of consumers who are their clients; and

(b) authorised persons should manage conflicts of interest fairly, both between themselves and their clients, and between clients.

(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."

This new clause would introduce a duty of care which would require claims management services to act with the best interests of the customers in mind.

John Glen: It is a pleasure to serve under your chairmanship once again, Mr Rosindell.

Government amendments 3 and 4 are small consequential amendments to bring relevant provisions into line with the changes made by clause 24 to section 21 of the Financial Services and Markets Act 2000. Clause 24 amends FSMA to enable the Financial Conduct Authority to regulate specified activities in relation to claims management services in Great Britain. That includes extending section 21 of FSMA so that the financial promotions regime, which deals with advertising and marketing by regulated firms, applies to claims management activity. Government amendments 3 and 4 will ensure that the financial promotions regime can function effectively. I am sure that Members will agree that it is necessary to make those amendments to ensure that claims management activity is captured.

New clause 7, which was tabled by the hon. Members for Birmingham, Erdington, for Weaver Vale and for Lewisham, Deptford, seeks to ensure that the FCA adheres to a set of regulatory principles in relation to acting in the best interests of consumers and managing conflicts of interest fairly. Aside from the provisions in general consumer law, the FCA already applies rules to firms that conduct regulated activities in relation to their dealings with consumers.

First, regulated firms must adhere to the "principles for businesses", which are fundamental obligations set out in the FCA handbook. Principle 2 requires firms to conduct their business

"with due skill, care and diligence."

Principle 6 requires a firm to

"pay due regard to the interests of its customers and treat them fairly."

Principle 8 sets out that a firm

"must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client."

Secondly, the FCA's "client's best interest" rule states that a firm

"must act honestly, fairly and professionally in accordance with the best interests of its client".

That rule applies to a number of regulated activities. Thirdly, many FCA rules also contain an obligation on firms to take reasonable care for certain regulated activities. Finally, the rules in the FCA handbook are supplemented by more sector-specific rules in various FCA sourcebooks.

Under its existing objectives, when the FCA takes responsibility for the regulation of claims management companies, it will be able to apply its existing principles for businesses and to make any other sector-specific rules that may be necessary. To secure appropriate consumer protection, the FCA supervises against those rules and other provisions, and can take enforcement action against firms where necessary.

Gareth Thomas (Harrow West) (Lab/Co-op): Does the Minister accept that there is a risk that the FCA has been captured by some of the bigger financial interests, and that additional legal protection is therefore required to rebalance how it operates to properly protect the consumer interest?

John Glen: I acknowledge that such concern has been widely expressed throughout the passage of the Bill. However, the FCA has issued total fines of more than £229 million. In its view, its regulatory toolkit is currently sufficient to enable it to fulfil its consumer protection objective. The FCA will consider the precise rules that apply to claims management companies and how they form an effective regulatory regime overall. In doing so, the FCA will need to take into account its statutory objective of securing an appropriate degree of protection for consumers. It will also consult openly and publicly on the proposed rules.

The final regime is not set without consultation or reference to the legitimate concerns raised during the passage of the Bill. I note the hon. Gentleman's observations, but they can be accommodated by the

way in which the FCA will handle the matter. Given that, the Government do not believe the new clause is necessary. According to the explanatory statement, the new clause would introduce a duty of care on claims management companies. I will provide some more detail on that duty of care because I have thought a lot about it and have new points that I want to raise following Second Reading. The Government recognise that there are different views on the merits of introducing a duty of care for financial services providers and what it would mean in practice.

Macmillan Cancer Support has run an excellent campaign drawing attention to that important issue. Last week I met Lynda Thomas and her team from Macmillan in the Treasury to discuss their work and their concerns around the proposed duty of care. They told me of their work with Nationwide and Lloyds. They have been working in partnership with the sector on the role of firms in supporting customers.

Neil Coyle (Bermondsey and Old Southwark) (Lab): I am sure the Minister is aware that the Department for Work and Pensions is again in court facing a legal challenge for changes to welfare and support for disabled people, including people with terminal illnesses such as cancer. Does the Minister not accept that Macmillan's recommendations might go some way to rebuilding disabled people's trust and faith in the Government, including those with terminal illnesses?

John Glen: I acknowledge the case, but it is not for me as a Treasury Minister to comment on it. We need to be clear about the impact of the duty of care and examine it carefully. It is right that we challenge practices that are not up to standard. The question is how we most effectively achieve that without wider collateral damage.

On Macmillan's partnership work in the financial services sector in supporting customers affected by cancer, I pay tribute to the work done and I am grateful for the insights that it brings, but there is huge uncertainty around the potential impact a duty of care could have on both firms and consumers. As with all significant policy changes, it is important to understand all potential pros and cons. I hope Members agree that there would need to be a thorough assessment of the potential impact of a duty of care before any decision is made on a change of policy. For example, a duty of care might enable consumers to bring financial services firms to court. There might be significant cost, complexity and time involved with that, leave alone codifying exactly what the duty of care would mean.

In turn, a duty of care might lead to a negative impact on product provision and approach to innovation, as firms might not want to risk legal challenge based on an untested new concept. Increasing operational costs for firms as a result of a duty of care will inevitably lead to higher prices for consumers, including those in the most vulnerable category. Given those considerations, I hope Members agree that it would not be appropriate for the Government to amend the Bill before a full assessment of the potential impact has been conducted.

The Government believe that the FCA, as the UK's independent conduct regulator for financial services, is best placed to evaluate the merits of a duty of a care. Recognising the pitch and depth of the legitimate concerns raised, last week I met Andrew Bailey and discussed the duty of care with him, and the FCA will discuss it further. Concern has been expressed that, in the determination to issue a discussion paper post-Brexit, there was too much of a delay. I pressed Andrew Bailey on the need to bring that forward. He understands and acknowledges the desire of Parliament for progress on evaluation, so the FCA now proposes to issue a discussion paper later this year. It will invite contributions from all interested parties on the case for and against a duty of care, what form such a provision might take and consequential issues arising from adopting it. That will be an open process, designed to gather views. I am grateful to the FCA for its commitment to accelerate its proposed timetable.

Gareth Thomas: I commend the Minister for pressing Andrew Bailey, because the FCA under his leadership has a reputation of having become a bit pedestrian. However, I do not see why there is a clash between adding the new clause, as my hon. Friend the Member for Birmingham, Erdington proposes, and cracking on with the consultation exercise that the Minister just described. Surely they gel nicely.

John Glen: My view, and the Government's view, is that the pace of that consultation process needs to be stepped up and the FCA needs to respond, with all consequences in mind for vulnerable people with respect to the costs of services and the protections legitimately achieved through the FCA's activity.

I stress that the FCA has a close focus on vulnerability in its broader work. I note the concerns of the hon. Member for Harrow West, but it works in the interests of all consumers of financial services. In October, the FCA published its "Financial Lives" survey, the first annual large-scale survey of 13,000 interviews, designed to add a substantial new source of data to the regulator's understanding of consumers in retail financial markets. Subsequently, it published the "Approach to Consumers" paper, which details how it will measure the effects of its actions on consumers, particularly with respect to access and vulnerability. I and the Under-Secretary of State for Work and Pensions, my hon. Friend the Member for Hexham, take this matter seriously. We will challenge the FCA on the further steps that need to be undertaken.

Gareth Thomas: May I push the Minister a little harder? I could understand it if he was arguing that there should be a change to the proposal made by my hon. Friend the Member for Birmingham, Erdington, saying that regulations should be brought forward to give Government the chance to bring in a duty of care once the consultation had taken place. Instead, he seems to be saying, "Let's not bother putting anything in the Bill that gives us the power to bring that in later. Let's just wait and see—mañana!—when the FCA can be bothered to get round to the consultation exercise. Then we might look at bringing forward primary legislation." My worry is that an opportunity for primary legislation will not come around again. I therefore press him to see whether he could be a little more sympathetic to the case my hon. Friend will advance.

John Glen: I am grateful to the hon. Gentleman for his remarks. I would not characterise the Government's position as, "Let it happen mañana and take our hands

[John Glen]

off the tiller." I met Andrew Bailey, and this was not his starting point. It is for Ministers to talk to the FCA, take the views of Parliament as clearly expressed by Members on both sides of the House, and use that pressure to force the FCA to address the issue in a comprehensive way that deals with the real experience of our constituents.

The Government have set out that process, and I have set out the rules and facilities that exist for the FCA. I am convinced there is a process in place that will enhance the necessary protection.

Neil Coyle: There are some interesting parallels. Where the Government have a clear objective and aim, as they did in welfare reform, consultations are rushed through by Departments. That delivers inadequate legislation, which is why the Government ended up in court, as has been mentioned. In this case, the Government are passing the buck to the FCA, even though Macmillan has identified a problem, whereas on terror insurance legislation, where the ball is back in the Government's court and could have been covered by the Bill, they have left a gaping hole, which leaves businesses such as those affected in my constituency in June last year facing potential damages because of the inadequacy of legislation. Why have the Government not opened consultation on that?

The Chair: Order. It is not permitted to talk about a non-selected amendment in the context of this discussion.

Neil Coyle: With respect, Mr Rosindell, I was talking about Government consultations that have a clear aim.

The Chair: We will move on.

John Glen: I cannot talk about areas outside my responsibility, but I can address the new clause. I assure the hon. Member for Bermondsey and Old Southwark that I am engaging closely with the FCA and have already achieved an acceleration of its timetable for engagement. It is important that his constituents' concerns, which he raised previously, are addressed, and I expect the FCA to take steps in that direction urgently.

I was delighted to hear from Macmillan that it has a tremendous working relationship with the FCA. The two organisations are engaged in dialogue, and last year they worked closely on the call for input on the challenges firms face in providing travel insurance for consumers who have had cancer. The FCA will be publishing a feedback statement and its next steps in due course. Dialogue is taking place, and there is responsiveness. For those reasons, it is not appropriate to include these regulatory principles in the Bill, so I request that the hon. Member for Birmingham, Erdington withdraw the amendment.

Jack Dromey (Birmingham, Erdington) (Lab): On a point of order, Mr Rosindell. I seek your guidance. I will be speaking to Opposition new clause 7, but I note that Government amendments 3 and 4 are unobjectionable, so I may go straight on to making my remarks about new clause 7.

The Chair: The hon. Gentleman may, of course, speak to as many of the amendments within the group as he chooses, but he must stick to the group.

Jack Dromey: I will not depart from your ruling that it is not appropriate to debate terror insurance today. All I will say is that we would like to engage with the Government during the Bill's next stages, because my hon. Friend the Member for Bermondsey and Old Southwark has identified a significant problem for a number of those who paid a heavy price as a consequence of the terrorist attacks. We hope that the Government are prepared to engage at the next stages accordingly.

As I said, Government amendments 3 and 4 are unobjectionable, but I want to make some preliminary comments about what the Minister said. First, I note that dialogue has taken place with the FCA. My hon. Friend the Member for Harrow West is right to say that the FCA is sometimes captured by big interests in the industry, and that sometimes it has been known to be not exactly the quickest organisation to arrive at a conclusion.

I will say a bit more about why the new clause matters in due course. My hon. Friend the Member for Bermondsey and Old Southwark is absolutely right to say that it is about protecting the vulnerable, in particular at a time of crisis in their lives. It is welcome that the Minister has met with Macmillan—an admirable organisation. Again, I will come on to say something about its representations.

My final point about what the Minister said is about the substance of what should eventually be done. This might be a matter that ends up before the courts. If we ultimately have a duty of care in legislation and providers do not abide by it, they will end up in court. This is about sending an unmistakable message.

The purpose of new clause 7 is to introduce a duty of care requiring claims management services to act with the customers' best interests in mind, not least customers who find themselves in a vulnerable situation. Due to the current scope of the Bill, the clause relates just to claims management services, but we hope that the Government introduce their own amendment to introduce a duty of care for all financial services firms. As hon. Members will be aware, calls for the introduction of a duty of care received a great deal of support from across the House on Second Reading, and a similar amendment in the other place likewise received strong cross-party support. As the Bill recognises, ensuring that people have access to the right help and advice as soon as possible is essential to stopping financial problems escalating. For people who are ill or considered vulnerable in other ways, that becomes ever more important.

9.45 am

Research by the excellent Macmillan Cancer Support shows that four out of five people with cancer are affected financially by their diagnosis; they are on average £570 a month worse off, as a result of increased costs and loss of income. As one would expect, the impact of that leaves many people struggling to keep up with their financial commitments, and we have all seen such cases in our constituencies. I remember one heartbreaking case of somebody who had worked for 44 years and contracted cancer. The way that he was treated by his financial services provider, at a time of crisis in his life and that of his family, was nothing short of scandalous.

As providers of mortgages and other key financial commitments, banks and building societies have a huge influence—good or bad—on the financial wellbeing of many households. That gives them an unrivalled ability to reach out and support people who are affected by the financial impact of cancer and other health conditions and disabilities. When the right support is put in place, that can lead to improved outcomes for customers and help them to manage their financial commitments better. However, research from Macmillan Cancer Support shows that a number of problems still exist, and there is a lack of consistency in the support offered to people when they seek help. For example, more than one quarter of people who disclosed their cancer diagnosis to their bank were dissatisfied with how the bank responded. Particular problems included customers having to repeat their cancer diagnosis several times to different staff—that can be very distressing. Some staff lacked specific knowledge or were not comfortable discussing cancer with the customer, and others did not have knowledge about the products.

Mrs Pauline Latham (Mid Derbyshire) (Con): What the hon. Gentleman says is interesting, but is this really a matter for Government? Is it not for the banks to address—to ensure that their staff are trained and sympathetic to people with a terminal diagnosis? It is not something that we can legislate for, but the banks can do something about it.

Jack Dromey: I have the greatest respect for the hon. Lady, but I could not disagree more. This is about sending an unmistakable message about a duty of care, which in those circumstances there is a legal obligation to deliver. It also means that banks must train their staff accordingly. A duty of care cannot be just a resolution passed by this House; it must be enacted at the next stages by all providers.

Mrs Latham: It is for the banks to train their staff. We cannot train staff from different institutions. We can send a message, but banks must train their own staff to ensure that they act appropriately with people who have a terminal diagnosis.

Jack Dromey: We in this House impose obligations in the public interest that must be delivered. We need sensitivity for those going through the trauma of cancer, and having a duty of care sends an unmistakable message to the board of an organisation that that duty of care must be delivered, and it must be enacted with appropriate training by members of staff.

Huw Merriman (Bexhill and Battle) (Con): The hon. Gentleman is being very patient in giving way, but to continue the thread started by my hon. Friend the Member for Mid Derbyshire (Mrs Latham), I spent many years working as a cashier on the frontline in banks and building societies, in between going to university—it was about five years in total. The staff were absolutely equipped to deal with such matters—indeed, they had to be, not least when probate matters were being dealt with. Those staff had to be incredibly sensitive, and I think the hon. Gentleman is rather getting the industry wrong, as far as the sensitivity of those staff is concerned.

Jack Dromey: In that case, the hon. Gentleman is saying that Macmillan is getting it wrong. The Minister has engaged with Macmillan with an open mind—I warmly welcome that—and has heard the concerns direct, based on firm evidence, that at the moment too many people suffering from cancer are not treated with the respect and sensitivity they deserve.

Huw Merriman: I have another example from a cancer perspective, which I will not go into; I work very closely with Macmillan on a personal basis, but that is probably better left to one side. What I will say is that when this House is prescriptive in legislation, rather than letting organisations deal with issues in the manner that they may be best equipped to do, it does not always work out as intended.

Jack Dromey: With the greatest respect, the Government are prescriptive the whole time, and I think this is an area ripe for prescription. I stress again that we need to send an unmistakable message that regulated providers have certain obligations that fall upon them. There are already obligations imposed under law, for example on financial probity. We should add to those a duty of care to customers, particularly when they are suffering from or dying from cancer. I should have thought that was entirely unobjectionable. Macmillan is absolutely right and the Minister has been right to respond to its representations. I will come in a moment to what I hope will happen at the next stages.

To return to my point, staff did not have knowledge about the products and the help available to people affected by cancer. If we are to tackle such problems, the provision of appropriate support, flexibility in policies and procedures, and ensuring that staff are appropriately trained to support vulnerable customers need to be at the heart of banking culture.

One of the things that struck me most in the findings was that only one in 10 people with cancer had told their bank about their diagnosis in the first place. Many people with cancer still do not think their bank will be able to help them, while others worry that telling the bank will have negative consequences, so they are reluctant to disclose their diagnosis. Regardless of whether that negative perception is justified on all occasions, it represents a serious barrier to people seeking help early and tells us that the existing rules are not adequate. Despite some provisions in the area, the banking sector is still a long way off the point where meeting the needs of vulnerable customers is at the heart of corporate culture, hence the clear evidence from Macmillan.

The financial services consumer panel has noted that the regulatory principle of treating customers fairly does not adequately ensure that firms exercise appropriate levels of care towards their customers. It is interesting that the FCA's own panel concluded that. If banks and building societies had a legal duty of care towards their customers, it would give people with cancer confidence to disclose their diagnosis, knowing that they could trust their bank to act in their best interests.

Consumers are also demanding action in this area. More than 20,000 people have signed an open letter from Macmillan Nurse Miranda, calling for a duty of care to be introduced. I urge the Government to look at the recommendation made by the House of Lords

[Jack Dromey]

Financial Exclusion Committee on a duty of care, which has been strongly evidenced by Macmillan Cancer Support. The Committee concluded that, as first recommended by the financial services consumer panel, the Government should amend the Financial Services and Markets Act 2000

"to introduce a requirement for the FCA to make rules setting out a reasonable duty of care for financial services providers to exercise towards their customers."

I appreciate that any change as significant as this must be subject to proper consideration and consultation, as the Minister said. It is therefore welcome that the FCA has recognised that and is committed to publishing a discussion paper on the issue. It is welcome that the Minister has pressed the FCA to bring that forward, and I will come on to timescale in a moment. However, the Government and the FCA have said that this must wait until after the withdrawal from the EU becomes clear. I think that now, as the Minister said earlier, that may no longer be the case, not least because who knows when we will withdraw from the European Union—

John Glen: We are very clear on that.

Jack Dromey: There is a certain lack of clarity on the part of the Government about that end. Given that the introduction of a duty of care would still require legislation, when can we expect it to be introduced if we do not use the opportunity presented by the Bill? Will the Minister clearly set out his view as to the likely timescale for the introduction of a duty of care, from the initial consultation process through to the point at which consumers begin to benefit from any change? Given the evidence that has been presented about the need for further support for vulnerable customers, is a prolonged delay acceptable? I urge the Minister to take note of the breadth of support for this issue and the strong evidence presented on the need for action. I suggest that the Government reflect on that further and bring forward suitable proposals on Report.

My final point is that I sense a joint determination to act, and that is welcome. We should act, but what does that mean in terms of both substance and timescale? We will not press the new clause to a vote but I invite the Minister to undertake that he will come back on Report to set out with some clarity the likely timescale and substance of what the Government might eventually do.

John Glen: I am grateful to the hon. Gentleman for his comments. There is broad agreement on how serious the issue is, but I would characterise the Government's approach as wanting not to send a message but to secure an outcome. They want to secure an outcome when they understand exactly what the impact of the changes might be.

As I said in some of my earlier remarks, there is huge uncertainty about how a potential duty of care would impact on firms and consumers. That is why I am very pleased with the accelerated timetable. I acknowledge that there is no absolute clarity about what will flow from that, but that is because we do not know what the outcome of the discussion will be. However, I take on board the hon. Gentleman's concerns and I acknowledge his sensitivity to what Macmillan has said—it is unacceptable that 11% of people who have cancer tell their financial service provider—but it is also true, as my hon. Friend the Member for Bexhill and Battle said, that not all banks are doing a poor job. I heard from Macmillan about the wonderful work that Nationwide has done, and I think it is for other banks to reflect on what they need to do to change their behaviours.

Gareth Thomas: Nationwide is not a bank; it is a building society, with a very different tradition to the corporate interests of the big banks. I make that as an aside. Although I am not normally a fan of secondary legislation as opposed to primary legislation, I wanted to press the Minister: will he consider the broader point made by my hon. Friend the Member for Birmingham, Erdington—that there might be a case, surely, for the Minister to consider bringing forward on Report the scope for secondary legislation to bring in such a duty of care once the FCA, when it can be bothered, finally produces its consultation document?

John Glen: I am grateful for the hon. Gentleman's comments, but I do not share his characterisation of the FCA's willingness to engage on this. As I set out, the FCA is engaged in dialogue with Macmillan and has now accelerated the timetable for dealing with the subject. I will reflect on the comments made and see what can be said to give more assurance further on, but I am convinced that the dialogue with the FCA will lead to a proportionate outcome that takes full account of the impact. I therefore reiterate my hope that the new clause will be withdrawn.

Jack Dromey: On the basis of what the Minister has said—that he will come back on Report—we will not be pressing new clause 7.

Amendment 3 agreed to.

Amendment made: 4, in clause 24, page 18, line 7, at end insert—

"( ) In section 137R (financial promotion rules)—

(a) in subsection (1), omit the "or" at the end of paragraph (a) and after that paragraph insert—

'(aa) to engage in claims management activity, or';

(b) in subsection (6), for 'has' substitute 'and "engage in claims management activity" have'."—*(John Glen.)*

The result of this amendment of the Financial Services and Markets Act 2000 would be that the FCA may make rules about the communication, or the approval of another person's communications, by authorised persons of invitations or inducements to engage in claims management activity.

Clause 24, as amended, ordered to stand part of the Bill.

Schedule 4 agreed to.

Schedule 5

Regulation of claims management services: transitional provision

10 am

John Glen: I beg to move amendment 20, page 41, line 13, leave out from "to" to end of line 15 and insert "a person falling within paragraph 1A,"

This amendment and amendment 22 would enable the FCA to obtain information and documents from claims management companies operating or previously operating in Scotland if the FCA considers that it needs the information or documentation in preparation for its role as the regulator of claims management companies.

The Chair: With this it will be convenient to discuss the following:

Government amendments 21 and 22.

That schedule 5 be the Fifth schedule to the Bill.

John Glen: Amendments 20 to 22 are technical amendments that extend the FCA's data-gathering powers to Scotland. They amend schedule 5, which contains transitional provisions to extend the FCA's information-gathering powers; to enable it to take preparatory steps, such as to consult on rules; and to enable it to adopt rules made by the current regulator. That ensures that the FCA can obtain information and documents from claims management companies operating or previously operating in Scotland, if the FCA considers that it needs the information or documentation in preparation for its role as the regulator of claims management companies.

The amendments will help ensure that Scottish consumers are adequately protected when the regulation for financial services claims management companies is transferred to the FCA. I am sure that hon. Members would agree that it is right to ensure that the regulator is suitably prepared to regulate Scottish claims management companies, and will agree with the amendments.

Jack Dromey: It is a sensible move to give the FCA those extended powers. Therefore, we note the proposed amendments. Our colleague from the Scottish National party, the hon. Member for Paisley and Renfrewshire South, might wish to comment, but this seems to us a logical and sensible proposal.

Mhairi Black (Paisley and Renfrewshire South) (SNP): I agree.

Amendment 20 agreed to.

Amendments made: 21, in schedule 5, page 41, line 23, leave out from "a" to end of line 24 and insert "person falling within paragraph 1B."

This amendment and amendment 22 would enable the FCA to obtain reports from claims management companies operating in Scotland if the FCA considers that it needs the report in preparation for its role as the regulator of claims management companies.

Amendment 22, in schedule 5, page 41, line 24, at end insert—

"1A A person falls within this paragraph if the person—

(a) is or at any time was authorised under section 5(1)(a) of the Compensation Act 2006 (provision of regulated claims management services), or

(b) is, or at any time was, providing services in Scotland which the person would be, or would have been, prohibited from providing in England and Wales by section 4(1) of the Compensation Act 2006 unless authorised under section 5(1)(a) of that Act.

1B A person falls within this paragraph if the person—

(a) is authorised under section 5(1)(a) of the Compensation Act 2006 (provision of regulated claims management services), or

(b) is providing services in Scotland which the person would be prohibited from providing in England and Wales by section 4(1) of the Compensation Act 2006 unless authorised under section 5(1)(a) of that Act."—*(John Glen.)*

See the explanation for amendments 20 and 21.

Schedule 5, as amended, agreed to.

Clause 25

POWER OF FCA TO MAKE RULES RESTRICTING CHARGES FOR CLAIMS MANAGEMENT SERVICES

Question proposed, That the clause stand part of the Bill.

John Glen: Clause 25 inserts a new section into the Financial Services and Markets Act 2000 to give the FCA the power to cap the amount that firms can charge customers for the claims management services it regulates. The clause also places a duty on the FCA to make rules restricting charges for claims for financial services or products. The Government believe that placing a duty on the FCA to cap the amount that firms can charge consumers for services related to financial services claims is the only satisfactory way of ensuring that consumers receive good value for money. This is especially true given that consumers can, for example, take complaints about the mis-selling of payment protection insurance to the financial ombudsman for free. In addition, the general fee-capping power provided by the clause gives the FCA the necessary flexibility to respond to future changes in the claims management sector.

Jack Dromey: I would like to make two points. First, the proposed changes are unobjectionable and we note them. Secondly, I will, however, be speaking to amendments 47 and 48 in respect of allowing consumers to keep 100% of their PPI compensation, but we will come to those in due course.

Question put and agreed to.

Clause 25 accordingly ordered to stand part of the Bill.

Clause 26

PPI CLAIMS AND CHARGES FOR CLAIMS MANAGEMENT SERVICES: GENERAL

John Glen: I beg to move amendment 5, in clause 26, page 21, line 17, leave out "and 28" and insert

"to (PPI claims: interim restriction on charges imposed by legal practitioners after transfer of regulation to FCA)".

This amendment would apply the explanation of terms given in clause 26 to the new clause inserted by NC3.

The Chair: With this it will be convenient to discuss the following:

Government amendment 6.

Clause stand part.

Government new clause 3—*PPI claims: interim restriction on charges imposed by legal practitioners after transfer of regulation to FCA.*

John Glen: These amendments ensure that legal services regulators can continue to impose fee restrictions for PPI claims from the point at which the transfer of regulation of CMCs to the FCA takes place. This will be effective in the case of the Law Society of England and Wales until it implements its own rules on fee capping and, in the case of the General Council of the Bar and the Chartered Institute of Legal Executives, until 29 April 2020.

[John Glen]

The interim fee cap will be set at 20% of the claim value, excluding VAT. It will apply to CMCs and legal services providers, and will be enforced by the relevant regulators from two months after the Bill receives Royal Assent. The interim fee cap will ensure fair and proportionate prices for consumers using claims management services for mis-sold PPI claims.

Government amendments 5 and 6 and new clause 3 ensure that the interim fee cap provisions introduced as a concessionary amendment in the House of Lords work together with the other Government amendments we are discussing today, and provide the legal services regulators with the power to restrict fees in relation to claim management services. The amendments will ensure that consumers are equally protected from excessive fees when using a legal services provider to make a claim for mis-sold PPI, and that there is continuity of coverage for the fee cap throughout the transfer of regulation. This is similar to the existing provisions in the Bill in relation to the FCA. I hope that all Members will agree that these are sensible and desirable amendments for the purposes of consumer protection.

Jack Dromey: Briefly, I have two related points. First, we agree that the legal services regulators should be given those powers. Secondly, and crucially, the objective is to protect consumers. I once again refer to amendments 47 and 48, which I will speak to shortly.

Amendment 5 agreed to.

Amendment made: 6, in clause 26, page 22, line 11, at end insert—

", and

(c) so far as relevant for the purposes of section (PPI claims: interim restriction on charges imposed by legal practitioners after transfer of regulation to FCA), to be read as referring to any service which is a relevant claims management activity (within the meaning given by subsection (5) of that section)."—*(John Glen.)*

This amendment would define what references to "regulated services" in clause 26 mean when relevant for the purposes of the new clause inserted by NC3.

Clause 26, as amended, ordered to stand part of the Bill.

Clause 27

PPI claims: interim restriction on charges before transfer of regulation to FCA

Jack Dromey: I beg to move amendment 47, in clause 27, page 22, line 30, leave out subsections (1) to (4) and insert—

"(1) A regulated person—

(a) must not charge a claimant for regulated claims management services provided in connection with the claimant's PPI claim, unless those charges are made in accordance with section 26(4); and

(b) must not enter into an agreement that provides for the payment by a claimant, for regulated claims management services provided in connection with the claimant's PPI claim, of charges which would breach, or are capable of breaching, the prohibition in paragraph (a).

(2) All charges incurred by a regulated person in the course of providing regulated claims management services in connection with a claimant's PPI claim must be paid by the person against whom the claimant's successful PPI claim was made.

(3) A regulated person—

(a) must not charge a person for regulated claims management services provided in connection with a claimant's PPI claim, an amount which exceeds the fee cap for the claim; and

(b) must not enter into an agreement that provides for the payment by a person, for regulated claims management services provided in connection with the claimant's PPI claim, of charges which would breach, or are capable of breaching, the prohibition in paragraph (a).

(4) A breach of subsection (1) is not actionable as a breach of statutory duty; but

(a) any payment made by a claimant in breach of subsection (1) is recoverable by the claimant; and

(b) any agreement entered into in breach of subsection (1)(b) is not enforceable to the extent it provides for a payment that breaches or is capable of breaching the prohibition in subsection (1)(a).

(4A) A breach of subsection (3) is not actionable as a breach of statutory duty; but

(a) any payment made by the person against whom the claimant's successful PPI claim was made, in excess of the fee cap for a PPI claim is recoverable by the person; and

(b) any agreement entered into in breach of subsection (3)(b) is not enforceable to the extent it provides for a payment that breaches or is capable of breaching the prohibition in subsection (3)(a).

(4B) In subsections (4) and (4A) "payment" means a payment of charges for regulated claims services provided in connection with the PPI claim.

(4C) A relevant regulator—

(a) must ensure that it has appropriate arrangements for monitoring and enforcing compliance with subsections (1) and (3) as they apply to the regulated persons for whom it is the relevant regulator;

(b) may make rules for the purpose of doing so (which may include provision applying, in relation to breaches of subsections (1) and (3), functions the relevant regulator has in relation to breaches of another restriction.)".

This amendment and Amendment 48 would mean that firms would be required to pay CMC costs for PPI claims where the firm is found to be at fault and the consumer has used a CMC rather than claim direct. This would only apply for the interim period until the new FCA regulations come into force, or until August 2019 which is the deadline for making PPI claims, whichever is sooner.

The Chair: With this it will be convenient to discuss amendment 48, in clause 28, page 24, line 34, leave out subsections (2) to (4) and insert—

"(2) The rule is that an authorised person—

(a) must not charge a claimant, for a service which is a regulated claims management activity provided in connection with the claimant's PPI claim, unless those charges are made in accordance with section 26(4); and

(b) must not enter into an agreement that provides for the payment by a claimant, for a service which is a regulated claims management activity provided in connection with the claimant's PPI claim, of charges which would breach, or are capable of breaching, the prohibition in paragraph (a).

(3) All charges incurred by an authorised person in the course of providing regulated claims management activity in connection with a claimant's PPI claim must be paid by the person against whom that claimant's successful PPI claim was made.

(4) An authorised person—

(a) must not charge a person, for a service which is a regulated claims management activity provided in connection with the claimant's PPI claim, an amount which exceeds the fee cap for the claim; and

(b) must not enter into an agreement that provides for the payment by a person, for a service which is a regulated claims management activity provided in connection with the claimant's PPI claim, of charges which would breach, or are capable of breaching, the prohibition in paragraph (a).

(4A) A breach of subsection (2) is not actionable as a breach of statutory duty (despite section 138D(2) of the Financial Services and Markets Act 2000) but—

(a) any payment made by a claimant in breach of subsection (2) is recoverable by the claimant; and

(b) any agreement entered into in breach of subsection (2)(b) is not enforceable to the extent it provides for a payment that breaches or is capable of breaching the prohibition in subsection (2)(a).

(4B) A breach of subsection (4) is not actionable as a breach of statutory duty (despite section 138D(2) of the Financial Services and Markets Act 2000) but—

(a) any payment made by a person in excess of the fee cap for a PPI claim is recoverable by the person; and

(b) any agreement entered into in breach of subsection (4)(b) is not enforceable to the extent it provides for a payment that breaches or is capable of breaching the prohibition in subsection (4)(a).

(4C) In subsections (4A) and (4B) "payment" means a payment of charges for regulated claims services provided in connection with the PPI claim."

This amendment and Amendment 47 would mean that firms would be required to pay CMC costs for PPI claims where the firm is found to be at fault and the consumer has used a CMC rather than claim direct. This would only apply for the interim period until the new FCA regulations come into force, or until August 2019 which is the deadline for making PPI claims, whichever is sooner.

Jack Dromey: The amendment would allow consumers to keep 100% of the PPI compensation. The Government introduced an interim cap on the fees that claims management companies could charge consumers in relation to payment protection insurance claims. That was a welcome move in the right direction, but it does not go far enough to protect consumers from paying disproportionately high fees for what is often very little work. The Ministry of Justice estimates that the average amount of commission charged to consumers by CMCs is 28% plus VAT. The FCA estimates that the average payout for PPI mis-selling is around £1,700 which means that a CMC would, on average, charge a successful claimant £476 plus VAT.

Although the proposed fee cap will reduce the amount that consumers have to pay to CMCs, it would still mean an average charge of £340, with VAT on top. If the Government want to take meaningful action to protect consumers from high fees, they should propose a solution that allows consumers to keep 100% of their PPI compensation. They should require firms to pay CMC costs for PPI claims—capped at 20% and VAT—when they are at fault and the consumer has used a CMC rather than claiming directly.

This measure would apply only for the interim period until new FCA regulations come into force, or until August 2019, which is the deadline for making PPI claims, whichever is sooner. This would incentivise firms still paying compensation—and it is shameful that they still are; getting justice for the people concerned is like pulling teeth—to proactively reach out and encourage consumers to make claims directly to them, and I am bound to say that it is something that should and must happen. It would also fully protect consumers from paying high charges to CMCs.

In summary, the Government's proposal is a welcome step in the right direction, but I would welcome an explanation from the Minister as to why he cannot take this further step that would see those that were wronged receive 100% of the compensation so that this wrong is put right.

John Glen: I am grateful to the hon. Gentleman for setting out amendments 47 and 48, which seek to make firms at fault pay the fees for claims management services used to pursue successful PPI claims. I understand that this approach is intended to incentivise firms to be more proactive in offering compensation when dealing with consumer complaints. However, it could encourage more speculative and unmeritorious claims, adding waste to the redress system, to the detriment of consumers and the industry. The amendment also has the potential to allow CMCs to charge consumers directly when they are unsuccessful in pursuing a PPI claim. This would serve only to add to the incentives for taking forward speculative claims, and I am not sure that that is the Opposition's intention.

I also do not believe that the measure is necessary. The FCA is already taking direct action to ensure that firms do not make it difficult for consumers to claim compensation, and there have been significant improvements in the handling of PPI complaints by firms. By September 2017, firms were upholding around 80% of claims. Since January 2011, firms have handled over 20.8 million PPI complainants and paid over £29 billion in redress to consumers found to have been mis-sold a PPI policy, and rightly so.

In addition, as of March 2017 firms had sent over 5.5 million letters to customers they identified as being at high risk of having suffered a past mis-sale and who had not complained, inviting them to do so. The FCA also launched a two-year consumer awareness campaign in August 2017, paid for by the relevant firms, to raise awareness of the deadline and encourage consumers to decide whether to complain, as well as highlighting free routes for pursuing a claim.

Finally, it is important to note that consumers do not need to use the CMCs to make a claim. They can go directly to the relevant firm and subsequently to the Financial Ombudsman Service for free. Making a complaint is a simple process that many people will be able to do for themselves. A number of sources of information are available to help individuals to understand how to make a complaint, including websites and phone lines for the FCA and Financial Ombudsman Service. In the light of these arguments, I encourage the Opposition spokesman to withdraw the amendment.

10.15 am

Jack Dromey: I will make two points in response. First, the Minister is right to say that there are channels other than CMCs, which we will come to later. Until such time as we ban cold calling by CMCs, there will continue to be an industry of CMCs out there ringing people up to ask, "Have you got a PPI claim?"

[Jack Dromey]

Secondly, I do not see the problem in sending an unmistakable message to those who have wronged the public that they must put that right, and that they must do so proactively. Rather than sitting on the knowledge of a lot of mis-selling, failing to put that right and waiting until a claim is made, the better approach in the public interest would be to send the unmistakable message that it is better to settle with those who have been wronged, or else.

I am not completely convinced by the Minister's reply, but I am convinced that he—a decent man with an open mind—will reflect on this further. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clause 28 stand part.

John Glen: Clause 27 deals with the application and enforcement of the interim fee cap before the transfer of claims management regulation to the FCA. It states that the cap will be implemented by the claims management regulation unit and legal services regulators in England and Wales. It also defines the first interim period as the period beginning with the day the cap comes into force, two months after Royal Assent, until the day before regulation transfers to the FCA. It is clear that the clause plays an integral part in establishing the interim fee cap.

Question put and agreed to.

Clause 27 accordingly ordered to stand part of the Bill.

Clause 28 ordered to stand part of the Bill.

Clause 29

Extent

The Parliamentary Under-Secretary of State for Work and Pensions (Guy Opperman): I beg to move amendment 7, in clause 29, page 25, line 32, leave out from beginning to "extends" and insert "Part 1, other than the provisions mentioned in subsections (2) to (3B),"

This amendment makes a minor drafting change, restructuring the extent clause, in consequence of the changes to that clause made by Amendment 8 and the amendments relating to Part 2.

The Chair: With this it will be convenient to discuss the following:

Government amendments 8 to 16.

Clause stand part.

Clause 30 stand part.

Guy Opperman: It is pleasure to serve under your chairmanship once again, Mr Rosindell. Amendments 7 to 16 are consequential to main amendments that the Committee has already made. Clause 30 allows the provisions of the Bill to be enacted at the appropriate times, some in relation to part 1 and some to part 2.

Gareth Thomas: I have concerns about clause 30. If the Bill is put on the statute book as drafted, with the current commencement provisions in clause 30, the new financial guidance body might not be as effective as we would all have hoped. Ministers might want to address these concerns and reflect on whether the commencement provisions are still appropriate.

The first concern is whether the financial guidance body has access to sufficient data to help guide it on the allocation of the debt advice funding that will continue to be available as a result of the levy on banks. Unlike in the United States, we do not have in law a comprehensive requirement that banks and other lenders have to provide clear datasets to Government and regulators on where, and at what level, debt is being incurred. Therefore, one cannot track exactly where the most indebted parts of the country are.

I raise that concern because a number of years ago I had the opportunity to visit the estate of Thamesmead, which straddles the boroughs of Bexley and Greenwich. Thamesmead is an estate of about 55,000 houses, but it had no bank branch at all. As a result, the only lenders available were payday lenders and other high-cost providers of credit.

The Chair: Order. The hon. Gentleman appears to be speaking not to the amendment before us, but to one that has previously been debated. I remind all hon. Members that they must stick to the amendments before the Committee at this stage.

Gareth Thomas: I am grateful for your guidance, Mr Rosindell. I am concerned that we should not rush to commence the legislation until we have had an assurance that the new financial guidance body will have accurate data about which parts of the country have the highest levels of debt and the highest levels of cost. I am seeking to use this debate on clause 30 stand part to ask Ministers what confidence they have that the new body will be able, without further legal changes, to know where the most highly indebted parts of the country are, and therefore where the most debt advice funding should be allocated.

One of the great contrasts between this country and our great ally, the United States of America, is that there is provision in American law for banks, building societies and other lenders to have to report to bodies what they are lending and at what rate. Such a provision would allow the new financial guidance body to work out which areas might need a higher level of debt advice funding.

The second reason why I gently suggest that we should not rush to commence the Bill is that I believe the Minister should reflect—I gently press him to do so—on whether credit unions, which are a key tool for tackling the level of indebtedness in this country, have all the powers they need to support the new financial guidance body to take the necessary action to bring indebtedness down. Clearly, we want to ensure that there is still access to credit, but we want it to be affordable.

The third and final reason why I gently suggest Ministers should not rush to commence the Bill is that I believe they should check whether some of the worst,

highest cost lenders, such as BrightHouse, pay an appropriate levy, under the provisions of previous Bills, to fund debt advice. It certainly seems to me—

The Chair: Order. The commencement clause does not give us the ability to discuss anything we wish to discuss. We need to stick clearly to the amendments before us, rather than using this as a way to discuss other matters.

Gareth Thomas: I am extremely grateful to you, Mr Rosindell, because you made your intervention just as I was drawing my remarks to an end. Given your great act of charity, I have made the three points I wanted to make, and I now look to the Minister to address my concerns.

Guy Opperman: That was undoubtedly the most ingenious way of creating a submission. I have to confess that, when I looked at the commencement order that I have to speak to, I did not expect to have to answer three specific points, but I hope I can give the hon. Gentleman a detailed answer. I assure him that if I fail in that task, I will give him a definitive answer next Monday, when we will meet to discuss these matters.

Let me take the hon. Gentleman's points in reverse order. BrightHouse will be covered by the levy for the single financial guidance body. I believe that I will be able to give him more detail when I see him in 10 days' time.

The hon. Gentleman will know that I founded and built up a credit union. I think I am the only MP to have been mad enough to do so—the grey hair I am rapidly acquiring is due to that mad endeavour, of which I am extremely proud. I am no longer specifically involved in it, but both I and my hon. Friend the Member for Salisbury are passionately committed to credit unions. We will review the nature of credit unions and how they are provided for statutorily under the Credit Unions Act 1979. I am happy to discuss that with the hon. Gentleman separately.

Let me make three points on access to data. First, the Money Advice Service already performs that service by creating a data bank and an information process by which it can judge the way ahead. Secondly, clause 18 specifically addresses requirements for the disclosure and interaction of data between the various bodies to ensure that the point the hon. Gentleman raised is addressed. Thirdly, with regard to the Bill as a whole, FCA work is also going on to obtain a quarterly dataset. Both the FCA and the Money Advice Service are doing that. I will happily reply in more detail to the three points that he rightly, and very ingeniously, put to me.

Gareth Thomas: I am grateful to the Minister for his generous response. Perhaps he would be willing to look kindly on a letter setting out some of the concerns about the dataset that is currently provided. I gently suggest that Ministers might engage with UK Finance to encourage the release of further data to help make that a more useful exercise.

Guy Opperman: I would be delighted to receive such a letter. I commend the Government amendments to the Committee.

Amendment 7 agreed to.

Amendments made: 8, in clause 29, page 25, line 37, at end insert—

"(3A) In section (Occupational pension schemes: requirements to recommend guidance etc)—

(a) subsections (1) to (5) extend to England and Wales and Scotland;

(b) subsections (6) to (9) extend to Northern Ireland.

(3B) Paragraph 25 of Schedule 3 extends to England and Wales and Scotland."

New subsection (3A) updates the extent clause so that the amendments to the Pensions Schemes Act 1993 in NC2 extend only to England and Wales and Scotland and the amendments to the Pension Schemes (Northern Ireland) Act 1993 extend only to Northern Ireland. New subsection (3B) contains text previously in subsection (6) in consequence of restructuring this clause.

Amendment 9, in clause 29, page 25, line 38, leave out subsections (4) and (5) and insert—

"(4) Part 2, other than the provisions mentioned in subsections (5) and (5A), extends to England and Wales and Scotland.

(5) The following provisions extend to England and Wales—

(a) section24(12) and Schedule4;

(b) section27;

(c) section (PPI claims: interim restriction on charges imposed by legal practitioners after transfer of regulation to FCA).

(5A) Section (Cold calling about claims management services) extends to England and Wales, Scotland and Northern Ireland."

This amends the extent clause, so that the new clause inserted by NC3 extends to England and Wales only, and the new clause inserted by NC6 extends to England and Wales, Scotland and Northern Ireland.

Amendment 10, in clause 29, page 25, line 42, leave out subsection (6) and insert—

"( ) This Part extends to England and Wales, Scotland and Northern Ireland." —*(Guy Opperman.)*

This amendment contains a minor drafting change consequential upon the restructuring of the extent clause.

Clause 29, as amended, ordered to stand part of the Bill.

Clause 30

COMMENCEMENT

Amendments made: 11, in clause 30, page 26, line 13, at end insert—

"(1A) Subsections (6) to (9) of section (Occupational pension schemes: requirements to recommend guidance etc) come into force on a day appointed by order made by the Department for Communities in Northern Ireland.

(1B) An order under subsection (1A) may make—

(a) transitional, transitory and saving provision in connection with the coming into force of any provision in section (Occupational pension schemes: requirements to recommend guidance etc)(6) to (9);

(b) incidental and supplementary provision, and

(c) different provision for different purposes,

and the power to make such an order is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12))."

This amendment gives the power to bring into force the provisions amending the Pension Schemes (Northern Ireland) Act 1993 in the new clause inserted by NC2 to the Department for Communities in Northern Ireland.

Amendment 12, in clause 30, page 26, line 14, leave out "28" and insert "(PPI claims: interim restriction on charges imposed by legal practitioners after transfer of regulation to FCA)"

This amends the commencement clause, so that the new clause inserted by NC3 comes into force 2 months after Royal Assent.

Amendment 13, in clause 30, page 26, line 21, at end insert "except section (Occupational pension schemes: requirements to recommend guidance etc) (6) to (9)"

This amendment is consequential on amendment 11.

Amendment 14, in clause 30, page 26, line 29, at end insert ", and

(ii) section (Cold calling about claims management services)"

This amends the commencement clause to provide for NC6 about cold calling in relation to claims management services to be brought into force on a day appointed in regulations made by the Secretary of State.

Amendment 15, in clause 30, page 26, line 31, at end insert ", other than section (Cold calling about claims management services)"

This amendment is consequential on amendment 14.

Amendment 16, in clause 30, page 26, line 31, at end insert—

"( ) The Treasury must obtain the consent of the Lord Chancellor before making regulations under subsection (3) or (5) in relation to section (Legal services regulators' rules: charges for claims management services)."—*(Guy Opperman.)*

This amendment requires the Treasury to obtain the consent of the Lord Chancellor before making regulations for the commencement of the new clause inserted by amendment NC4.

Clause 30, as amended, ordered to stand part of the Bill.

10.30 am

Clause 31

Short Title

Guy Opperman: I beg to move amendment 17, in clause 31, page 26, line 34, leave out subsection (2).

This amendment removes the privilege amendment inserted by the Lords.

The Chair: With this it will be convenient to discuss clause stand part.

Guy Opperman: The amendment is a minor change that removes the privilege amendment inserted in the House of Lords. Privilege amendments are inserted to acknowledge that it is the privilege of the House of Commons to control charges on the people or on public funds. Its removal is a formality.

Amendment 17 agreed to.

Clause 31, as amended, ordered to stand part of the Bill.

New Clause 1

Personal pension schemes: requirements to recommend guidance etc

"(1) Section 137FB of the Financial Services and Markets Act 2000 (FCA general rules: disclosure of information about the availability of pensions guidance) is amended as follows.

(2) After subsection (1), insert—

"(1A) The FCA must also make general rules requiring the trustees or managers of a relevant pension scheme to take the steps mentioned in subsections (1B) and (1C) in relation to an application from a member or survivor—

(a) to transfer any rights accrued under the scheme, or

(b) to start receiving benefits provided by the scheme.

(1B) As part of the application process, the trustees or managers must ask the member or survivor whether they have received appropriate pensions guidance or appropriate independent financial advice.

(1C) In a case where the member or survivor indicates that they have not received appropriate pensions guidance or appropriate independent financial advice, the trustees or managers must also—

(a) recommend that the member or survivor seeks such guidance or advice, and

(b) ask the member or survivor whether—

(i) they wish to wait until they have received such guidance or advice before deciding whether to proceed with the application, or

(ii) they wish to proceed with the application without having received it.

(1D) The rules may—

(a) specify what constitutes appropriate pensions guidance and appropriate independent financial advice;

(b) make further provision about how the trustees or managers must comply with the duties in subsections (1B) and (1C) (such as provision about methods of communication and time limits);

(c) specify what the duties of the trustees or managers are in the situation where a member or survivor does not respond to a question mentioned in subsection (1B) or (1C)(b);

(d) provide for exceptions to the duties in subsections (1B) and (1C) in specified cases."

(3) In subsection (2), for "this section" substitute "subsection (1)".

(4) After subsection (2) insert—

"(2A) Before the FCA publishes a draft of any rules to be made by virtue of subsection (1A), it must consult—

(a) the Secretary of State, and

(b) the single financial guidance body."

(5) In subsection (3), for "the rules" substitute "rules to be made by virtue of subsection (1)".

(6) After subsection (3) insert—

"(3A) In determining what provision to include in rules to be made by virtue of subsection (1A), the FCA must have regard to any regulations that are for the time being in force under section 113B of the Pension Schemes Act 1993 (occupational pension schemes: requirements to recommend guidance etc)."

(7) In subsection (4), for the definition of "pensions guidance" substitute—

""pensions guidance" means information or guidance provided by any person in pursuance of the requirements mentioned in section5 of the Financial Guidance and Claims Act 2018 (information etc about flexible benefits under pension schemes);"."

—*(Guy Opperman.)*

This new clause requires the FCA to make rules requiring trustees or managers of personal and stakeholder pension schemes to check whether members have either received guidance or advice or have opted out of receiving it before accessing or transferring their pension assets. It also makes consequential amendments to FSMA 2000. It would be inserted after clause 18.

Brought up, read the First and Second time, and added to the Bill.

New Clause 2

Occupational pension schemes: requirements to recommend guidance etc

"(1) The Pension Schemes Act 1993 is amended as set out in subsections (2) to (5).

(2) After section 113A insert—

"113B Occupational pension schemes: requirements to recommend guidance etc

(1) The Secretary of State must make regulations requiring the trustees or managers of an occupational pension scheme to take the steps mentioned in subsections (2) and (3) in relation to an application from a relevant beneficiary—

(a) to transfer any rights accrued under the scheme, or

(b) to start receiving benefits provided by the scheme.

(2) As part of the application process, the trustees or managers must ask the beneficiary whether they have received appropriate pensions guidance or appropriate independent financial advice.

(3) In a case where the beneficiary indicates that they have not received appropriate pensions guidance or appropriate independent financial advice, the trustees or managers must also—

(a) recommend that the beneficiary seeks such guidance or advice, and

(b) ask the beneficiary whether—

(i) they wish to wait until they have received such guidance or advice before deciding whether to proceed with the application, or

(ii) they wish to proceed with the application without having received it.

(4) The regulations may—

(a) specify what constitutes appropriate pensions guidance and appropriate independent financial advice;

(b) make further provision about how the trustees or managers must comply with the duties in subsections (2) and (3) (such as provision about methods of communication and time limits);

(c) specify what the duties of the trustees or managers are in the situation where a beneficiary does not respond to a question mentioned in subsection (2) or (3)(b);

(d) provide for exceptions to the duties in subsections (2) and (3) in specified cases;

(e) provide for the Secretary of State or another prescribed person to issue guidance for the purposes of this section, to which trustees or managers must have regard in complying with their duties under the regulations.

(5) In determining what provision to include in the regulations, the Secretary of State must have regard to any rules that are for the time being in force under section 137FB(1A) of the Financial Services and Markets Act 2000.

(6) In this section—

"relevant beneficiary", in relation to a pension scheme, means—

(a) a member of the scheme, or

(b) another person of a prescribed description,

who has a right or entitlement to flexible benefits under the scheme;

"flexible benefits" has the meaning given by section 74 of the Pension Schemes Act 2015;

"pensions guidance" means information or guidance provided by any person in pursuance of the requirements mentioned in section5 of the Financial Guidance and Claims Act 2018 (information etc about flexible benefits under pension schemes)."

(3) In section 115 (powers as respects failure to comply with information requirements), in subsection (1), after "113" insert ", 113B".

(4) In section 182(5) (power of Treasury to direct that regulation-making powers are exercisable only in conjunction with them), after "except" insert "regulations under section 113B or".

(5) In section 185(2) (consultations about other regulations: exceptions), after paragraph (c) insert—

"(ca) regulations under section 113B; or".

(6) The Pension Schemes (Northern Ireland) Act 1993 is amended as set out in subsections (7) to (9).

(7) After section 109A insert—

"109B Occupational pension schemes: requirements to recommend guidance etc

(1) The Department must make regulations requiring the trustees or managers of an occupational pension scheme to take the steps mentioned in subsections (2) and (3) in relation to an application from a relevant beneficiary—

(a) to transfer any rights accrued under the scheme, or

(b) to start receiving benefits provided by the scheme.

(2) As part of the application process, the trustees or managers must ask the beneficiary whether they have received appropriate pensions guidance or appropriate independent financial advice.

(3) In a case where the beneficiary indicates that they have not received appropriate pensions guidance or appropriate independent financial advice, the trustees or managers must also—

(a) recommend that the beneficiary seeks such guidance or advice, and

(b) ask the beneficiary whether—

(i) they wish to wait until they have received such guidance or advice before deciding whether to proceed with the application, or

(ii) they wish to proceed with the application without having received it.

(4) The regulations may—

(a) specify what constitutes appropriate pensions guidance and appropriate independent financial advice;

(b) make further provision about how the trustees or managers must comply with the duties in subsections (2) and (3) (such as provision about methods of communication and time limits);

(c) specify what the duties of the trustees or managers are in the situation where a beneficiary does not respond to a question mentioned in subsection (2) or (3)(b);

(d) provide for exceptions to the duties in subsections (2) and (3) in specified cases;

(e) provide for the Department or another prescribed person to issue guidance for the purposes of this section, to which trustees or managers must have regard in complying with their duties under the regulations.

(5) In determining what provision to include in the regulations, the Department must have regard to any rules that are for the time being in force under section 137FB(1A) of the Financial Services and Markets Act 2000.

(6) In this section—

"relevant beneficiary", in relation to a pension scheme, means—

(a) a member of the scheme, or

(b) another person of a prescribed description,

who has a right or entitlement to flexible benefits under the scheme;

"flexible benefits" has the meaning given by section 74 of the Pension Schemes Act 2015;

"pensions guidance" means information or guidance provided by any person in pursuance of the requirements mentioned in section5 of the Financial Guidance and Claims Act 2018 (information etc about flexible benefits under pension schemes)."

(8) In section 111 (powers as respects failure to comply with information requirements), in subsection (1), after "109" insert "or 109B".

(9) In section 177(6) (power of Department of Finance to direct that regulation-making powers are exercisable only in conjunction with them), after "except" insert "regulations under section 109B or"." —*(Guy Opperman.)*

This new clause makes equivalent provision to that in NC1 for occupational pension schemes and requires the Secretary of State and the Department for Communities to make regulations corresponding to the FCA rules mentioned in NC1. It also makes consequential amendments to the Pension Schemes Act 1993 and the Pension Schemes (Northern Ireland) Act 1993.

Brought up, read the First and Second time, and added to the Bill.

New Clause 3

PPI claims: interim restriction on charges imposed by legal practitioners after transfer of regulation to FCA

"(1) A legal practitioner—

(a) must not charge a claimant, for a service which is a relevant claims management activity provided in connection with the claimant's PPI claim, an amount which exceeds the fee cap for the claim, and

(b) must not enter into an agreement that provides for the payment by a claimant, for a service which is a relevant claims management activity provided in connection with the claimant's PPI claim, of charges which would breach, or are capable of breaching, the prohibition in paragraph (a).

(2) Subsections (2) to (5) and (7) of section 27 apply for the purposes of the prohibitions in subsection (1) as they apply for the purposes of the prohibitions in section 27(1) but as if—

(a) references in those subsections to "regulated claims management services" were references to "relevant claims management activity" and references to "regulated persons" were references to "legal practitioners", and

(b) the first entry in columns 1 and 2 of the table in subsection (5) were omitted.

(3) Subsection (1) applies as follows—

(a) the prohibition in subsection (1)(a) applies only to charges imposed by a legal practitioner under an agreement entered into during the period—

(i) beginning with the first day of the second interim period (within the meaning given by section28(6)), and

(ii) ending with the end date for that practitioner, and

(b) the prohibition in subsection (1)(b) applies only to agreements entered into by a legal practitioner during that period.

(4) For the purposes of subsection (3), the end date is—

(a) for a legal practitioner for whom the relevant regulator is the Law Society of England and Wales, the day before the coming into force of the first rule made by the Law Society of England and Wales under section (Legal services regulators' rules: charges for claims management services) that applies to, or to any description of, PPI claims, and

(b) for any other legal practitioner, 29 April 2020.

(5) In this section "relevant claims management activity"—

(a) does not include any reserved legal activities of the kind mentioned in section 12(1)(a) or (b) of the Legal Services Act 2007 (exercise of a right of audience or the conduct of litigation), but

(b) otherwise, means activity of a kind specified in an order under section 22(1B) of the Financial Services and Markets Act 2000 (regulated activities: claims management services), disregarding any exemption in that order for activities carried on by, through, or at the direction of, a legal practitioner." —*(Guy Opperman.)*

This new clause requires the Law Society of England and Wales, the Bar Council and the Chartered Institute of Legal Executives, after the transfer of regulation from the Claims Management Regulator to the FCA, to enforce a fee cap in respect of charges by lawyers for certain claims management services provided in connection with a PPI claim until, in the case of the Law Society, the Society has made its own rules about charges for PPI claims, and in any other case, 29 April 2020.

Brought up, read the First and Second time, and added to the Bill.

New Clause 4

Legal services regulators' rules: charges for claims management services

"(1) The Law Society of England and Wales, the General Council of the Bar and the Chartered Institute of Legal Executives may make rules prohibiting regulated persons from—

(a) entering into a specified relevant claims management agreement that provides for the payment by a person of specified charges, and

(b) imposing specified charges on a person in connection with the provision of a service which is, or which is provided in connection with, a specified relevant claims management activity.

(2) The Law Society of England and Wales must exercise that power to make rules in relation to all relevant claims management agreements, and all relevant claims management activities, which concern claims in relation to financial products or services.

(3) The Law Society of Scotland may make rules prohibiting regulated persons from—

(a) entering into a relevant claims management agreement concerning a claim in relation to a financial product or service that provides for the payment by a person of specified charges, and

(b) imposing specified charges on a person in connection with the provision of a service which is, or which is provided in connection with, a relevant claims management activity concerning a claim in relation to a financial product or service.

(4) Rules under this section may make provision securing that for the purposes of the prohibition referred to in subsection (1)(a) or (3)(a) charges payable under a relevant claims management agreement are to be treated as including charges payable under an agreement treated by the rules as being connected with the relevant claims management agreement.

(5) In this section 'regulated persons' means—

(a) in relation to the Law Society of England and Wales—

(i) persons who, or licensable bodies which, are authorised by the Law Society to carry on a reserved legal activity,

(ii) European lawyers registered with the Law Society under the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000/1119), and

(iii) foreign lawyers registered with the Law Society under section 89 of the Courts and Legal Services Act 1990;

(b) in relation to the Law Society of Scotland, Scottish legal practitioners;

(c) in relation to the General Council of the Bar—

(i) persons who, or licensable bodies which, are authorised by the General Council to carry on a reserved legal activity, and

(ii) European lawyers registered with the General Council under the European Communities (Lawyer's Practice) Regulations 2000;

(d) in relation to the Chartered Institute of Legal Executives, persons authorised by the Institute to carry on a reserved legal activity.

(6) The rules must be made with a view to securing an appropriate degree of protection against excessive charges for the provision of a service which is, or which is provided in connection with, a relevant claims management activity.

(7) The rules may specify charges by reference to charges of a specified class or description, or by reference to charges which exceed, or are capable of exceeding, a specified amount.

(8) The rules may not specify—

(a) charges for a reserved legal activity within the meaning of the Legal Services Act 2007 (see section 12 of that Act);

(b) charges imposed in respect of—

(i) the exercise of a right of audience by a Scottish legal practitioner;

(ii) the conduct of litigation by a Scottish legal practitioner.

(9) In subsection (8)(b)—

'conduct of litigation' means—

(a) the bringing of proceedings before any court in Scotland;

(b) the commencement, prosecution and defence of such proceedings;

(c) the performance of any ancillary functions in relation to such proceedings;

'right of audience' means the right to appear before and address a court in Scotland, including the right to call and examine witnesses.

(10) In relation to an agreement entered into, or charge imposed, in contravention of the rules, the rules may (amongst other things)—

(a) provide for the agreement, or obligation to pay the charge, to be unenforceable or unenforceable to a specified extent;

(b) provide for the recovery of amounts paid under the agreement or obligation;

(c) provide for the payment of compensation for any losses incurred as a result of paying amounts under the agreement or obligation.

(11) For the purposes of this section—

'relevant claims management activity' means activity of a kind specified in an order under section 22(1B) of the Financial Services and Markets Act 2000 (regulated activities: claims management services), disregarding any exemption in that order for activities carried on by, through, or at the direction of, a legal practitioner;

'relevant claims management agreement' means an agreement, the entering into or performance of which by either party is a relevant claims management activity;

'Scottish legal practitioner' means—

(a) a person qualified to practise as a solicitor in accordance with section 4 of the Solicitors (Scotland) Act 1980;

(b) European lawyers registered with the Law Society of Scotland under the European Communities (Lawyer's Practice) (Scotland) Regulations 2000 (S.S.I. 2000/121);

(c) foreign lawyers registered with the Law Society of Scotland under section 60A of the Solicitors (Scotland) Act 1980;

(d) an incorporated practice within the meaning given by section 34(1A)(c) of the Solicitors (Scotland) Act 1980;

(e) a licensed legal services provider within the meaning of Part 2 of the Legal Services (Scotland) Act 2010 (see section 47 of that Act) that provides, or offers to provide, legal services under a licence issued by the Law Society of Scotland;

'specified' means specified in the rules, but 'specified amount' means an amount specified in or determined in accordance with the rules.

(12) This section does not limit any power of the Law Society of England and Wales, the Law Society of Scotland, the General Council of the Bar or the Chartered Institute of Legal Executives existing apart from this section to make rules."—*(John Glen.)*

This new clause makes provision about rules prohibiting charges for claims management services which may be made by the Law Society of England and Wales, the General Council of the Bar, the Chartered Institute of Legal Executives and (where the claim concerns financial products or services) the Law Society of Scotland, and imposes a duty on the Law Society of England and Wales to make such rules in relation to claims concerning financial products or services.

Brought up, and read the First time.

John Glen: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss Government new clause 5—*Extension of power of the Law Society of Scotland to make rules*.

John Glen: New clauses 4 and 5 place a duty on the Law Society of England and Wales to cap fees in relation to financial service claims management activity, and give the Law Society of Scotland a power to restrict fees charges for that activity. The clauses also give some legal services regulators in England and Wales a power to restrict fees charged for broader claims management services, and give the Treasury a power to extend the Law Society of Scotland's fee-capping power to broader activity in the future. As I am sure hon. Members are aware, claims management services are carried out not only by claims management companies, but sometimes by legal service providers as well. That is why the Government are introducing the new clauses. They will ensure that consumers are protected no matter which type of claims management service provider they use—whether regulated by the legal service regulators or by the Financial Conduct Authority.

As Members will know, fees charged for claims management services have attracted severe criticism. The Public Accounts Committee 2016 report on financial services mis-selling commented:

"It is a failure of the system of regulation and redress that claims management companies have been able to make up to £5 billion out of compensation to victims of mis-selling."

The Bill already contains provisions to ensure that the FCA will cap fees in relation to financial product and services claims, and new clause 4 replicates that duty in relation to the Law Society of England and Wales. It also mirrors the FCA's broader power to restrict fees for claims management activities by providing a similar power to the General Council of the Bar, the Chartered Institute of Legal Executives, and the Law Society of England and Wales. That power will enable them to make rules that cap the fees that legal service providers charge for claims management services. That will enable the legal services regulators to adapt to any future changes in the market, alongside the FCA.

New clause 4 also gives the Law Society of Scotland a power to restrict fees in relation to financial services claims management, and new clause 5 gives the Treasury a power to extend that provision to include wider claims management activity, should that be required in the

[John Glen]

future. That gives the flexibility required to respond to any future changes in the claims management sector. Although the Government are of the view that the regulation of claims management activity is reserved, we have worked in a spirit of co-operation with the Scottish Government to ensure that the provisions are fit for purpose in Scotland, and that Scottish consumers have the same high standards of protection when using claims management services as consumers in England and Wales. I hope Members agree that the new clauses collectively provide for the best protection of consumers across Great Britain.

Jack Dromey: The Minister was right to refer to the Public Accounts Committee report. It is nothing short of scandalous that there has been an immense industry, often on the back of misery. Consumers deserve to be properly protected in future. The clauses are sensible because they go beyond claims management companies, with the duty on the Law Society. Of course, it is about not only CMCs, but legal service providers.

Finally, with regard to new clause 5, it makes sense for there to be flexibility to extend the provision to restrict fees in the future, given potential changes in the nature of the industry.

Question put and agreed to.

New clause 4 accordingly read a Second time, and added to the Bill.

New Clause 5

Extension of power of the Law Society of Scotland to make rules

"(1) The Treasury may by regulations amend section (*Legal services regulators' rules: charges for claims management services*) for the purpose of extending the power in subsection (3) of that section so as to apply to—

(a) all relevant claims management agreements;

(b) all relevant claims management activity;

(c) any description of relevant claims management agreement;

(d) any description of relevant claims management activity.

(2) The Treasury must obtain the consent of the Scottish Ministers before making regulations under subsection (1).

(3) Regulations under this section—

(a) are to be made by statutory instrument;

(b) may make incidental, supplemental or consequential provision.

(4) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament."—*(John Glen.)*

This new clause would permit the Treasury, with the consent of the Scottish Ministers, to make regulations which extend the power given to the Law Society of Scotland to make rules by NC4.

Brought up, read the First and Second time, and added to the Bill.

New Clause 6

Cold calling about claims management services

"(1) The Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426) are amended as follows.

(2) In regulation 21 (calls for direct marketing purposes), after paragraph (5) insert—

'(6) Paragraph (1) does not apply to a case falling within regulation 21A.'

(3) After regulation 21 insert—

'21A Calls for direct marketing of claims management services

(1) A person must not use, or instigate the use of, a public electronic communications service to make unsolicited calls for the purposes of direct marketing in relation to claims management services except in the circumstances referred to in paragraph (2).

(2) Those circumstances are where the called line is that of a subscriber who has previously notified the caller that for the time being the subscriber consents to such calls being made by, or at the instigation of, the caller on that line.

(3) A subscriber must not permit the subscriber's line to be used in contravention of paragraph (1).

(4) In this regulation, "claims management services" means the following services in relation to the making of a claim—

(a) advice;

(b) financial services or assistance;

(c) acting on behalf of, or representing, a person;

(d) the referral or introduction of one person to another;

(e) the making of inquiries.

(5) In paragraph (4), "claim" means a claim for compensation, restitution, repayment or any other remedy or relief in respect of loss or damage or in respect of an obligation, whether the claim is made or could be made—

(a) by way of legal proceedings,

(b) in accordance with a scheme of regulation (whether voluntary or compulsory), or

(c) in pursuance of a voluntary undertaking.'

(4) In regulation 24 (information to be provided for the purposes of regulations 19 to 21)—

(a) in the heading, for ', 20 and 21' substitute 'to 21A';

(b) in paragraph (1)(b), after '21' insert 'or 21A'."—*(John Glen.)*

This amendment inserts a provision into the Privacy and Electronic Communications (EC Directive) Regulations which prohibits live unsolicited telephone calls for the purposes of direct marketing in relation to claims management services except where the person called has given prior consent to receiving such calls.

Brought up, and read the First time.

John Glen: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 9—*Ban on unsolicited real-time direct approaches by, on behalf of, or for the benefit of companies carrying out claims management services and a ban on the use by claims management companies of data obtained by such methods*—

"(1) The FCA must, within the period of six months beginning with the day on which this Act comes into force, introduce bans on—

(a) unsolicited real-time direct approaches to members of the public carried out by whatever means, digital or otherwise, by, on behalf of, or for the benefit of companies carrying out claims management services or their agents or representatives,

(b) the use for any purpose of any data by companies carrying out claims management services, their agents or representatives where they cannot demonstrate to the satisfaction of the FCA that this data does not arise from any unsolicited real-time direct approach to members of the public carried out by whatever means, digital or otherwise.

(2) The FCA must fix the appropriate penalties for breaches of subsection (1)(a) and (b) above."

This new clause would require the FCA to ban cold calling for claims management companies. Critically, it would also ban the use by these companies of any data obtained by cold calling. Together, these provisions would make cold calling for CMCs illegal and cut off the revenue stream to cold callers, by preventing CMCs using their data. The new clause would also allow the FCA to set the appropriate penalties for any breach of either of these bans. The bans would come into effect with the passing of this Bill.

John Glen: Government new clause 6 is about cold calling made for the purposes of providing claims management services. As Members will be aware, that topic has been discussed at length during the passage of the Bill. The Government have listened to the debates closely and committed in the other place to table an amendment that would restrict cold calls made by claims management companies. The new clause makes good on that commitment.

Calls from claims management companies and other entities are not merely a source of irritation, but can result in extreme distress to those answering the calls, especially the most vulnerable in our society. As the Government have stated in previous debates, we have forced companies to display their calling line identification when they call. We have made it easier to prosecute those involved in making the calls by removing the threshold for financial penalties to be administered and we have strengthened the Information Commissioner's powers for imposing fines on wrongdoers.

In addition, the claims management regulator and the Solicitors Regulation Authority have taken action against claims companies and solicitors that have breached tough direct marketing rules, including in relation to accepting illegally generated leads. However, we appreciate that we need to do more to truly eradicate the problem. New clause 6 seeks to ban cold calls made for the purposes of direct marketing in relation to claims management services, except where the person called has given prior consent to receiving such calls. The new clause will insert a provision into the Privacy and Electronic Communications (EC Directive) Regulations 2003, which govern unsolicited direct marketing.

The new clause will ensure that any call, whether it is from a claims management company, an individual or a lead generator, made for the purposes of direct marketing in relation to claims management services, is an unlawful call unless the receiver has explicitly consented to that call being made to them. The new clause takes the onus away from the individual to opt out of such calls being made to them—by signing up to the telephone preference service, for example—and puts the responsibility back on the organisation and its due diligence before making such calls.

There are complexities in legislating, including those related to navigating EU frameworks. However, the Government are convinced that the new clause will have the effect of making unwanted calls from claims management services unlawful.

Gareth Thomas: Is there not a concern that, having given consent to be phoned once, an individual might then be subject to a series of unwanted phone calls? One could imagine a situation in which an initial call is wanted by one of our constituents, but a company takes advantage of the permission to make a series of unwarranted further calls by arguing that it has the legal power to do so. What would happen in that situation?

John Glen: I will need to write to the hon. Gentleman on the mechanics of what can be done subsequently and how quickly and am happy to do so as quickly as possible.

Gareth Thomas: I apologise for intervening again, but I am thinking of an elderly constituent. One hears of scams and constituents being taken advantage of. How do we protect the individual who genuinely wants information and perhaps gives permission once, but then, perhaps because of their age or infirmity or whatever, they start to get taken advantage of? How do we prevent that?

John Glen: I am sorry that I cannot give the hon. Gentleman a full service response, but I will look into that issue carefully and keep in mind the specific circumstances he has described, which I will seek to address in my reply.

The new clause is another robust proposal to add to our package of measures to tackle unsolicited marketing calls. I hope they will be gratefully received by consumers across the UK.

10.45 am

Jack Dromey: I again seek your guidance, Mr Rosindell. I presume I am able now to address new clause 6 and our new clause 9. New clause 8 has not been selected, but I want to make reference to a couple of points of substance in relation to it, which are relevant to this debate. I seek your guidance on that.

The Chair: Certainly you may speak to new clause 9. New clause 8 has not been selected, so you must mention it in a way that would be acceptable. You are experienced enough to follow the deft way the hon. Member for Harrow West dealt with it.

Jack Dromey: Perhaps I will emulate the fleetness of parliamentary foot of my hon. Friend the Member for Harrow West.

I will start with a rather bizarre example, which is of no consequence to me personally. Ironically, as we were getting ready for Committee last week, I had a cold call. Out of the blue, the individual concerned said, "I understand you've had a car accident," to which I replied, "Yes. How did you know?" She said, "We're here to help you." I then said, "Actually, the car accident was 38 years ago. I pulled up at a pedestrian crossing

[Jack Dromey]

and somebody ran into the back of my car." She said, "Oh. I'm not sure we can help you with those circumstances."

To make a more serious point, the new clause would require the FCA to ban cold calling for claims management companies. Critically, it would also ban the use by those companies of any data obtained by cold calling. Together, those provisions would make cold calling for CMCs illegal and would cut off the revenue stream to cold callers by preventing CMCs from using their data. The new clause would also allow the FCA to set up appropriate penalties for any breach of either of those bans, which would come into effect with the passing of the Bill.

Cold calling is not just a social nuisance; it is often a direct threat to consumers' financial wellbeing. It is often an invitation—or, more exactly, an inducement—to criminal activity. There are now 2.6 million cold calls every month. That number has increased by 180% in the last year. Whatever the Information Commissioner's Office is doing is not working, and the problem continues to grow rapidly.

A Which? report from November 2016 found that in 17 of the 18 cities surveyed, more than a third of all private phone calls were nuisance calls, and that four in 10 people in the Scottish sample were intimidated by the calls. Older people are particularly vulnerable to cold callers. I have seen that personally: a 99-year-old woman was cold called four times, and on one of those occasions she suffered serious consequences as a result. Like her, more than 11 million pensioners are targeted annually by cold callers. Fraudsters make 250 million calls a years—equivalent to eight every second. For some, they are a danger. They prey on some of the most vulnerable people in society.

There is sadly no better example of that than the British Steel workers in Port Talbot. When a deal was struck last year to keep Tata Steel UK afloat, members of the £15 billion British Steel pension fund were given the option to shift their assured benefits to the Pension Protection Fund, join a new retirement scheme backed by Tata or transfer to personal pension funds. However, that led to what has been called a "feeding frenzy" at the site, as dodgy introducers preyed on workers, who were more than likely confused about the position of their pension, and may not have had the financial education to make such an important decision themselves.

Craig Tracey (North Warwickshire) (Con): We all agree that cold calling is a huge issue, but the problem with the new clause is that it seeks to place the burden of establishing when cold calling is taking place on the FCA. Does the hon. Gentleman agree that that approach would divert resources away from what it should be doing—ensuring that the right business models are in place and that there is better transparency for consumers?

Jack Dromey: Given the evidence of huge growth in cold calling and the consequences that individuals can pay as a result—I will give a tragic example in a moment—our strong view is that the time has come to send an unmistakeable message: a ban on cold calling, full stop.

I will give an example in relation to Port Talbot and the consequences I referred to last week. The Pensions Advisory Service was eventually asked to go down to Port Talbot, some months after the crisis developed. It told me only last week the heartbreaking story of that shift supervisor who had worked for British Steel all his life. He burst into tears and said, "Wrongly advised, I made the wrong decision." He also said, "I'll never, ever forgive myself, because the 20 people on my shift who I supervised all followed my example."

The evidence is powerful and compelling, and I do not think for one moment the Government would argue against it. The question is: what do we now do about it? The introducer concerned at Port Talbot—I have often described them as vultures—bought meals for workers in local pubs and convinced them to transfer their pensions, often into totally unsuitable schemes, where some could have lost up to six figures from the total of their pension.

The Financial Conduct Authority is probing concerns about pension changes that appear to have affected about 130,000 members of the Tata retirement fund. South Wales police are now investigating. That is a clear example from the world of work where dodgy practices have been used, with a negative and often serious impact on workers' finances. Our new clause would stop all unsolicited real-time approaches by, on behalf of, or for the benefit of companies carrying out claims management services.

There is a huge and rising number of claims for alleged holiday sickness. In July and August 2016 alone, one operator took 750,000 British, 800,000 German and 375,000 Scandinavian customers to Spain. The Scandinavians lodged 39 claims for holiday sickness—essentially, food poisoning—the Germans 114 and the British about 4,000. It is not only pensions where cold calling has had a negative impact. It is also commonplace for claims management companies to use it to harvest cases of road traffic accidents as well as for holiday sickness, where sadly, the UK has become the world leader.

The Association of British Travel Agents said there were about 35,000 claims for holiday sickness in 2016: a 500% rise since 2013. About one in five Britons—19%, or about 9.5 million people—has been approached about making a compensation claim for holiday sickness. As a result, hoteliers in the markets affected are now threatening significant price increases, and some are even considering withdrawing the all-inclusive product from UK holidaymakers entirely. The great majority of honest holidaymakers may suffer as a consequence of the wrongdoing of a small minority, encouraged by cold calling.

A total ban on cold calling would likely lead to a fall in the harvesting of false holiday sickness claims. In the words of Lord Sharkey in the other place a ban is necessary to deal with the "omnipresent menace" of cold calls. Baroness Altmann has said:

> "People need protection from this nuisance now. They shouldn't have to wait still more years for a ban....Direct approaches to people on their mobiles or home phones should have no place in the modern world of business."

That kind of thing not only costs our travel industry a huge amount and raises prices for everyone but directly encourages criminal acts on a larger scale, and it is welcome that there have been some early prosecutions accordingly.

Neil Coyle: I thank my hon. Friend for raising the issue and for mentioning ABTA, which is based in my constituency. ABTA has done a huge amount of work on the need to introduce exactly what he advocates, to highlight incidents of people fraudulently trying to make claims, supported by cold calling, while posting on Facebook and elsewhere about how much they have enjoyed their holidays and how boozed up they have been. There is clearly a need to address the issue.

Jack Dromey: My hon. Friend is absolutely right. ABTA is increasingly concerned about the consequences for consumers more generally and for its business in particular. Hoteliers and airlines will suffer unless the growing scandal, at the heart of which is shameless cold calling, is ended.

We already ban cold calling for mortgages, and we welcome the Government's commitment to introducing an immediate ban on cold calling for pensions, but we should also be able to ban cold calling for CMCs, and include a ban on the commercial use of data obtained by cold calling. An unmistakeable message needs to be sent: "If you cold call illegally we will probably catch you and, in any case, you will not be able to sell or use any data collected illegally".

Laws can, of course, be broken, which is why the new clause gives the FCA the power to set appropriate penalties for a breach of either of the bans. Since the banning of cold calling for mortgages, technology has made enormous progress, and we hope that the Government will be prepared to go yet further in the next stages. The ban on cold calling for mortgages has made truly massive-scale cold calling illegal, but the scale of cold calling continues to grow. Cold calling can and does have damaging and dangerous consequences, especially for the vulnerable, for the elderly, for workers like those in Port Talbot at a time of crisis in their lives, and for the business community. It is time to call a halt to all of that, which is what new clause 9 would do.

New clause 6 inserts a provision into the European Union's privacy and electronic communications directive, which prohibits unsolicited telephone calls for the purposes of direct marketing, in relation to claims management services, except when the person called has given prior consent to receiving such calls. The provision will treat the telephone numbers of everyone cold called about claims management as if they were listed on the telephone preference service register. In 2017, the ICO received 11,805 reports of unsolicited direct marketing calls about claims management from people already on the TPS register, in addition to reports of 17,112 calls and texts for which absence from the register was not deemed to represent consent. The Government amendment will simply add more cases to the yearly total—28,917 in 2017—and will do little to stop the scourge of cold calling. We will not oppose the provision but we invite the Government to comment on our points.

On new clause 8, which has not been selected, the Chairman is absolutely right that it would be an abuse—

The Chair: The hon. Gentleman knows that he cannot speak directly to new clause 8.

Jack Dromey: In the circumstances, of course I accept your ruling, Mr Rosindell. All I would say is that the example of the Port Talbot introducers is scandalous and the impact on the lives of the vulnerable is outrageous. We are determined to stamp out that practice. Coming back to the core proposal contained in our new clause, the time has come to ban cold calling, full stop.

11 am

Ellie Reeves (Lewisham West and Penge) (Lab): It is a pleasure to serve under your chairmanship, Mr Rosindell, on my first Bill Committee.

New clause 9 would introduce a much-needed ban on cold calling by claims management companies, including in relation to personal injury. Although the Government have previously stated that they are committed to introducing a ban, new clause 6 simply does not go far enough.

It is estimated that claims management companies make around 51 million personal injury-related calls and texts each year and that most people have received one. Not only are such calls a nuisance, they also exploit vulnerable people. Not surprisingly, 67% of people are in favour of a ban on personal injury cold calling. It is worth noting that solicitors are already banned from cold calling in personal injury claims, but the fact that claims management companies are not risks bringing the sector into disrepute.

Cold calling can generate the false perception that obtaining compensation is easy, even where there is no injury. It can put pressure on people to pursue unmeritorious or, at the very worst, fraudulent claims, which they otherwise may not do. It may never have been the intention of someone to make a claim, but if they receive a text promising them thousands of pounds, it might seem very tempting. As my hon. Friend the Member for Birmingham, Erdington has already spoken about, there is evidence to suggest that cold calling has led to a rise in holiday sickness claims.

There is a context. The Government are proposing to reform compensation rules for whiplash claims and to increase the small claims limit in road traffic accidents from £1,000 to £5,000, and in public liability and employers' liability claims from £1,000 to £2,000. The Government say that that is to cut down on fraudulent claims and bring down insurance premiums. However, many, including myself, are concerned that it will have a significant impact on access to justice, with people not being able to access proper legal advice in such claims, which can often be complex. Surely a better solution would be to have an outright ban on cold calling in personal injury claims by claims management companies, which is what new clause 9 seeks to do. The new clause is clear—it would result in a ban on all cold calling by claims management companies and would also ban other methods of approach, such as texting.

In contrast, new clause 6 creates confusion. It would ban cold calling unless someone has given consent. What amounts to consent in this context may not always be clear and people, especially the most vulnerable, may struggle to understand that they have consented to being cold called or may not appreciate what they have consented to. My hon. Friend the Member for Harrow West has raised concerns about the elderly and infirm. The Minister has not today been able to give any comprehensive answer on how those fears will be dealt with. Put simply, new clause 6 does not go far enough to ban the scourge of cold calling.

[Ellie Reeves]

Earlier this month, Lord Keen stated in evidence to the Justice Committee that

"effectively stopping cold calling is an immensely complex process, because cold calling nowadays is carried out by unregulated entities from outwith the United Kingdom. We have instances of it being carried on in south America to target the UK. They then spoof their telephone numbers...so that it is impossible to trace the origins of the call."

Will the Minister therefore assure me that more will be done to tackle such complex instances of cold calling, notwithstanding the measures in the Bill, so that the problem does not simply carry on under a different guise and vulnerable people do not continue to be exploited in this way?

John Glen: Opposition new clause 9 is identical to the Lords amendment and seeks to compel the FCA to ban unsolicited direct approaches by, on behalf of or for the benefit of companies providing claims management services. It also seeks to ban those companies from using data obtained through those methods. Unfortunately, it would give the FCA a duty it cannot enforce under its current regime.

I assure the hon. Member for Birmingham, Erdington and the hon. Member for Lewisham West and Penge that the Government are committed to tackling the issue properly and have consulted with the FCA, the claims management regulation unit and the Information Commissioner's Office to ensure that Government new clause 6 does so in the most effective way—it will amend the Privacy and Electronic Communications (EC Directive) Regulations 2003 to prohibit direct marketing calls by claims management services unless an individual has given their consent. I was challenged on that matter, and I will clarify by letter.

The provision will be implemented by the ICO as the regulator responsible for the enforcement of the regulations. It has considerable powers and can issue fines of up £500,000. Under the incoming general data protection regulation, the unlawful use of personal data can attract fines of up to £17 million or 4% of annual turnover. The ICO is committed to enforcing the sanctions in the Privacy and Electronic Communications (EC Directive) Regulations 2003 and has issued nearly £3 million in monetary penalties for breaches of direct marketing since January last year. We have worked with the ICO in developing the new clause, and it is confident that it will be able to enforce it in conjunction with the FCA.

The FCA will of course have a role to play and will use all the tools available to take action where it discovers behaviour causing consumer harm. I acknowledge the cases that both Members raised, which are unacceptable. I am also confident that the FCA will work closely with the ICO where breaches are identified. I am sure members of the Committee will agree that it is better to include a new clause that will work—Government new clause 6—than to include new clause 9. As such, I encourage both Members not to press their new clause to a vote.

Jack Dromey: We are not convinced. It comes down fundamentally to the issue of principle. If it is right that all the evidence is that cold calling has been deeply damaging for the elderly, for the vulnerable, for those at a time of crisis in their lives, such as the Port Talbot workers and now, dare I say it, Carillion workers, and for business, then in those circumstances the practice has to end, full stop. The difference between the two new clauses is that we are saying precisely that with new clause 9. While the Government take some steps in that direction with new clause 6, the reality is that this unacceptable practice will continue and is likely to continue to grow.

The Minister talked about penalties handed out thus far of £3 million, but it is a billion-pound industry of abuse. We therefore believe it to be right to send that unmistakeable message so that never again will those people, particularly those at a time of crisis in their lives, fear that supposedly friendly phone call that time and again leads them to make disastrous decisions with disastrous consequences. Our intention is to press new clause 9 to a vote.

Question put and agreed to.

New clause 6 accordingly read a Second time.

Question put, That the clause be added to the Bill.

The Committee divided: Ayes 9, Noes 8.

Division No. 3]

AYES

Burghart, Alex	Merriman, Huw
Donelan, Michelle	Milling, Amanda
Glen, John	Opperman, Guy
Latham, Mrs Pauline	Tracey, Craig
Mackinlay, Craig	

NOES

Amesbury, Mike	Fovargue, Yvonne
Black, Mhairi	Foxcroft, Vicky
Coyle, Neil	Reeves, Ellie
Dromey, Jack	Thomas, Gareth

Question accordingly agreed to.

New clause 6 added to the Bill.

New Clause 9

BAN ON UNSOLICITED REAL-TIME DIRECT APPROACHES BY, ON BEHALF OF, OR FOR THE BENEFIT OF COMPANIES CARRYING OUT CLAIMS MANAGEMENT SERVICES AND A BAN ON THE USE BY CLAIMS MANAGEMENT COMPANIES OF DATA OBTAINED BY SUCH METHODS

"(1) The FCA must, within the period of six months beginning with the day on which this Act comes into force, introduce bans on—

(a) unsolicited real-time direct approaches to members of the public carried out by whatever means, digital or otherwise, by, on behalf of, or for the benefit of companies carrying out claims management services or their agents or representatives,

(b) the use for any purpose of any data by companies carrying out claims management services, their agents or representatives where they cannot demonstrate to the satisfaction of the FCA that this data does not arise from any unsolicited real-time direct approach to members of the public carried out by whatever means, digital or otherwise.

(2) The FCA must fix the appropriate penalties for breaches of subsection (1)(a) and (b) above.'—*(Jack Dromey.)*

This new clause would require the FCA to ban cold calling for claims management companies. Critically, it would also ban the use by these companies of any data obtained by cold calling. Together, these provisions would make cold calling for CMCs illegal and cut off the revenue stream to cold callers, by preventing CMCs using their data. The new clause would also allow the FCA to set the appropriate penalties for any breach of either of these bans. The bans would come into effect with the passing of this Bill.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 8, Noes 9.

Division No. 4]

AYES

Amesbury, Mike	Fovargue, Yvonne
Black, Mhairi	Foxcroft, Vicky
Coyle, Neil	Reeves, Ellie
Dromey, Jack	Thomas, Gareth

NOES

Burghart, Alex	Merriman, Huw
Donelan, Michelle	Milling, Amanda
Glen, John	Opperman, Guy
Latham, Mrs Pauline	Tracey, Craig
Mackinlay, Craig	

Question accordingly negatived.

New Clause 12

PROVISION OF ADVICE ON CONSUMER CREDIT MATTERS BY LEGAL ADVICE CLINICS

"(1) In exercising its functions, the single financial guidance body must have regard to the availability of consumer access to advice on consumer credit matters.

(2) The single financial guidance body must specifically consider the impact on consumers of Part XX (Provision of financial services by members of the professions) Financial Services and Markets Act 2000 preventing probono legal clinics from providing advice on consumer credit matters.

(3) If the single financial guidance body considers that allowing members of the professions to provide advice on consumer credit matters would be conductive to its functions it must advice the Secretary of State to amend the Financial Services and Markets Act 2000.

(4) On receipt of advice from the single financial guidance body under subsection (4), the Secretary of State may by regulations made by statutory instrument amend Part XX of the Financial Services and Markets Act 2000.

(5) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."*—(Yvonne Fovargue.)*

This new clause would require the single financial guidance body to consider the effect on consumers of the prohibition on probono legal clinics giving legal advice and if it considers necessary recommend that the Secretary of State amend the Financial Services and Markets Act 2000 to allow probono legal clinics to provide this service.

Brought up, and read the First time.

Yvonne Fovargue (Makerfield) (Lab): I beg to move, That the clause be read a Second time.

This measure is probing and I will not press it to a vote. It was prompted by LawWorks, the operating name of the Solicitors Pro Bono Group—I know that the Minister is a great supporter of pro bono. The group is an independent charity that helps to bring together lawyers who are prepared to offer their time free of charge to individuals and community groups in need of legal advice and support.

The purpose of the new clause is not to deregulate the whole market, but to relax the prohibition that applies to solicitors working in pro bono legal advice clinics from providing advice on consumer credit matters. The prohibition arose as a result of what LawWorks believes was an unintended consequence of secondary legislation under the Financial Services and Markets Act 2000.

By way of background, in 2014 responsibility for regulating consumer credit and consumer credit advice in the UK was transferred from the Office of Fair Trading to the FCA. As part of the regulatory transfer, the group licensing regime was abolished and replaced by the individual authorisation and permission regime for credit-related regulated activities.

The regulatory transfer has not affected the not-for-profit organisations such as local citizens advice, which operate under an OFT group licence, because it could continue under the grandfathering provision. The Law Society's group licence, however, could not transfer under that provision, because the Law Society is not a not-for-profit organisation. Although LawWorks and the clinics in its network are not-for-profit organisations, they have not been able to rely on the grandfathering provision because they did not have their own group licence before 1 April 2014. As a consequence, the solicitors and firms who volunteer at clinics are at risk of committing a criminal offence by breaching the general prohibition in the FSMA when providing debt and consumer credit advice services.

The new clause would simply make a legislative change to the FSMA to enable the services to be provided without the need for FCA authorisation in a discreet range of services. I certainly do not want an unregulated market, but I want pro bono solicitors to be able to offer the advice they are trained to give. It complements one of the Bill's main aims, which is to facilitate a free and impartial money guidance service to the public.

11.15 am

Guy Opperman: It is a delight to respond to a very important and legitimate point. I should make a number of declarations at the outset: I know LawWorks very well, I set up a free representation unit and a pro bono unit, and two Labour Peers have given me awards for my pro bono works in the past. Lord Goldsmith and Baroness Scotland were both most ill advised in giving me the pro bono lawyer of the year and then a pro bono hero award for exactly this sort of work, although not in respect of debt advice. I have great sympathy with the hon. Lady's point. I will address it briefly now but am happy to discuss it in more detail.

There are a number of easy arguments to make. Most importantly, this is a matter that the single financial guidance body can already address. Clause 3(5), (9) and (10) give capacity for the single financial guidance body to review the provision of those types of arrangements, and to make recommendations once it has come to a conclusion on whether it is an appropriate way forward.

I accept and acknowledge that the FCA transfer has created some anomalies, but there is a reason why. The hon. Lady will fully understand that the Government are keen to ensure that consumers in problem debt have access to high-quality, regulated debt advice. The new body will, to a great degree, go a long way to ensure that that specific goal is met, but there are a couple of extra points I will make.

First, it is important to note that, during the transfer of debt advice regulation to the FCA, the not-for-profit debt advice providers widely supported the FCA regulation

[Guy Opperman]

of their activity because they felt it was important to ensure that all debt advice was of a high quality. Secondly, with great respect to LawWorks and the point made, I do not believe the assertion made is appropriate. Of course, individual organisations can apply to be regulated if they so choose, or to get a group regulation under FCA rules, but I think it appropriate that we consider it in more detail and invite the SFGB to go away and decide whether it is something it would recommend as part of the statutory remit we have set up under clause 3. In those circumstances, I invite the hon. Lady not to pursue her new clause.

Yvonne Fovargue: I thank the Minister for his reply and I am pleased that he has taken on board the principle. Certainly we do not want to deregulate the Debt Advice Network. I am in favour of it being a regulated body so that we can have high-quality advice. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Guy Opperman: Am I correct that we have now finished all particular clauses that need to be decided thus far?

The Chair: It would appear so.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Guy Opperman: Although the Committee has finished earlier than programmed, I think it is fair to say that the Bill has received thorough scrutiny from hon. Members in all particular ways. Some measures have been more scrutinised than others, even though they were not particularly on the amendment paper as appropriate for scrutiny.

I put on the record my thanks to your good self, Mr Rosindell, and also to Mr Stringer for keeping us moderately in order and for running the sessions so smoothly. I also thank *Hansard*, the Doorkeepers and the Clerks for enabling us to get through the business so efficiently. On behalf of my hon. Friend the Economic Secretary to the Treasury and myself, I thank the multitude of officials who have kept us in order. I also thank the hon. Member for Birmingham, Erdington, for the Opposition, and the hon. Member for Paisley and Renfrewshire South, for the Scottish National party, for the constructive way in which they have engaged with the debate. We believe we are taking forward a Bill that all parties fundamentally support, and doing the right thing. I look forward to continuing any of those further discussions on Report.

Jack Dromey: To respond briefly, I echo those thanks to all who have played their part in the passage thus far of the Bill, initially through the other place and then through the House of Commons.

I will make two points. First, as I said on Second Reading, this is a good Bill and a welcome step in the right direction. The establishment of the SFGB is welcome indeed. Crucially, we now need to make it effective at the next stages. In Committee we set out, as we said on Second Reading, to further strengthen the Bill and to inject what I called a "sense of urgency" into certain of the provisions contained in the Bill.

Secondly, I hope the Government will reflect on what has been said in respect of both cold calling and default guidance on Report. In conclusion, it would be churlish not to recognise that this is a welcome step in the right direction. I thank both Ministers concerned for their constructive engagement. Would that that was always possible on all occasions on all issues with those on the Government Front Bench. Having said that, it would be churlish indeed not to reflect that engagement. I hope the Ministers accept on Report the overwhelming logic and power of argument in respect of cold calling and default.

The Chair: I thank the Minister and the shadow Minister for their comments, and can I say what a pleasure it has been to chair this Committee?

Question put and agreed to.

Bill, as amended, accordingly to be reported.

11.21 am

Committee rose.

Written evidence reported to the House

FGCB 19 Citizens Advice
FGCB 20 Keoghs LLP
FGCB 21 LawWorks
FGCB 22 Gladstone Brookes
FGCB 24 DWF LLP
FGCB 25 Hargreaves Lansdown
FGCB 26 Motor Accident Solicitors Society (MASS)
FGCB 27 The Professional Financial Claims Association
FGCB 28 Barclays
FGCB 29 Carpenters
FGCB 30 One Advice Group
FGCB 31 Thomas Cook Group