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**PATRON: David Russell**

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Finance and Expenditure Committee  
Parliament House  
Wellington

**Submission: Financial Advisers Bill**

I would like to provide extra, urgent information and submission to the Select Committee considering the Financial Advisers Bill.

My inclusion on the Taskforce (that initially considered the Regulation of Financial Intermediaries) was prompted by the fact that our organisation had been highlighting to Government officials in several different government departments the fact that we were dealing with complaints about the consequences of poor budget advice which disadvantages people financially. During the Taskforce's work, it clearly identified this issue as an area of significant protection to be considered in order to firmly recommend the inclusion of all budget advisers. This regardless of the structure under which they operate.

It is a shame that the Taskforce recommendations have been rejected without further consultation. I am currently receiving ever more problems than at the time the Taskforce considered this issue, reported to me from our budget services, in the field as detailed under Point 6 below.

I understand that some other submitters have provided the committee with information which is incorrect and wish to put forward the facts to enable informed decisions to be made.

Namely:

- 1/ Claims that many groups had left the Federation of Family Budgeting over the last 10 years and formed community based groups.
  - ❖ Federation membership in 1998 was 158 members and in 2008 it is 143 members. Most of the decrease in numbers has been due to rationalisation and changing structures. For example, 5 small struggling services on the North Shore in Auckland have combined to form one large strong service and is now counted as 1 member.
  - ❖ There have been some members resign, several of which have been Christian based services..
  - ❖ Other members have joined, these have predominantly been holistic social service agencies in particular Iwi based providers.
  - ❖ Through all these changes the membership has remained stable. As stated above all members are community based groups who voluntarily choose Federation membership for reasons of quality standards and training.
  
- 2/ Claims that MSD and/or CYFS audit budget advice training and standards.
  - ❖ MSD have recently inherited the funding contracts of budgeting services and do not have any specific quality control measures related to the provision of budget advice. Officials from MSD are currently working with the Federation and other stakeholders to develop quality measures. They do not currently have the mechanism to audit these. CYFS has traditionally been the control body for budgeting contracts and their standards focus on the majority of their contracts which are social work provision. They do not have quality

measures or training standards for budget services. In the last 2 years there has been a move to change all the “lower value” contracts to grants and these are not subject to any auditing. This involves the majority of the budget service contracts hence only the very large services are currently audited.

- ❖ The training and quality standards which exist in the Federation were originally developed by Government Departments in consultation with community based groups. Initially in the 1960’s this work was started by the Department of Maori Affairs and later transferred to the Department of Social Welfare. After approximately 20 years of standards, policies and practice development, this responsibility was devolved to the grouping of budget services who had by then formed themselves into the current Federation structure. The Government has continued to support the administration and quality control of the standards it saw as essential and these are reflected in our affiliation criteria. Some services have rejected those standards by leaving the Federation. It is consistent that these services will oppose any regulation of activities, however, the majority of not-for-profit budget advice services being 143 Federation services, support the need for regulation.
- 3/ Claims that budget services will be forced out of the sector if regulated and advice will not be accessible to low income people.
- ❖ The majority of budget advice in New Zealand is given by Federation members who are all small not-for-profit community based services who have no issues or problems with complying with national standards. Similarly, we see no reason why other networks could not combine to reach equivalent standards if they do not wish to be members of the Federation.
  - ❖ The Federation standards and processes meet all those suggested in the proposed legislation so services already complying with standards will have no extra costs imposed other than actual registration fees.
  - ❖ The Federation has a full registration database including training records and attainment of annual standards for every one of its nearly 1000 advisers dating back to 2000. We are happy to make this available to a registration body. The Federation also has the ability to offer regular maintenance of this information. We therefore suggest the discussion of a group registration process that could be financed centrally thus removing cost barriers for individuals or small community groups.
- 4/ Claims that professional indemnity insurance is adequate protection to ensure safety for clients.
- ❖ Members of the Federation are covered by indemnity insurance as are other groups and all this provides is protection for advisers. In reality, the clients of budget services do not often have the knowledge or the resources to take a legal case in the event of disadvantage. This is why we can all claim that our insurance has not been called upon. This does not mean that the public are not suffering from the effects of bad advice. The intended purpose of this legislation is to protect the public. We are consistently receiving feedback from our member services that they are spending a lot of time undoing damage to clients financial situations caused by poor advice.
  - ❖ The Professional Indemnity Insurance that the Federation accesses is based on the insurer indemnifying a **standardised process based on our national standards**. If an adviser steps outside this process then the insurance is not valid and a complainant would need to take a case against an individual adviser. Later in this letter are some examples of detriment being suffered in spite of the existence of indemnity protection.
- 5/ Another specific concern is the likening of possible exemptions under the Financial Advisers Bill to exemptions granted under the Immigration Advisers Act. When a member of the public receives Immigration advice they then enter into a legal process to apply for immigration and this legal process will take care of any incorrect advice given before damage can occur. When a member of the public receives budget advice they then make decisions and take action based on that advice and there is no legislative process to ensure the actions taken are correct.

6/ Examples:

- ❖ Many of the budget services who have left the Federation have done so because of serious complaints we have received about their practices. We identify the issues and working with them to support them to change practices and have the necessary protections in place for clients. If services are not prepared to do the work needed to achieve this, they have often resigned membership rather than address the issues.

I do not wish to infer that this is the case with any groups who have made submissions to the Select Committee. There are however a significant number of these instances to give concern for the standards of advice being offered by a significant number of not-for-profit groups.

Example 1:

A man approached a community organisation for advice on his financial situation and based on the advice, filed for bankruptcy. When his bankruptcy was advertised and his employer became aware of it, he was dismissed from his job which was a position of financial responsibility. All his skills and experience are in the financial sector and he is unable now, as a bankrupt, to get work. He is on a benefit and unable to keep up with mortgage payments so is unable to support his family and is in danger of losing the family home.

This is the direct result of receiving bad advice. He approached a Federation budget service for help in early July and they are now working with him to try and prevent the loss of their home. The budget service immediately identified that the current and future employment prospects should have been investigated before bankruptcy advice was offered. They discussed with him the option of lodging a complaint with the organisation that offered the original advice to prevent them from doing the same to others and he refused because they were a respected organisation in his community.

Example 2:

Three written complaints were received by a Federation member service who is currently working with the clients concerned.

After receiving help from a non Federation budget service they had found themselves in an even more stressful financial situation having been offered very little in the way of positive suggestions or support to address their financial problems. After being advised to approach a third party, they are now identifying the real benefits of the support they are receiving from a budget adviser and asking questions about why they did not receive this level of service from the previous organisation they asked for help from. In each instance, they identified major stress issues and detriment to their families from the previous lack of support.

Example 3:

A complaint from a lady receiving Total Money Management from a Federation Service who believed the service had 'stolen' a significant amount of money. On investigation we found that the money had been used to pay bills related to this lady's financial situation but they had not been priorities for the lady concerned while major necessities had not been provided for. The lady had not received any consultation or account of what was happening with her money and had suffered major disadvantage while a non priority creditor received payment.

The budget service admitted all these issues and refunded the lady over \$2,500 to avoid her taking legal action against them. The Federation worked with this service for nearly 12 months to help them change processes and practices to avoid this happening in the future. Unfortunately, they decided against making changes and resigned Federation membership so we were unable to have any further influence. This organisation continues to offer Total Money Management services.

Example 4:

A not-for-profit organisation offering Total Money Management services and funded by CYF was managing the total income of over 200 local families as a community based budget service and the majority of these clients had been referred by Work and Income. Twice this organisation applied to the Federation for membership and our District Representative looked into their processes and practices and advised that there were several protections that needed to be put in place before we could consider the service safe for clients.

The District Representative gave them examples of what was needed and offered to work with them to attain these standards. They decided against doing this. On both occasions we advised both CYF and Work and Income of our concerns. About a year later this service collapsed, a direct result of the issues we had identified. Two hundred families discovered in the week before Christmas that all their income for six weeks had not been paid on to creditors and started receiving repossession, disconnection and eviction notices and no money appeared in their personal accounts for food that week. On the morning their food money failed to appear in their accounts, they started arriving at the Federation service in the area for help. Our service worked with the Police and Work and Income to rectify the situation. This took hundreds of hours of work to try to improve the significant harm done to families which could have been avoided.

#### Summary

I could continue to detail many more complaints and am happy to meet and provide evidence to the committee.

Our concern is for the public who are suffering from similar events and we strongly urge you to consider the public good with this legislation.

Yours sincerely

Raewyn Fox  
Chief Executive Officer