Consultation Response

StepChange Debt Charity

# StepChange Debt Charity response to the FCA consultation on Reviewing the funding of the Financial Services Compensation Scheme (FSCS)

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# Introduction

StepChange Debt Charity welcomes the opportunity to respond to this consultation. We are the largest specialist debt advice charity operating across the UK. In 2016 we were contacted by almost 600,000 people seeking debt advice, one every 53 seconds.

In our response we:

1. Agree debt advice should be covered by the FSCS
2. Agree free firms should not pay into a funding class for this
3. Agree that negligent advice shouldn't be covered at the moment, but argue the FCA might want to look more closely at this in future

**Q19: Do you agree with our proposals to include protection for client money for debt management activities within the scope of FSCS protection and our proposed funding arrangements?**

*Protection for client money*

We agree with the proposal to include protection for client money for debt management activities. Current protections (primarily CASS 11, CASS 7.13 and CONC 10) exist and seek to promote competent management of client funds. However, these do not ensure clients always receive back the entirety of lost money and additional protections would strengthen the client position in the event of failure.

It is vital that consumers are adequately protected when using such services considering they are already financially vulnerable (and if the FCA considers there are gaps in the CASS regime). Bringing such activities into the scope of the FSCS may have the additional benefit of increasing confidence in debt management services.

Although we agree with the proposal we would like the FCA to provide additional clarity on some issues raised by the consultation paper.

- Does the definition of a 'debt solution' - an arrangement, scheme or procedure, whether statutory or not, the aim of which is to discharge or liquidate a customer's debts - include full and final settlement models?
- Will the exclusion of IVAs primarily on the basis they are provided by Insolvency Practitioners apply when IPs are employed by a firm offering other debt solutions?

*Funding arrangements*

We agree with the proposed funding arrangements. Imposing an additional cost on debt advice charities offering free to client, not-for-profit services is likely to reduce the number of financially vulnerable people they are able to help. This is particularly important as debt advice charities like StepChange can offer a much wider range of services and solutions than debt management plans. For example, StepChange is an authorised Debt Relief Order intermediary.

**Q20: Do you have any views on whether or not coverage should be extended to negligent advice provided by debt management firms?**

The FCA needs to ensure that principles, rules and supervision combine to effectively protect consumers against poor advice and practice.

There are already FCA rules in place that should protect debt advice clients. For example, recommending a debt solution which a firm knows, believes or ought to suspect is unaffordable for the customer is likely to contravene several of the regulator's Principles for Businesses[1]. In addition, the Consumer Credit Sourcebook offers clients protection (specifically CONC 8.3.2).

Within debt management it has used its enforcement powers against fee-charging debt management firms towards this end.

Clients can appeal to the Financial Ombudsman Service for compensation, although this is not generally the case in the event of firm failure (which could be considered a weakness that the FSCS can cover).

So the question as to whether coverage should be extended to negligent advice rest on whether the FCA believes that rules, supervision and FOS (and any other requirements like a firm's own professional indemnity insurance) protect vulnerable consumers sufficiently against loss arising from negligent advice. If it does not then there is an argument either for the FSCS to offer further cover, or improved existing protections (including PII).

Because this argument has not been fully explored in this consultation we are unable to provide a view on coverage for negligent advice at this time. However, we recommend the FCA looks more closely at this issue in future.

[1] The Consumer Credit Sourcebook mentions Principle 2, Principle 6 and Principle 9