

Treasury Committee comments on the application of the Equality Act 2010 in financial services



Summary

The House of Commons Treasury Committee ('the Committee') has today published its report on Consumers' access to financial services ('the Report'). The [Report](#) includes (amongst other matters), commentary and recommendations in relation to the application of the Equality Act 2010 ('the Equality Act') by providers of financial services.

Key conclusions and recommendations

The Committee:

- Recommends that the Financial Conduct Authority ('FCA') is given the power to take on the enforcement of individual cases relating to financial services firms' compliance with the Equality Act, in addition to the Equality and Human Rights Commission ("EHRC").
- States that a failure to provide, with notice, British Sign Language interpreters, should be considered to be a failure to make reasonable adjustments for persons who are hard of hearing under section 20 of the Equality Act and therefore a breach which should result in enforcement action.
- States that financial services providers should act immediately to ensure that with notice, interpretation services are made available to consumers both for British Sign Language users and those for whom English is not their first language; and, the FCA should make it clear to financial services providers that such provision is expected of them under its treating customers fairly principle.
- States that it is concerned that almost three quarters of ATMs do not offer audio assistance and that it is concerned about the roll out of touchscreen chip and PIN pads, which cannot be used by blind or partially-sighted customers. The Committee states that it expects the Payment Systems Regulator to respond to the report regarding the steps it will take to address these issues.
- Recommends that the FCA should mandate that all debit and credit cards have tactile markings, for the benefit of visually impaired customers, as soon as possible.
- States that, if the Post Office is to be used as a cash provider of last resort in communities where all other ATMs and bank branches have been closed, it must offer chip and signature in every Post Office branch in order to meet its obligations under the Equality Act to provide customers with reasonable adjustments.
- Recommends that, in relation to the accessibility of communications: all financial services providers should ask customers proactively what their preferred method of communication is and ensure that this is the primary way with which they are communicated in every instance; and, in addition, providers should make themselves aware of consumers' changing preferences over time.
- Recommends that the FCA acts to ensure that alternative methods of communication including Braille and Moon tactile fonts, large print and audio format are made available to consumers; that the FCA should set a minimum level of communication channels or methods that firms are required to offer to their customers, and include a clear requirement to include the aforementioned formats; and that the Equality Act be amended to put in place a legal obligation on financial services providers to provide such alternative methods of communication if the FCA or EHRC is unable to enforce the provision of

marketing or direct communication materials in accessible formats through the Equality Act.

- States that it expects the FCA to monitor the extent to which banking providers' websites comply with the European Union Accessibility Act.
- Recommends that all financial services providers reduce the length of their terms and conditions, and reduce the required reading age of all their communication material to that expected of an 11 to 12 year old; and, that the FCA issue guidance to this effect and reviews progress in this regard on a regular basis.

Comment

Many of the Committee's recommendations may be seen as being reasonable and common sense. However, some of the Committee's recommendations may be controversial, for example:

- It is not entirely clear what the Committee means when it suggests that the FCA is given the power to take on the enforcement of individual cases relating to financial services firms' compliance with the Equality Act. It is clear from its correspondence to the Committee that the FCA already considers that it can take action against regulated firms, insofar as any conduct which is contrary to the Equality Act results in a breach of its principles for businesses (in particular, Principle 6 - the fair treatment of customers). If it is suggested that the FCA should have the power to prosecute civil claims for breach of the Equality Act (e.g. for damages or injunctive relief), on behalf of individual customers, this would be an unusual extension of the FCA's powers. The FCA does not prosecute civil claims against regulated firms on behalf of individual customers in any other context.
- It is not immediately apparent how the Committee's consideration of reasonable adjustments for disabled persons has resulted in a recommendation that financial services firms should be obliged to provide interpretation services for those for whom English is not their first language. Having a first language other than English is unlikely to be a physical or mental impairment such that it is a disability for the purposes of sections 6 and 20 of the Equality Act. There is no obvious basis to assert that the Equality Act requires service providers (not limited to financial services firms) to provide interpretation services to customers for whom English is not their first language.



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