

Citizens Advice proposals for the
**Department for Business,
Innovation and Skills (BIS)**

Using the Spending Review to make
life simpler and fairer for people

Introduction

Whether in our one-to-one advice work, or in the analysis of our client evidence at a national level, Citizens Advice consistently generates sound solutions to the problems that people encounter day in, day out.

Our policy proposals often come down to making life simpler and fairer for people who rely on public services, achieving more for less, and ensuring that help goes to those most in need of it. The Government's Spending Review presents a rare opportunity to achieve these outcomes on a broad scale.

In its draft Structural Reform Plan, BIS includes in its priorities the need 'to create a positive business environment and to protect consumers'. Citizens Advice particularly welcomes the following specific objectives:

- To review employment and workplace laws, for employers and employees, to ensure they maximise flexibility while protecting fairness.
- To protect consumers, especially the most vulnerable, and promote more responsible corporate and consumer behaviour.

Informed by our unique understanding of the difficulties that people are facing, which coincide with BIS priorities, this submission sets out:

- the issues we think the Spending Review should focus on addressing
- our proposed policy solutions
- the ways in which the Citizens Advice service – with its extensive network of bureaux, high levels of public trust, and professional volunteer workforce – could support BIS to deliver those solutions.

In summary, our submission focuses on why and how BIS should and can:

- simplify the system for securing fairness in the workplace
- make our system of consumer protection more effective
- offer more suitable debt management solutions
- improve the sustainability of funding for free debt advice.

Support for service delivery

We welcome the Spending Review's consideration of whether more government activities could be delivered by the voluntary sector – in order to simultaneously improve service levels and achieve savings. This submission sets out a series of practical and innovative ways in which we could potentially support government in the delivery of the solutions we propose. In short, Citizens Advice could:

- provide a single first point of contact for consumer and employment advice
- offer an early intervention dispute resolution service
- collect and analyse evidence to inform policy development
- develop a holistic approach to money advice.

Why Citizens Advice

Citizens Advice Bureaux are local charities working with, and trusted by, some of the most vulnerable people in society. They:

- provide free, confidential and impartial advice from over 3,500 community locations
- give clients, and others like them, a voice by spotting failures in the system and responding with policy proposals.

Citizens Advice Bureaux are organised to deliver value for money. They:

- mobilise 21,500 volunteers, saving a market rate of £106 million and creating vibrant communities
- develop skills and encourage progression – 40 per cent of volunteers who leave go into paid employment or higher education
- boost local economies by helping people to avoid debt, manage it, and maximise their incomes
- reduce the strain on local authority, health and legal services.

Citizens Advice Bureaux deliver impressive results. During 2009/10 they:

- advised 2.1 million people on 7.1 million problems
- enabled 12.7 million queries to be researched independently on Adviceguide.org.uk
- improved the situation of 6.4 million people by influencing policy.

The problems

1 The system for securing fairness in the workplace is too complex, costly and stressful

Citizens Advice Bureaux helped people to resolve 586,000 employment problems in 2009/10. We know from our advice work that the vast majority of employers try hard to meet their legal obligations to their workforce, but there are still far too many rogue employers and employment agencies flouting the law and profiting from exploitation. Many of the most vulnerable workers in the UK economy fail to benefit from the legal framework for fairness in the workplace. Exploitation puts good employers at a competitive disadvantage, eventually forcing some to cut corners themselves or go out of business.

It is well recognised that formal systems for resolving employment problems, particularly those relating to discrimination, can be regarded as a barrier to achieving justice rather than an enabler. Cases can cost individuals and employers thousands of pounds, and 43 per cent of discrimination claimants in employment tribunals report stress and depression as a consequence of making a claim. Even successful claimants will often only receive partial financial compensation.

Moreover, responsibility for day-to-day enforcement of the law is shared between a number of different government bodies: the National Minimum Wage enforcement division of HM Revenue & Customs; the Employment Agency Standards Inspectorate; the Gangmasters Licensing Authority; and the Health and Safety Executive. While Citizens Advice supports their work, we believe that the existence of four statutory enforcement bodies means the system may be more costly than required, as well as unduly complex for users who have to approach multiple agencies for information and action.

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2 Rogue traders go unchallenged despite consumer protection laws

The Office of Fair Trading (OFT) estimated in 2008 that people in the UK experience more than 26 million consumer problems a year, causing a detriment of £6.6 billion. Complex laws and inadequate enforcement mean it is too easy for rogues to run rings around consumers. A good system of compliance and enforcement is not only needed to help consumers, but also to support fair markets by ensuring that law-abiding businesses are not undercut by those who flout the law.

Responsibility for educating consumers about their rights, advocating their interests, promoting better business practices and enforcing the law against bad businesses is presently divided between a number of organisations, both national and local. The frontline task of policing consumer protection law is mainly the responsibility of local authority Trading Standards services and, on certain issues, the OFT. They often do an excellent job, but the enforcement system is patchy due to divided responsibilities and varying resources. Enforcement costs can often exceed the value of fines – even though the scale and nature of consumer detriment may have been great – and the recoverability of those costs is discretionary. In addition, a number of innovative government-funded enforcement schemes, including action on illegal money lenders and scams (Scambusters), are coming to an end in 2011.

26 millions consumer problems a year cause a detriment of £6.6 billion

3 Debt remedies fail consumers and debt management firms take advantage

The current system of voluntary and statutory debt management and debt relief measures is incoherent, inefficient and fails to deliver good outcomes or sufficient protection to many of the poorest and most vulnerable people in financial difficulties.

Although there are currently three main insolvency options open to individual debtors – bankruptcy, debt relief orders and individual voluntary agreements (IVAs) – the apparent ‘choice’ of options is really no choice at all for many consumers in financial difficulty. People in need of debt relief may find themselves excluded from the most appropriate option due to factors such as the size of their debt or a limited income. Formal insolvency options are not suitable for everyone with debt problems either. Many are able to recover control of their finances after a temporary income shock like unemployment or illness, reflected in the fact that, annually, more people set up debt management plans than pursue insolvency remedies.

But there is currently no debt management scheme that provides the same protection that bankruptcy or an IVA can against enforcement and spiralling debts. This fuels supply of commercial debt management solutions where regulation has failed to protect financially vulnerable consumers from high charges and bad practice. Conversely, the fundamental need for certain protection has driven consumers into inappropriate and expensive IVAs. Even where consumer needs are being met by the current system, this is often at a significant cost to consumers, their creditors, the taxpayer or all three.

No debt management scheme provides the same protection that bankruptcy or an IVA can

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Funding for free debt advice is patchy and insecure

Free debt advice is currently funded in four main ways:

- Directly by the consumer in debt, via fees paid to commercial debt management providers.
- By the credit industry through mechanisms such as IVAs and fair-share schemes where creditors forego some repayments.
- By Government through legal aid, the financial inclusion fund, local authorities and a variety of helplines.
- Some, but not all, creditors (mainly banks) make donations to the Money Advice Trust and other charitable foundations which fund a variety of debt advice initiatives, including a national telephone advice line and training and support for money advisers.

The first two options are only viable if the person in debt has some disposable income to pay into the system. People from poor and disadvantaged households rely on free debt advice services, most of which are provided by Government funding streams. With public finances under pressure, new sources of finance may need to be found if the most vulnerable people in debt are not to lose out, and if a growth in micro providers of variable quality is to be prevented.

A new strategy is needed for debt advice funding to safeguard quality

Our proposed policy solutions

1 Simplifying the system for securing fairness in the workplace

Now that the Pay and Work Rights Helpline provides a single gateway to the four existing statutory enforcement bodies, it makes sense to also rationalise these bodies into a single 'fair employment agency' with the powers and resources both to secure vulnerable workers their rights and to target the rogues. This fits with the Government's fairness agenda by creating a level playing field for employers as well as giving exploited workers somewhere to turn. It would also allow for more balanced allocation of enforcement resources in relation to the rights covered.

2 Making our consumer protection system more effective

Consumer advice is a vital service and has become even more important since the growth of the internet and its opportunities for online trading, scams and fraud. Consumer problems can often be tied up with money, legal and other issues, but there remain many single issue helplines and different paths to the resolution of those problems. Consumer advice could be improved by bringing all government-supported services together behind a single recognisable and trusted brand, which could offer access to a wide range of services via a wide range of channels.

The Consumer Protection from Unfair Trading Regulations 2008 should be strengthened to require speedy action by trade associations against members who are breaching consumer protection legislation, before formal enforcement action is taken. This would be cheaper than formal enforcement action, provide the business with an opportunity to put things right at an early stage, and create a greater role for those associations to regulate their trading areas. Support from the OFT would ensure fairness and proportionality, and failure to achieve speedy change would lead to formal enforcement action.

The Regulation, Enforcement and Sanctions Act 2008 gave regulators and enforcers a range of ways to enforce consumer protection legislation, including requiring a business to pay compensation and permitting the imposition of a fine without the need for court. These provisions should be enhanced so that the enforcer's costs can be met by the business, ensuring that enforcement action has sustainable funding – the polluter pays principle.

3 Offering more suitable debt management solutions

Most of the problems with the 'market' for debt remedies could be solved quite simply by implementing existing legislation – the debt management scheme provisions in Chapter 4, Part 5 of the Tribunal, Courts and Enforcement Act 2007. These existing regulations are sufficient to create what is needed:

- A 'breathing space' scheme with effective protection.
- A better-regulated, longer-term debt management scheme which protects debtors from aggressive creditors, and protects creditors from bad practice by debt management and IVA providers.
- A cheaper form of debt relief than IVAs, particularly where the debtor is not a homeowner, as in around 60 per cent of 'straightforward consumer' IVAs.
- A form of accessible debt relief for those debtors with too little money for an IVA.
- An alternative to bankruptcy – which would reduce costs to the Insolvency Service – where there is some income but no assets.

4 Improving the sustainability of funding for free debt advice

More of the cost of providing good quality, independent and free debt advice to those in greatest need could be funded through a levy on consumer credit lenders. The credit industry does provide some funding to the free debt advice sector, but it is woefully inadequate given the part consumer credit debt plays in the problems people face. In 2009/10, consumer credit debt accounted for nearly half of all the 2.4 million debt problems dealt with by the Citizens Advice service.

A levy on consumer credit could supplement – rather than totally replace – government funding for free debt advice, since many of the debt problems faced by the most vulnerable consumers on low incomes concern public sector debts including rent arrears, council tax arrears, benefit and tax credit overpayments.

Those in greatest need of intensive debt advice would receive the help they so desperately need, government would greatly reduce expenditure on the funding of free debt advice, and advice providers would have an additional, sustainable source of funding with which to meet increasing demand.

How the Citizens Advice service can support the delivery of these solutions

The Citizens Advice service is ideally placed to work with BIS to reduce bureaucracy and achieve more for less.

As an organisation, we are geared up to develop the most appropriate services, target them effectively and deliver them efficiently. In fact working to our 2014 strategic plan will see us:

- greatly improving access to advice by establishing and developing our national Adviceline telephone service
- equipping individuals with the knowledge and skills necessary to prevent problems occurring
- encouraging clients to adopt digital technology by offering use of the internet and accessing web-based public services on their behalf
- recruiting and training even more volunteers, promoting community involvement and helping people back into paid work.

In addition, we have a wealth of experience and expertise in dealing with consumer and employment issues.

- Consumer credit debt accounted for nearly half of the 2.4 million debt problems we advised on in 2009/10.
- During 2009/10 we dealt with 586,000 employment enquiries and 326,000 consumer enquiries.
- The 2008 Survey of Employment Tribunal Applications showed that 14 per cent of all applicants received help from us.
- In 2009/10, we collected, analysed and acted on 19,500 separate items of evidence of poor or illegal consumer and employment policy and practice.
- During 2009/10 we dealt with 28,000 discrimination enquiries, an increase of 22 per cent on the last two years.

The Citizens Advice service could assist BIS to achieve substantial savings under its consumer and employment functions in the ways outlined below. All initiatives would include discrimination and other issues covered by the Equality Act 2010 to ensure the Act is embedded and implemented.

1 Providing a single first point of contact for consumer and employment advice

The consumer and employment advice service would be designed to deal with enquiries up to a certain level at first point of contact and would refer those needing further advice, intervention or case work to the most appropriate provider.

The service would primarily be delivered through Adviceline, but would also be available face-to-face and electronically. It would be supplemented by web-based facilities including decision trees, self-help materials and template letters.

In addition to providing advice, the service would identify illegal practices and acts by employers and by providers of goods and services, and report these to the appropriate enforcement authority.

2 Offering an early intervention dispute resolution service

The early intervention dispute resolution service would be designed to avoid reliance on the Employment Tribunal service and would be delivered through the most effective channel, taking all of the circumstances into account.

Citizens Advice would provide information and where appropriate mediate between the employer and employee, with a view to achieving the best possible outcome for all parties.

It is anticipated that the service would play a key role in dealing with discrimination related issues.

3 Collecting and analysing evidence to influence policy development

Working in partnership with consumer representatives and advice services, or as the sole agency responsible, Citizens Advice would gather evidence from its service users and analyse it to identify trends and concerns.

The analysis would then be used to both enable poor practice and policies to be addressed, and to help employers and providers of goods and services to become more aware of their obligations and better fulfil them.

4 Developing an holistic approach to money advice

Citizens Advice acknowledges the inter-relationship between debt advice, money guidance and financial education, and is seeking to work with HM Treasury to develop a model for their integrated delivery.

Contact us

To discuss the contents of this submission,
please contact Laura van der Hoeven on
laura.vanderhoeven@citizensadvice.org.uk
or **020 7833 7118**.

Citizens Advice

Myddelton House
115-123 Pentonville Road
London N1 9LZ

Volunteer hotline: 08451 264 264

Telephone: 020 7833 2181

Fax: 020 7833 4371

www.citizensadvice.org.uk

www.adviceguide.org.uk

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