

**Submission to:**

Ministry of Business, Innovation and Employment

Subject:

Consultation Paper – New Financial Advice Regime. The draft Financial Legislation Amendment Bill and proposed transitional arrangements

Date:

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Contact Person:

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Background/organisational description

The purpose of our organisation, Citizens Advice Bureau New Zealand Ngā Pou Whakawhirinaki o Aotearoa, is to:

- Ensure that individuals do not suffer through ignorance of their rights and responsibilities or of the services available; or through an inability to express their needs effectively — Me noho mataara kia kua te tangata e mate i tōna kore mōhio ki ngā āhuatanga e āhei atu ana ia, ki ngā mahi rānei e tika ana kia mahia e ia, ki ngā ratonga rānei e āhei atu ana ia; i te kore rānei e āhei āna ki te whakaputa i ōna hiahia kia mārama mai ai te tangata.
- Exert a responsible influence on the development of social policies and services, both locally and nationally — Kia tino whai wāhi atu ki te auahatanga o ngā kaupapa ā-iwi me ngā ratonga ā-rohe, puta noa hoki i te motu.

We support the principle of partnership reflected in the Treaty of Waitangi. E tautoko ana Ngā Pou Whakawhirinaki o Aotearoa i te mātāpono o te pātuitanga e ai ki Te Tiriti o Waitangi.

We work to empower individuals to resolve their problems and to strengthen communities. The person-to-person service provided by over 2,300 Citizens Advice Bureau (CAB) volunteers is unique in New Zealand. From 83 locations around New Zealand, the CAB provides individuals with a free, impartial and confidential service of information, advice, advocacy and referral. Ka mahi mātou ki te whakakaha i ngā tāngata takitahi ki te whakatika i ā rātou ake raruraru, ki te whakakaha hoki i ngā hapori. He mea ahurei i roto o Aotearoa te ratonga kanohi-ki-te-kanohi e whakaratohia e ngā kaitūao 2,400 o Citizens Advice Bureau (CAB). Mai i ngā takiwā e 83 puta noa i Aotearoa, e whakaratohia ana e te CAB ki ngā tāngata takitahi he ratonga koreutu, tōkeke, matatapu hoki e pā ana ki te mōhiohio, te tohutohu, te tautoko me te tukunga.



In the 2015/2016 financial year we had over 550,000 interactions with clients, including over 200,000 in-depth enquiries where we offered information, advice and support across the gamut of issues that affect people in their daily lives.

We use our experience with clients to seek socially just policies and services in Aotearoa New Zealand.

Introduction

Citizens Advice Bureau New Zealand welcomes the measures proposed in this paper to strengthen consumer protection and to reduce complexity and confusion for people seeking financial advice. We continue to believe that the further step of phasing out conflicted remuneration must eventually be taken, but acknowledge that this falls outside the scope of this particular consultation.

Our comments pertain to questions 5 and 33 of the Consultation Paper.

Duty to put client's interests first

Q5 Do you agree that the duty to put the client's interest first should apply both in giving the advice and doing anything in relation to the giving of advice? Does this make it clear that the duty does not only apply in the moment of giving advice?

We agree that the duty to put the client's interests first should apply both in giving advice, and in doing anything in relation to the giving of advice.

In the Consultation Paper (p.19) the duty to put the client's interests first is very strongly worded:

They must put the client's interests first in giving the advice or doing anything in relation to the giving of advice. This means that if there is a conflict of interest between the financial adviser or financial advice provider and the client, the person must give priority to the client's interests.

Some of that strength has been lost in the wording of 431H(2) in the draft Bill. In order to render absolute the duty to put the client's interests first, **we recommend** that the qualifiers 'reasonable steps' and 'materially' be removed from 431H(2) and that it be amended to read:

431H(2) In giving the advice or doing anything in relation to the giving of the advice, A must give priority to B's interests, including ensuring that the A's own interests or the interests of any other person do not influence the advice.



Transition period

Q 33 Are there any other objectives we should be seeking to achieve in the design of transitional arrangements?

We are struck by the length of the transition process described on p.54 of the paper, and wonder whether it could be less drawn-out. The current time-table means that consumers will have to wait four years before they can be certain that they are getting the full benefit of the improved protection offered by these legislative changes. This seems like a long time.

In the intervening period it will be important for consumers to be made aware that, although the law has changed, the new regime does not fully take effect until the transitional period is over.

We recommend that an information campaign to this effect, including key questions for consumers to put to advisers during the transition period, be built into the design of the transitional arrangements.

Thank you for this opportunity to comment. Please contact me if you have any questions, or want any clarification about our submission.

Yours sincerely
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Kerry Dalton
Chief Executive