

evidence



Tax credits: Time for a clean slate

Rachel Burr explains why Government needs to stop the hardship caused by tax credit overpayments

The tax credit system aims to lift low-income families out of poverty, and increase incentives to work. But since the system's launch in 2003, overpayments have caused millions of recipients to become suddenly and hugely indebted to the Treasury. For many low-income households, the burden of repaying this debt means hardship, emotional strain and poverty, especially in this time of recession. Repaying overpayments can also reduce the incentive to work, as repayment rates often rise when claimants start work. Citizens Advice is calling on the Government to write off more old tax credit debt, to help low-income families, and to restore confidence in the system.

A client visited a Devonshire CAB in January 2009 about a demand to repay £4,000 within eight months, or be taken to court. The overpayment resulted from changes of circumstances in 2003/04. The Tax Credit Office (TCO) acknowledged that the client had informed them of all changes in circumstance, but said that they had failed to make the changes on the system. Despite admitting their error, they insisted on repayment. The client is disabled and has four children. She is very distressed about the large sum she is expected to pay in such a short time.

The case for writing off non-fraudulent debt is particularly strong for 2003/04 and 2004/05 when £4 billion was overpaid. The system was new, complex and difficult to understand, and the Government has acknowledged that IT errors and administrative problems were widespread, with an apology in the Commons for 'the hardship and distress that has been caused to some families'. HMRC are now developing initiatives to help claimants comply with the system, but this help was not available at the time. Furthermore, much of the debt amassed in these two years would not exist today, because of changes to the rules. A small percentage of these debts are written off, but many others are still in dispute and many demands for repayment are highly questionable – CAB advisers can find that on investigation, a different figure is given for the debt, or no money is owed at all.

Only a small percentage of the overpayments from this period are being written off, and success depends on the claimant officially appealing against the debt or disputing the recovery. This – often lengthy – process is inequitable to the clients, and is a drain on the tax credit office's resources.

Citizens Advice is calling for a streamlined system to allow blanket write-offs of tax credit debts from

2003/04 and 2004/05. A gesture of this kind would help to restore public confidence in the system. It would save government the time and money currently spent on investigating disputes and administering repayments. Most importantly, it would help many low-income households desperately struggling to ride the wave of recession, by lifting them out of poverty. This, after all, is what the tax credit system was invented for.

Rachel Burr is a social policy campaigns officer for the north.

Rachel.burr@citizensadvice.org.uk

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Weathering the storm

Alex MacDermott suggests steps to help weather the recession and rebuild confidence in consumer credit

Over the last eighteen months the UK economy has slumped into recession. People are losing their homes, their jobs – and their confidence in the banking sector. Enquiries to Citizens Advice Bureaux on redundancy are up 125 per cent, on Job Seekers Allowance up 66 per cent, and on mortgage and secured loan arrears up 46 per cent.

The government has acted quickly to help – they have: provided an extra £10 million to Citizens Advice, allowing bureaux to see up to 500,000 more people; developed a comprehensive package of measures for homeowners; taken steps to tackle fuel poverty; and persuaded credit card providers to give customers 30 days “breathing space” after they have sought advice.

As a first round of emergency measures these are not bad, and will help thousands of people, but there are still large numbers of people struggling with other types of unsecured debt. So we would suggest the next round of measures concentrates on two priorities:

Ensuring lenders help people weather the storm

CAB evidence suggests that there are four actions that need to be taken:

- *Maintain access to short term credit and offer a ‘smooth landing’ on reducing credit lines*

Many households use an overdraft or credit card to help budget, especially when income is temporarily reduced. If lenders want to reduce or end those facilities, they should phase in change as smoothly as possible over time.

A CAB in the West Midlands saw a single parent struggling to make ends meet. The client used her overdraft facility to buy essentials, but as soon as she went slightly over the limit, the bank withdrew the overdraft. She therefore had no access to any of the benefits paid into her account, and some priority payments went unpaid. The bank told the client that they would only consider reopening the account if she sought advice from the CAB.

- *Extend the 30-day breathing space agreed with the credit card industry to other credit products, and Government debt.*

In November 2008 the credit card industry agreed to suspend collections activity for 30 days after a borrower had sought advice, meaning that those borrowers would not receive any calls or letters demanding payment for thirty days. However, by the time people seek advice about problem debts, they

usually have multiple creditors and often have numerous lines of credit with the same lender.

A CAB in the Midlands reported a couple who had been using credit cards to repay other credit cards and loans. By the time they came for advice they had sixteen debts. Most of their credit card debt was owed to lenders who only offer credit or store cards. However, they also owed money to several high street banks for unsecured personal loans, overdrafts and credit cards.

In cases like this, the good intent could be undermined and the position of card providers compromised because other lenders – and indeed other departments within the same company – may continue to demand payment, in spite of the 30-day agreement.

- *Achieve wider use of the Common Financial Statement scheme.*

The Common Financial Statement (CFS) scheme aims to ease debt repayment negotiation between advisers and creditors. Guideline levels of expenditure are established, and when an individual's expenditure falls within these limits, their offer of payment to creditors will be accepted.

Unfortunately this does not always happen. For example:

A CAB in the South East reported a case where they had prepared a common financial statement for their client. The client's expenditure fell within the agreed guidelines and he was able to make small offers of repayment to all his creditors. While most of his creditors accepted the offer, one refused and demanded five times more than the client could afford.

All banks and consumer credit lenders have endorsed this self-regulatory mechanism, but there are no sanctions for creditors who refuse to accept offers made in compliance with the scheme. This does not help those businesses who work within the scheme to get debt problems resolved quickly.

If the CFS method (or something similar) were brought into the debt collection guidance issued by the OFT under section 25 of the Consumer Credit Act 1974, it would have more teeth. This would impose no extra cost on businesses already adopting the scheme, but would carry the prospect of enforcement action for non-compliant firms. This could be further embedded if the statutory debt management scheme outlined in the Tribunals Courts and Enforcement Act 2007 were implemented.

- *Tackle interest rates and charges that are just too high*

Debts can still spiral upwards because of interest accruing on an account, and some lenders continue to add default charges to the balance. We suggest that the government should address this issue especially in relation to sub-prime mortgages whose high

interest rates have already raised borrowing costs.

Improving consumer confidence

Looking ahead to recovery, we believe steps should be taken now to improve consumer confidence and encourage the sensible use of credit.

- *Providing a national Money Guidance service as soon as practicable:*

Rebuilding public trust and confidence in financial products will require significant effort, with evidence of stability and trustworthiness. We can start now, by committing to a progressive roll-out of a national Money Guidance programme, which would address managing debts, saving for an altered financial future and making informed decisions when choosing financial products.

- *Improving the confidence and ability of consumers to borrow sensibly and insure themselves against risk of default*

A research poll on consumer confidence shows that willingness to make a major purchase has declined significantly. Uncertainty makes consumers reluctant to spend on credit when they could actually do so sensibly and affordably.

Payment protection insurance (PPI) against a period of unemployment is available, but has a poor reputation. It is criticised by the Competition Commission (CC) on price, and by the Financial Services

Authority (FSA) on sales practices and handling of complaints. However, good PPI provides peace of mind for consumers and improves their credit default risk in the eyes of lenders. The recent ban on selling PPI at point of credit sales provides an opportunity to define what a 'good, simple and fair' credit PPI policy should look like. Such a policy could help develop consumers' confidence to borrow, and increase lenders' willingness to lend.

- *Prompt and decisive action against rogue traders who exploit the economic downturn*

The next two years promises a potential boom time for fee-charging debt management services and so-called 'credit repair' services, 'bully-boy' debt collectors and get-rich-quick schemes. Sharp and misleading marketing and sales practices – such as those currently seen on the internet (eg www.governmentdebthelp.co.uk) – which claim government endorsement or charitable status need to be stopped in a visible and high profile way.

While the economic outlook remains stormy, efforts made to improve consumer confidence now will surely help when the sun eventually comes out from behind the clouds!

Alex MacDermott is a social policy officer working with creditors on behalf of the free money advice sector.

alex.macdermott@citizensadvice.org.uk

Will FSA regulation of banking protect consumers?

The logic behind FSA's proposal to take over the regulation of bank accounts is difficult to dispute. **Tony Herbert** believes, however, that their current plans leave much to be desired

Many people might be surprised to learn that the rules for how UK banks deal with customers reside in a voluntary code. The Banking Code is intended to allow competition and market forces to encourage higher standards for the benefit of consumers. In many areas it has delivered real benefits to both consumers and the banking industry.

The Code covers essential products and services for consumers to manage their daily financial needs, ranging from current accounts, personal loans and overdrafts, to savings, card services and ATMs. The Code and the associated Guidance also contain Key Commitments and details on how customers should be dealt with, including when someone is experiencing financial difficulties. Monitoring and enforcing compliance with the Code and Guidance fall to the Banking Code Standards Board (BCSB).

Recently, the FSA consulted on proposals to end this system of self-regulation and to take over regulation of deposit-taking.¹ In November 2009, under the Payment Services Directive, the FSA will assume responsibility for regulating payments services. It

therefore argues that it should also regulate the core financial services relationship with retail consumers. Taking retail banking under its wing would also allow the FSA to look more comprehensively at all the risks affecting a bank's retail market activities.

Citizens Advice has a strong interest in this area since banking products are now an essential part of everyday life, being increasingly vital when seeking employment, and necessary for payment of some benefits. Our most recent statistics reinforce this, with figures from April – December 2008 revealing that Citizens Advice Bureaux in England and Wales received 1.3 million enquiries about problem debts, including almost 101,000 concerning overdrafts, and 21,000 more general problems relating to bank and building society accounts.

We want to see strong and effective regulation in this area, but we do not support this move to statutory regulation of retail banking. While we recognise that there is a compelling case for the FSA to assume responsibility for regulation of retail banking, we have significant misgivings about the detail of the proposals put forward. Our main concerns fall into three broad categories:

1. the application of principles-based regulation
2. the role of industry guidance
3. the absence of a regular review and the opportunity for consumer input.

The application of principles-based regulation

The move to regulation by the FSA will mean that the FSA's risk-based regulatory approach will replace the more detailed provisions contained in the Banking Code. Theoretically, this should encourage banks to focus on delivering better outcomes for consumers. In practice the benefits depend on how such high-level principles are translated into the everyday practices of firms – for example, how easy is it for consumers or their advisers to understand the application of such principles and hold firms to account where they fail to comply?

We strongly believe that the FSA should have undertaken a thorough assessment of the detriment and problems affecting consumers in the retail banking environment, and then set out in detail how such shortcomings

¹ *Regulating retail banking conduct of business (CP 08/19)*, FSA, November 2008

would be addressed by the move to principles-based regulation.

More specifically, the content of the current Banking Code and associated Guidance for subscribers is greatly valued by vulnerable consumers and their advisers, precisely because of its specific and detailed provisions listing what customers can expect in certain situations. This provides welcome clarity about what is and is not permitted, making it easier for customers to assert their rights if they are infringed. Principles-based regulation will remove this level of detail. It will also lead to conflicting interpretations of what fair treatment means, since the onus is on the firm to interpret high-level principles, and interpretations are likely to vary. We do not think that industry guidance can fill this gap, for reasons explained below.

The role of industry guidance

Under the current Banking Code, subscribers must comply both with the Code itself *and* the Guidance that underpins it, if they wish to avoid BCSB enforcement action. These arrangements provide transparency to: (i) banks who know exactly what is expected of them; and (ii) consumers and advisers who know what to expect from banks and building societies, and therefore where they can challenge banks about their failure to comply with certain undertakings.

The FSA's move to high-level principles-based regulation will remove this level of detail. To address this, the FSA proposes that

“industry may wish to develop voluntary industry guidance, suggesting ways to comply with these requirements, which would preserve valuable elements of the current Codes and relevant material.” We do not think that such voluntary industry guidance as currently constituted would fulfil the same valuable function as that provided by the Banking Code guidance. This is because the BCSB will take enforcement action against banks failing to comply with its guidance, but the FSA will not. We therefore question the purpose of such guidance.

We think that a different approach is required, which would provide a greater level of transparency and certainty to consumers and their advisers. There are a number of ways that this could be achieved: the FSA could seek to replicate certain parts of the Banking Code within its own rules – for example key provisions relating to dealing with people in financial difficulties; dealing with third party advice agencies; and the provision of basic bank accounts. Alternatively, it could adopt the OFT's approach to credit licensing, and issue binding guidance to industry outlining the type of behaviour considered to fall within the category of unfair business practices.²

The absence of a regular review and the opportunity for consumer input

The triennial review of the Banking Code provides a valuable opportunity for consumer groups to comment, and to make

recommendations on improving regulation and consumer protection, ensuring that it remains relevant and up to date, thus achieving incremental change. We acknowledge that the review process is not perfect, with no consultation on the text of the revised Codes or associated Guidance and a lack of transparency over decisions on why the Code sponsors adopt or decline recommendations. This suggests the need to improve the process, not to abandon it. We value the regular reviews and would support similar opportunities under the new arrangements.

Conclusion

Getting the right regulatory regime for retail banking is crucial, as bank accounts are now vital for everyday life. While we recognise the rationale for the FSA to assume regulation of retail banking, the current proposals would exchange the certainty provided under the current arrangements for something potentially far less useful. To allay our concerns about these changes we are looking for significant changes when the FSA publishes its Policy Statement on this subject later this year.

Tony Herbert is a social policy officer dealing with essential services issues.

Tony.herbert@citizensadvice.org.uk

² *Debt collection guidance – Final guidance on unfair business practices*, Office of Fair Trading, July 2003 (updated December 2006)

Consumer Rights Directive

Susan Marks asks “what’s in a name”?

You could be excused for thinking that this is the legislation where you might find all your EU consumer rights in one place; where these rights and responsibilities might fit together and complement one another; where the simplification of consumer law, (wanted by consumers and business alike and sought in the Government’s Consumer Law Review¹), might finally be achieved. You might even have thought the redress element missing from the Unfair Commercial Practices Directive transposed into UK law on 26 May 2008² would be housed here.

You’d be wrong.

Consumer protection across the EU

So what is this proposed Consumer Rights Directive, and where did it come from? It is an attempt to gather together and up-date all the EU protections that apply across consumer purchases. It covers what used to be four discrete areas of legislation:

- Distance selling
- Doorstep – or what the draft Directive calls ‘off premises’ – sales
- Sale of goods, and

- Unfair terms in consumer contracts.

You can see that getting this right for all the EU Member States will be no mean feat.

The EU published these proposals in 2008 and in the UK BERR have consulted on what line to take in the negotiations among the 27 Member States. It is part of what is sometimes called the consumer acquis project – the review of eight EU consumer Directives – that started in 2004 and has already created a new Timeshare Directive.

The draft Directive takes on many of the criticisms raised in responses to the EU Green Paper of 2007. It adds important benefits such as including both solicited and unsolicited doorstep/off premises sales, and requiring that consumers are given a real opportunity to see all the terms of a contract before it’s too late to cancel.

Unforeseen consequences

So what’s the problem? Unforeseen consequences arise from trying to tackle the necessary changes while still retaining the separate provisions in the four existing Directives. As early as Article 3 – on scope – the list of which Articles will and will not apply under four distinctive areas

makes it almost impossible to achieve the objective of clarity and ease of understanding.

The proposed Directive houses a mixture of basic rights across goods however bought; specific rules applicable to distance and doorstep/off premises selling methods; and contract terms over a wide range of products that includes goods, services, utilities, insurance and more. So anything you buy might be covered – but there again, it might not. . . . Sale of services, for example, is not covered across all four areas tackled by the new Directive, but sale of goods is.

On the other hand, if it’s an off premises or distance sale of services or the service’s contract terms are unfair, it is covered. Thought has been given to the obvious – such as buying a washing machine and having it plumbed in. When the goods (washing machine) and the service (plumbing it in) are bought together, they do attract protection under sale of goods. If you buy them separately, however, the plumbing in is not covered, as it counts as a separate service purchase. Confused?

Missed opportunities

Other opportunities are missed: unfair contract terms are still not binding on consumers, but the

¹ Consumer Law Review; call for evidence BERR May 2008

² The Consumer Protection from Unfair Trading Regulations 2008

proposals fail to provide the link to what a consumer can do to gain redress when they have already suffered as a result of unfair terms. There are more time limits for businesses to deliver on some of the rights – such as refunds within seven days where goods have not been delivered – but no link to an alternative dispute resolution (ADR) service where this happens, in order to avoid the lengthy wait to get the case to court.

The primary objective is a simplified EU-wide regime, so that businesses and consumers can know and make sense of their rights and responsibilities. To some degree this is achieved. For example, there is a proposal for a common time period where cancellation rights are provided, of 14 days, where the 'day' always means a calendar day, rather than – as it is now – a working day for distance sales and a calendar day for doorstep/off premises sales. Some of the language is taken from the Unfair Commercial Practices Directive but, unfortunately, it fights shy of adopting the word 'product' throughout, to mean any good, service or other purchase, such as the digital rights used for downloading music etc.

When it comes to sale of goods, it gets scary! Existing rules offer four lines of redress that consumers can choose from if a business sells faulty or unsatisfactory goods:

- Repair
- Replacement
- Part refund
- Refund

The idea sought in the current Directive is to try the first or second options initially, and if they fail, the other two are available. In the UK

we bolted this on to our Sale of Goods law so the consumer could choose from all four options. In the new proposals, however, the business chooses which option to offer to consumers, despite their being the party at fault.

Next steps

So what is the next step for this important EU Directive proposal? Member States are only just at the beginning of discussions. There are EU elections due soon, so MEPs may have a new agenda. Should we give up on these proposals? Is it too late? It's hard to say really. The Commission could be asked to redraft, or this draft could be tweaked to make a better version within the current scope.

During the negotiations, or under a redraft, we could take the opportunity to:

- change the scope to include services and other products
- create the highest levels of protection using what we can learn from how each Member State brought in the existing Directives
- link up enforcement and redress to stop future problems **and** right the detriment caused to individual consumers
- fill gaps, such as
 - protecting consumer deposits, so consumers do not fund business who fail them and then fail altogether
 - providing a consumer ombudsman for cross market consumer ADR provision, rather than as now where some purchases attract ADR provision and some do not

providing for redress when consumers are on the receiving end of unfair business practices

- in fairness to the UK Government, they seemed keen in their consultation to achieve some changes, such as a better level of rights for sale of goods. So it is still all to play for.

Will consumers get a brave new high level of consumer protection, or the same old stuff with even fewer positive elements, such as choosing redress options? The next year or so will tell, and it depends on how the negotiations go, but the opportunity for better consumer protection does not come often. It's always easy to pick holes and to criticise, but this is a real opportunity to change the rules about our everyday purchases. So it will be vital to use this draft as just that, the starting point, and to work with other Member States to get it right for everyone.

Susan Marks is a social policy officer working on consumer goods and services issues.

Susan.marks@citizensadvice.org.uk

Criminal cuts

James Sandbach looks at reforms which means test legal aid from the Criminal Defence Service (CDS), and the wider context of criminal justice policy and access to justice

The Ministry of Justice (MoJ) is desperate to control spending on the criminal legal aid budget and has implemented a number of reforms, including: means-testing legal aid entitlement in the magistrates courts; the introduction of fixed fees and competitive procurement for all CDS work; changes to police station duty schemes; and a shift to a CDS direct helpline, designed for people arrested for non-imprisonable offences instead of them using an independent CDS contracted firm or police duty lawyer. Earlier this year, the MoJ consulted on the introduction of means-testing for free representation in the Crown Court.

The advice sector's voice has been largely silent on these big changes, partly because the Government's stated intent is that by controlling the rising cost of criminal defence, more resources can be allocated to civil legal advice and social welfare law services.¹ But how far can things go before access to justice for those in the dock, custody or the police cell is compromised? It is a sensitive policy area for the Government, as human rights standards require that everyone accused or prosecuted by the state is entitled to a proper legal defence,

especially in criminal proceedings.

Alarming implications

At Citizens Advice, we question whether the new means tests have been set appropriately: of some 40 million adults in England and Wales, a clear majority – 22 million or 55 per cent – are now no longer eligible for a legally-aided defence, and three quarters of all working people are no longer eligible.² So a lone parent of one child in full time work at the minimum wage of £5.35 an hour will not be eligible because of the boost to family income from tax credits. The estimated savings from this cut-back are just £35 million a year.

Our evidence illustrates some of the alarming implications for defendants, for example:

A client of Berkshire CAB had pleaded guilty to causing grievous bodily harm. He could not afford to pay for legal representation but was advised by the duty solicitor that he failed the means test for criminal legal aid by less than £5 week. The magistrates were very concerned that he should be represented,

given the seriousness of the charge and the high risk of a custodial sentence, and adjourned the case for him to come to the CAB. The client was facing the prospect of a term of imprisonment, with consequent potential loss of his livelihood, and needed advice and representation, including possible summoning of witnesses who could support his plea in mitigation, in order to give him a fair chance of avoiding this.

A Bedfordshire CAB reported that their client, a young man aged 18, was riding his motorbike and had an accident with a lady on a moped, which was attended by paramedics and police. He received details of proceedings at the Magistrates court for driving without due care and attention, and sought advice. As he disagreed with one witness statement in the report, he needed specialist legal advice. He was concerned about the statement of a witness which he believed was incorrect, and very alarmed when told the possible penalties if found guilty. Although there was a duty solicitor at court, the client was ineligible to use him as he was over 17, and was not in custody

¹ A Fairer Deal for Legal Aid DCA (2005)

² Under the Magistrates' Court scheme which the Government proposes to broadly replicate for the Crown Court, a single adult is eligible for legal aid if their gross annual income is below £11,590 while they are definitely not eligible if it exceeds £20,740. Between these two limits, a further test is conducted to see if net income less a 'cost of living' amount, set at £5,304 a year, exceeds £3,156.

or charged with an imprisonable offence. He had no capital, and his housing costs were £40 a week from a net weekly salary of £153 per week. His disposable income was therefore over the limit for criminal legal aid of £91 per week – although well below the limit of £632 per calendar month for civil legal aid, so he would be eligible if it were a civil case.

A Buckinghamshire CAB saw a 54 year-old remand prisoner, held in custody on a harassment charge which he strongly denied. He owned a small business and normally claimed housing benefit. He also had a prescription charge exemption certificate on the grounds of low income. The LSC rejected the client's claim for legal aid on the grounds that his income was too high, irrespective of the fact that he was in prison. (The client was inhibited from communicating with solicitors because of his refusal – as a principle of civil liberties and human rights – to use the discriminatory prison number assigned to him. He felt that using the prison number encouraged an assumption of guilt in anyone who saw the correspondence). He was so upset by the refusal of legal aid that he went on hunger strike for 18 days.

some of the latest reforms appear to be informed by the evidence base on the real cost-drivers in criminal legal aid work – principally the burgeoning of new criminal justice legislation and procedures over the past decade.³

Further plans are proposed for rationalising criminal justice machinery, process and advocacy, which may also have implications for defendants' rights. For example the LSC proposes to rationalise prison law casework, which may include some civil matters as well as parole board hearings and issues relating to custodial treatment. Yet there is no wider agenda for different agencies to join up with the National Offender Management Service (NOMS) to improve access to advice before, during and after custody, which could have a positive impact on reducing re-offending and offer longer term cost savings for the Criminal Justice Service. This is a case we have made repeatedly since the publication of our 2007 report, *Locked out*. While we were pleased with the extra £5m from the Financial Inclusion Fund (FIF) for debt advice in prisons, a bureaucratic bidding process has ensured that 18 months later there has been no allocation or delivery of new services.

consequence of the recession.

- The impartiality of the justice system is the most important notion of 'equality' we have – the reputation of the UK's legal process for fairness rests on an equality of arms between accuser and accused (whether civil or criminal), and the very meaning of equality before the law is that the process should be blind to someone's income, race, sexuality or background.
- Justice is a primary value in our society and should never be left as the Cinderella of public services.

Cost of reform

Meanwhile, it is clear that the LSC has failed to deal with the problem of "high-cost" cases, in which some barristers continue to make disproportionate earnings. Nor do

Key messages

As legal aid reaches its 60th year, we need to be clear about three key messages:

- Justice is indivisible – those accused of crime are no less worthy for public subsidy than – say – people facing legal and financial hardship as a

James Sandbach is a social policy officer working on legal issues.

James.sandbach@citizensadvice.org.uk

³ Ed Cape/Richard Moorhead, *Demand Induced Supply? Identifying Cost Drivers in Criminal Defence Work* (London, July 2005)

The Social Fund – a new approach?

Lizzie Iron suggests that a review of the Social Fund should consider both short and long term views

After an extraordinarily rushed consultation in December 2008, the Department for Work and Pensions has just confirmed its outline proposals to revise the Social Fund, including:

- Paying some benefit claims in advance, to relieve pressure on the Fund
- Developing a single loan scheme
- Facilitating external providers to deliver alternatives to Social Fund loans
- Reforming community care grants

The Government is taking enabling powers in the Welfare Reform Bill currently going through Parliament, and will consult further in the summer.

Citizens Advice wholeheartedly supports the intention to relieve pressure on the fund by paying some benefit claims in advance – so-called ‘alignment payments’ – but we keenly await details on the rest of the proposals.

Welfare safety net

The current purpose of the Social Fund is based on historic development, and is firmly understood to act as a safety net for people on benefits and low

incomes, to help them live in the community, to cover sudden capital expenses, or to give vital support in a crisis:

A Lancashire CAB saw a 42-year old single mother with one child, who were sleeping on the floor of their accommodation. A victim of domestic violence, the client moved into social housing in December 2008, but had no cooker or furniture, and applied for a Social Fund loan. On 17 December, an adviser contacted the Social Fund, who were then dealing with 8 December claims, but hoped to clear the backlog quickly. On 28 January the client still had no money and the Social Fund agent said the claim was not yet processed, but promised to contact the client within three hours.

A Dorset CAB saw a 28-year-old single mother, suffering from mental health problems, struggling to look after herself and her two children, and on the verge of breakdown. After eight years, she had been offered a Housing Association property, but was turned down for a community care grant to buy a cooker and carpets. She was told that an appeal decision

would take 9-10 weeks, but was at risk of losing the property if she did not move in within a short time.

Social Fund borrowers struggle to live on low incomes:

A client visiting a Suffolk CAB was on a total benefit income of £129.54 per week, and was repaying a Social Fund loan at £16.50 per week, which was more than 12 per cent of her income.

Treasury influence

Early proposals to charge interest on Social Fund loans caused outcry amongst the voluntary sector and other DWP stakeholders, and were very quickly dropped. Even so, the direction of these reforms is clearly influenced by the Minister's past life in the Treasury. Government loans are something of an anomaly, and loans with neither interest nor education attached to them are classified as unduly passive. This kind of support is therefore to be made ‘active and enabling’ and will henceforth be coupled with the financial inclusion agenda, and with mechanisms to improve access to affordable credit. We advocate

both affordable credit and financial inclusion, but we question whether this is an appropriate coupling. If Government wants to change or extend the purpose of the Social Fund, this should be articulated much more thoroughly than in the December proposals.

Responding to the recession

There are separate implications for the short-term and the long-term: in the short-term, the Social Fund should retain its function as a safety net for people on low incomes, and should be made fit for that purpose in the context of increased demand as a result of the credit crunch:

- advance benefit payments should be introduced as soon as possible
- budget caps and local authority variations need to be removed
- eligibility criteria should be widened
- administration must be dramatically improved

A Devon CAB saw a 42-year-old client, on long term incapacity benefit and income support, in need of a bed and a cooker. He applied for a budgeting loan and three weeks later was still waiting for the form. He could not get through to the 0845 social fund number, which would connect, but was not answered and then cut out after a few seconds, costing him at least 10p on his mobile phone every time.

Taking a long-term view

In the long term, Government should be looking at the Social Fund as one weapon in an extensive armoury. A review should start from first principles, with an analysis of the aims. We might agree that we need:

- maximum take-up of current entitlements
- a welfare safety net for the most vulnerable
- access to affordable credit for people on benefits and low incomes
- financial capability and inclusion

It should then examine what mechanisms currently exist to achieve these aims, how they could be re-configured to be more effective, and what else might be needed to fill gaps.

This would include consideration of the following elements:

- how to improve benefit take-up rates
- how the benefits & tax credits systems interact or work against each other
- incentives to work and the difficulties of transition – which means looking at part-time work and earnings disregards
- the operation of the informal economy and how people can be encouraged to move into sustainable formal employment
- reform of the Social Fund
- impact of the Financial Inclusion Fund
- the effectiveness of the Savings Gateway
- Money Guidance pilots
- the role of Jobcentre Plus

- potential roles of third sector and other potential lenders.

Such a review would find examples of good practice in achieving financial inclusion and work out how to replicate successful projects. It might also consider a cost-benefit analysis of potential ways to use resources – for example, should Government raise benefit levels and abolish the Social Fund all together? Should they pay external providers to deliver interest-free loans? Could they examine ways to deliver low-interest loans with equivalent or similar flexibility to those provided by high-interest home credit organisations?

Long-term planning – now that *would* be a new approach!

Lizzie Iron is Head of Welfare Policy.

Lizzie.iron@citizensadvice.org.uk

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