

Citizens Advice Scotland

Scottish Association of Citizens Advice Bureaux
www.cas.org.uk



Bank accounts for bankrupts

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- Citizens Advice Scotland and its member bureaux form Scotland's largest independent advice network. CAB advice services are delivered using service points throughout Scotland, from the islands to city centres.
- Citizens advice bureaux in Scotland helped clients with almost 550,000 new issues in 2009/10 – almost 1,500 new issues for every day of the year. Over 270,000 clients brought new issues to a bureau over the year.
- In 2009/10, Scottish bureaux achieved a financial gain of almost £116million for clients based on funding of £14.8million (including £6.8million in core funding). This means that CAB clients were better off by £17 for each £1 of core funding given to bureaux.

Introduction

Citizens Advice Scotland welcomes the chance to respond to the Insolvency Service's consultation on bank accounts for bankrupts.

Although the bankruptcy processes and structures in Scotland are different from that of England, Wales and indeed Northern Ireland, Scottish Citizens Advice Bureaux clients still experience many of the same problems as those in the rest of the UK when it comes to opening or maintaining bank accounts. Undischarged bankrupts have particular problems in opening or maintaining bank accounts.

General comments

In 2010/11, bureaux across Scotland dealt with 560,303 new issues, including 17,514 issues relating to financial products and services – just fewer than 20% of these were related to bank accounts.

Citizens Advice Scotland's 2010 report, ***Banking on the Basics***¹, shows that many Scots are unable to open a bank account. In an age when financial transactions are increasingly electronic, this leaves them with no means of receiving benefit payments or salaries, or of accessing any form of credit and therefore of managing their day-to-day finances.

In our opinion, the main problem facing bankrupts, particularly undischarged bankrupts, when trying to open or maintain a bank account is that only two of the main high street banks offer a basic bank account to them. The position of the other banks, that offering such accounts to bankrupts carries an unacceptable risk, is in our view excessive and unnecessarily cautious.

Furthermore, the position of the banks is having a serious detrimental effect on the financial capability of these individuals with many forced to pay more for their energy as they are unable to establish a direct debit. Some even report being unable to take on employment as they cannot provide their employer with bank account details.

Many of these problems are the same across the UK, however in Scotland the rural nature of many of our communities adds a further dimension. The two banks who offer basic bank accounts to bankrupts have very few branches in Scotland, even in the major cities. For those in rural areas, they may be faced with high travel costs to access banking facilities or be excluded from banking services altogether.

It is therefore imperative that all banks offer basic bank accounts to bankrupts. This consultation offers several options for action in order to facilitate this.

¹ Report can be found at <http://www.cas.org.uk/Publications/recent-publications/Banking+on+the+Basics>

Response to consultation questions

Citizens Advice Scotland would like to echo the consultation response from Citizens Advice (England and Wales) with regard to which options may result in progress towards the aim of a basic bank account available to all.

In particular, we strongly feel that Option 1 – doing nothing – is not an option, given the seriousness of the situation faced by bankrupts unable to access services and pushed further into financial hardship as a result.

Similarly, we feel that Option 2 – promoting the existing providers – will do nothing to help people in Scotland who already face problems accessing the existing providers.

As Citizens Advice (England and Wales) state in their response, it is not for us to speak for the banks or make presumptions about their policy making processes. However, given the risk-averse record of the banks so far in offering basic bank accounts to bankrupts, we would be inclined to say that a voluntary code for banks as outlined in Option 3 would do little to allay their fears and therefore would not result in any change to the current situation.

Equally, guidance for trustees as suggested in Option 4 seems unlikely to change the opinion of the majority of banks that there is an inherent risk in taking on bankrupts. Whilst it may make the practical processes around after-acquired property clearer for both the trustees and the banks, it does not address adequately the risk perceived by the banks. Therefore we do not believe that Option 4 offers a useful solution.

Options 5a and 5b – legislative change – could potentially make a difference to the situation faced by bankrupts seeking a bank account. Both Citizens Advice (England and Wales) and the Insolvency Service point out that there are very few cases, if any, of a trustee taking legal action against a bank for after-acquired property.

Amending the existing legislation as laid out in Option 5a would put the onus on the transactions between the bank and the bankrupt individual being made in good faith. Again, whilst we cannot speak on behalf of the banks, we are of the opinion that this legislative change could potentially reap rewards.

Key findings of *Banking on the Basics*

Bureau evidence and a public survey carried out by Citizens Advice Scotland in 2010 suggest that many people, due to their financial circumstances, are still unable to access basic banking services despite concerted efforts from UK governments over a period of several years. Our evidence found that:

- One in four respondents who had become bankrupt through the Scottish Low Income Low Asset route to bankruptcy (LILA) had experienced difficulties in opening a bank account.
- Clients who had been made bankrupt by creditors found it difficult to access even basic banking services as they owed debt to their bank.
- Almost half of bureaux advisers who responded to the survey reported their clients experiencing problems opening a basic bank account.
- Sixty four percent of advisers who responded reported that their client's account was closed due to debt with the bank, and 36% said that the accounts were closed due to an undischarged bankruptcy

As highlighted in the consultation document, ten out of 12 mainstream banks are unwilling to open a basic bank account for undischarged bankrupts, although CAB client experience suggests that this is dependent on local branch practices which vary across the country. Like the Insolvency Service in England, Scotland's Accountant in Bankruptcy (AIB) leaves the provision of bank accounts for undischarged bankrupts up to the banks' discretion.

Case studies

- A West of Scotland CAB reports of two clients who became bankrupt under the LILA route to bankruptcy and had their existing current accounts frozen by the bank. These accounts had been used to receive welfare benefits. For one of the clients it took three weeks to resolve the issue and only a letter from the Accountant in Bankruptcy's office was effective. The client had to borrow money to feed her family. Most of the banks they had tried would not open an account for these clients.
- An East of Scotland CAB reports of a client who applied for sequestration under the LILA route to bankruptcy and has subsequently received a letter from her bank stating that they had been contacted by the Accountant in Bankruptcy and would be freezing her account as a result. The bank invited her to open a new account, however, on further contact she was advised that she could not in fact open one. The client needs an account for her wages to be paid into.
- An East of Scotland CAB reports of a client who opened a basic bank account before becoming bankrupt to receive her and her partner's wages. The client has now become bankrupt and the account has been frozen by the bank.

Impact of inaccessibility of bank accounts

Problems in accessing bank accounts can impact on the receipt of benefits, wages and employment opportunities. A number of clients and survey respondents felt that they were unable to pursue employment opportunities because of a lack of bank account to have their wages paid into. Research also shows that access to a bank account makes it easier for people to access affordable credit, housing, and lower utility payments – which leads to greater financial inclusion overall.

A majority of employers require bank account details for wage payments and refuse to make payments by any other means. Where employers do agree to pay a client by cheque, cheque cashing fees and charges subsume part of the client's wages. This is especially costly for vulnerable clients who may already be struggling to meet monthly expenses.

Access to bank accounts increases access to mainstream affordable credit, employment, money management, and savings initiatives. It also decreases household bills which can then be paid through direct debits (electricity and gas is cheaper for people who pay through direct debits versus those who use a pre-payment meter).

Geographical considerations

One in five people live in remote areas in Scotland, compared to four in five who live in urban areas including towns. According to the Scottish Household Survey for 2007/08, two in five people who live in a rural area do not find their local banking services convenient, compared to four fifths who find their post office services convenient. In the rest of Scotland, 77.5% of people find their local banking services convenient compared to 86% who find their post office services convenient.

Clients in small towns and rural areas have also experienced issues in accessing banking services, especially as these places sometimes have a limited number of banks and subsequently limited choice. Some bureaux advisers have highlighted that this issue is dependent on the town/rural community. People living in deprived areas face similar barriers, due to a lack of services in their area and issues with their credit history (or lack thereof).

Legal requirements

It is of concern to Citizens Advice Scotland that those who meet all the legal requirements set by banks and the government to open an account may still have problems opening an account due to their financial history or lack thereof. In some instances people feel that this is due to the unprofitability of the basic banking product and the lack of encouragement to market such a product.

The legal requirements and regulations are of concern as well – particularly as vulnerable clients are less likely to have the required ID or acceptable credit history. These requirements unduly affect undischarged bankrupts, those in debt, homeless people, and those without a credit history because they don't pay certain bills.

Recommendations from *Banking on the Basics*

Citizens Advice Scotland has a number of recommendations to increase financial inclusion and universal access to basic banking services:

- **Banks should have a legal requirement to offer a basic bank account where an application for a current account has been rejected.**
- **Banks should only consider closing an account if the person with the undischarged bankruptcy has a debt with the bank.**