

# Evidence Submission to the Public Bill Committee Financial Guidance and Claims Bill

## Executive Summary

1. Having a long-term health condition such as cancer can have a significant impact on people's finances. When this happens, getting early access to effective help and support can be vital.
2. As providers of mortgages and other key financial commitments, banks and building societies have an unrivalled ability to reach and support people affected by the financial impact of cancer, and other health conditions and disabilities.
3. However, Macmillan's latest research shows that more needs to be done to improve the support available and ensure that helping people with cancer, and other vulnerable customers, is at the heart of banks' culture.
4. **We support the recommendation made by the Lords Select Committee on Financial Exclusion calling for the introduction of a reasonable duty of care for financial services firms to exercise towards their customers.**
5. **This would require the Government to amend the Financial Services and Markets Act 2000. The Financial Guidance and Claims Bill presents an excellent opportunity to do so.**
6. **We do not agree that the FCA's proposed Discussion Paper, which is scheduled to take place once the UK's withdrawal from the EU becomes clear is sufficient. Waiting for this paper and the subsequent necessary legislative changes would delay the creation of a duty of care indefinitely. However, during this time, every day nearly 1,000 people in the UK will receive the devastating news that they have cancer.**
7. **We therefore urge the Government to bring forward the necessary amendment as part of this legislation.**

## Introduction

8. Macmillan Cancer Support provides practical, medical and financial support to people affected by cancer, and campaigns for better cancer care. In 2016, we helped over 1.4 million people with personal support through our face to face and phone services and helped many more through our information and support resources.
9. In this submission, we have drawn upon our expertise in providing a range of financial support services, including benefits advice, grants and financial guidance. In 2016, our Macmillan Support Line Financial Guidance Service helped over 8,300 people affected by cancer make informed decisions about issues such as pensions, savings and mortgages. We have also drawn on research we've conducted with people affected by cancer to understand any challenges they may face when dealing with their banking providers.

10. Over the last 7 years we've worked with stakeholders from across the banking industry to explore what more they could do to improve the support offered to their customers with cancer.
11. We're encouraged by the wider sector's increasing awareness of consumer vulnerability. However, we know that there is still more to do. In 2016, the Macmillan Support Line received over 11,000 requests for help from people needing guidance on their banking, mortgages, pensions, and insurance. This included 4,546 calls, compared with 2009 calls in 2015. Combined with our research, this shows that many people affected by cancer still aren't getting the support they need from their bank.

### **What is the duty of care and how does this fit with the Financial Guidance and Claims Bill?**

12. A duty of care would require financial services providers – such as banks, building societies and insurance companies – to act with the best interests of their customers in mind. The sudden shock of a cancer diagnosis means that people may need temporary measures from their financial services providers to help them cope with the short-term impacts of their diagnosis and treatment. These measures could include flexibility on mortgage payments or interest freezes on credit cards and loans. By supporting people with cancer in the short term, financial services providers can play an important role in helping their customers to adjust and plan for any impacts in the longer-term.
13. The exact detail of how any duty of care would translate into financial conduct rules would be decided by the Financial Conduct Authority (FCA), based on consultation with industry, consumers and other stakeholders.
14. Whilst we believe the duty would be particularly beneficial for those with an illness or disability, it is important that it applies to all customers. Our experience shows that anyone can become financially vulnerable and this is particularly true after the sudden shock of a cancer diagnosis.
15. Introducing the duty of care requires the Government to amend the Financial Services and Markets Act 2000. We believe the Financial Guidance and Claims Bill is a vital opportunity to make this change to the law. An amendment on this in the Lords attracted cross-party support.
16. The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) said during Second Reading in the Lords that the purpose of the Bill is to “ensure that people—especially those who are struggling—are easily able to access free and impartial financial guidance to help them make more effective financial decisions. It will improve their confidence when dealing with financial service providers and is an important step towards improving their financial capability.” Our call requiring a duty of care on financial services providers aligns with this purpose.

### **Why is a duty of care needed?**

17. There are currently 2.5 million people living with cancer in the UK. However, by 2030, this is expected to rise to 4 million.<sup>i</sup> Alongside the physical and emotional impacts most commonly associated with diagnosis, treatment and recovery, cancer brings with it a real risk of financial hardship.

18. **4 out of 5 people with cancer are financially affected**, leaving people, on average, **£570 a month worse off as a result of their diagnosis**.<sup>ii</sup> Every year **400,000 people in the UK** with cancer struggle to pay their household bills because of their diagnosis.<sup>iii</sup>

19. As providers of mortgages and other key financial commitments, banks and building societies have an unrivalled ability to reach and support their customers to manage periods of temporary financial difficulty. For example, banks can offer short-term measures such as flexibility on mortgage payments or interest freezes on credit cards and loans, as well as ensuring that customers are signposted early to financial help, which can help them to avoid problem debt.

20. Unfortunately, despite some progress across the sector – including as a result of Macmillan’s partnerships with [Lloyds Banking Group](#) and [Nationwide](#) - too many people with cancer are still not getting the help they need from their bank to manage their finances whilst ill:

- **Only 1 in 9 people with cancer (11%) tell their bank about their diagnosis.** Many people with cancer don’t think their bank will be able to help them, whilst others worry that telling the bank will have negative consequences - meaning people are reluctant to disclose their diagnosis.<sup>iv</sup>
- Of those who did tell their bank, **nearly a quarter (23%) reported being dissatisfied** with the way they were supported by them.<sup>v</sup>

### Case study

Angela’s son was diagnosed with rectal cancer at the age of 34 and his condition has left a substantial financial strain on the whole family. In addition to caring for him after surgery and chemotherapy, Angela has been managing most of her son’s day-to-day finances and ‘juggling all the money and bills’. She finds this quite stressful and worries about missing payments.

The family haven’t disclosed their son’s cancer to his bank, because they’re worried about getting a ‘black mark’ against his credit rating. Instead, they have moved into his house and have been servicing the mortgage on his behalf for the past year. Angela says she would rather lose her own house than her son’s.

Despite the impact of this on their own financial situation, they haven’t yet told their own bank. They have spent over £30,000 whilst their son has been ill. Travel alone in one year has cost Angela and her son over £1,500 in Oyster Card payments.<sup>vi</sup>

21. In addition, research with industry stakeholders found that, despite willingness to improve support, it is challenging to keep vulnerable customer initiatives a high internal priority owing to competition for resource for meeting commercial and regulatory priorities.

22. The FCA has several principles for businesses that it expects firms to adhere to. One of these is the principle [‘Treating Customers Fairly’](#), which states that ‘all firms must be able to show consistently that fair treatment of customers is at the heart of their business model’. However, our research and what we hear from people affected by cancer every day suggests that this principle does not guarantee that financial services providers consistently act in the best interests of their customers. We therefore believe that Treating Customers Fairly is not enough to ensure that all firms prioritise consumer vulnerability.

23. To help financial services providers support vulnerable customers and ensure that the whole industry sees this as a priority, urgent Government and FCA action is needed in the form of a duty of care. We believe this would:

- Provide certainty to firms that the regulatory expectation is that supporting their customers at times of greatest vulnerability should be a priority.
- Provide a structure for embedding consumer vulnerability into the corporate culture of financial services providers.
- Encourage people to seek early help from their financial services provider. Customers, knowing that their financial provider is obliged to act in their best interests, should become more willing to ask for support.

24. In doing so, a duty of care would lead to better outcomes for financial services firms, their customers, the regulator, and wider society.

### **A vital opportunity: Why Government must act to introduce a duty of care**

25. Introducing the duty of care requires the Government to amend the Financial Services and Markets Act 2000. We understand that the Government is keen to give the duty further consideration before legislating to bring it in.

26. However, significant examination has already taken place – including by the Lords Select Committee on Financial Exclusion, and experts from the Financial Services Consumer Panel. In addition, following legislative change, the FCA would be expected to consult widely to ensure the duty works for both consumers and industry.

27. Macmillan is very concerned that, unless the Government legislates for the duty of care as part of this Financial Guidance and Claims Bill, the issue will be delayed indefinitely.

28. The Government argues that the FCA has agreed to explore the concept of a duty of care by publishing a Discussion Paper, and that this is a sufficient next step.

29. However, this Discussion Paper is not due to take place until after the UK's withdrawal from the EU.<sup>vii</sup> In addition, this would only 'start a dialogue' exploring the need for a duty of care rather than formally consulting on its introduction. If, at the end of a lengthy consultation process, it was then agreed that a duty was needed, primary legislation would still be required, followed by translation into financial conduct rules and then implementation by the financial services sector. This could take many years. Meanwhile during this time, nearly **1,000 people every day** in the UK will receive the devastating news that they have cancer.<sup>viii</sup>

30. We are concerned this would lead to an unnecessary and unacceptable delay to customers accessing better support. **Given the strong consensus on the need for a duty of care, and the significant number of people with long-term health conditions facing financial difficulties now, we believe this decision cannot wait.**

*January 2018*

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<sup>i</sup> Maddams J, Utley M, Møller H. *Projections of cancer prevalence in the United Kingdom, 2010-2040*. Br J Cancer 2012; 107: 1195-1202.

<sup>ii</sup> Macmillan Cancer Support (2013) *Cancer's Hidden Price Tag*

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<sup>iii</sup> Macmillan Cancer Support/YouGov online survey of 2,011 UK adults who have ever been diagnosed with cancer. Fieldwork conducted 7-11 November 2014.

<sup>iv</sup> Macmillan Cancer Support (2017) *In the Balance*

<sup>v</sup> Ibid

<sup>vi</sup> Telephone interview with one respondent with cancer. Macmillan Cancer Support/Revealing Reality Research 2017. Online survey of 510 people who have ever had a cancer diagnosis and 505 people who are 'financially entangled' with a loved one with cancer and/or who have acted on behalf of someone with cancer. Fieldwork was undertaken between 22 December 2016 – 04 January 2017. Data relating to people living with cancer is weighted to be representative of the population of those living with cancer in the UK.

<sup>vii</sup> Financial Conduct Authority (2017) '*Our Mission 2017: How we regulate financial services*', p.28

<https://www.fca.org.uk/publication/corporate/our-mission-2017.pdf>

<sup>viii</sup> Macmillan Cancer Support. A thousand people a day diagnosed with cancer by end of 2016. November 2014.

[http://www.macmillan.org.uk/aboutus/news/latest\\_news/athousandpeopleadaydiagnosedwithcancerbyendof2016.aspx](http://www.macmillan.org.uk/aboutus/news/latest_news/athousandpeopleadaydiagnosedwithcancerbyendof2016.aspx) (accessed March 2017)