

**Amendment to the Financial Services Bill being debated to give parents of children with no capacity access to their Child Trust Funds**

On Monday 12<sup>th</sup> April, an amendment to the Financial Services Bill is being debated in the House of Lords to allow payments to be made from a Child Trust Fund or Junior ISA to a recipient acting for a young person without capacity. This has been tabled by Lord Young of Cookham and Lord Blunkett.

Nearly 8,000 18 year olds with disabilities that make them reliant on their parents to manage their finances have been locked out of easily accessing their Child Trust Funds since the first accounts started maturing in September 2020. 1,000 more young adults fall into this position every month.

Currently, parents or guardians of 18 year olds with no capacity must go through the Court of Protection to access the funds. Despite the waiving of the court fees, this can be a lengthy process, still incur other costs, with delays made worse during lockdowns resulting from the pandemic.

TISA (The Investing and Saving Alliance) has been instrumental in designing the alternative solution for families impacted by the current rules. The process allows parents or guardians to access the funds via simple paperwork and declarations as well as appropriate evidence from practitioners that their child does not have the capacity to make the financial decisions or provide the instructions necessary to complete the maturity process.

**Nigel Banfield, Technical Policy Manager, TISA said:** “Parents and guardians of these young adults will be able to access the CTF savings by filling out a five page application form and getting a medical practitioner to fill out a one page document. This process cuts out a huge amount of time, unnecessary paperwork and complex legalities in comparison to the current Court of Protection route yet offers similar safeguards against adequate abuse.

“This issue needs to be resolved with urgency. Based on this alternative process, the amendment to the Mental Capacity Act will help around 160,000 families who will be affected by this issue when trying to access their child’s savings. We are extremely grateful to Lord Young and Lord Blunkett who have taken this to the House of Lords, to Lord Vaizey for his ongoing support, and to the CTF providers that have helped draft the amendment.”

**Lord Young of Cookham said:** “This amendment to the Financial Services Bill is essential in helping families access their children’s savings. Parents of children with no mental capacity do not need the added burden of court processes, unnecessary paperwork and solicitors’ fees just to access their child’s money. Often, the amount of money held in a Child Trust Fund, which OneFamily says averages around £2,100, can be indispensable to the account holder. My amendment is based on recommendations from the Law Commission and I hope the Government will respond sympathetically.”

Ends

**Notes to Editors**



## **Proposed alternative route to accessing funds**

- In advance of the maturity, typically from age 16, the firm would make parents aware of the different requirements if the child has no capacity, and point them towards the Ministry of Justice to understand their own personal circumstances
- Around maturity time, check to see whether the parent has a Court of Protection order or a Lasting Power of attorney
- Check whether there are other savings in the name of the account holder - if so then this process cannot be used, and the court route is required anyway
- If the parent insists on not going through the court process the CTF provider will consider this alternative process
- If the value is under a threshold, recommended around £5,000, then this alternative process can be considered
- Full identity check on the parent claiming the proceeds on behalf of the account holder to be carried out
- The parent provides evidence of the approval as DWP appointee to receive and manage the account holder's benefits, or similar evidence
- The parent provides appropriate evidence from appropriate practitioners that their child does not have the capacity to make the financial decisions or provide the instructions necessary to complete the maturity process
- Finally, the parent completes a declaration confirming they will act in the best interests, and that the money will be spent for the benefit of, the account holder
- The process asks for relevant evidence to provide protection appropriate to the circumstances and is more commensurate with the value being applied for

## **Financial Services Bill amendment clause 37c**

LORD YOUNG OF COOKHAM LORD BLUNKETT

37C\* Insert the following new Clause— “Payment to recipient acting for person without capacity

(1) This section applies to—

- (a) payments to a customer by an institution authorised by the Bank of England under Part I of the Banking Act 1987;
- (b) payments to a member or depositor by a building society within the meaning of the Building Societies Act 1986; and
- (c) payments of such other descriptions as may be specified for the purposes of this section by an order made by the Secretary of State.



(2) A body by which payments to which this section applies fail to be made may, in accordance with the requirements of this section, enter into an agreement under which the payments (or any description of those payments) are to be made to the person with whom the agreement is made (“the recipient”) instead of to the person who would otherwise be entitled to receive them. Financial Services Bill 15 After Clause 40 - continued

(3) A body making a payment pursuant to an agreement in respect of which those requirements are complied with may not by making it incur any liability to the person who would otherwise be entitled to receive it, unless that body has reasonable cause to believe that the recipient is likely to apply the money he or she receives otherwise than in that person’s best interests or that person has informed the body that the payment is not to be made.

(4) A body shall not enter into an agreement under this section in respect of any payments if the person who would, apart from this section, be entitled to receive them has informed that body that he or she does not wish such an agreement to be made.

(5) A body shall not enter into an agreement under this section unless either—

(a) a document signed by a registered medical practitioner stating that the person concerned is without capacity to manage his or her financial affairs is provided; or

(b) a statement in writing has been provided by the proposed recipient to the effect—

(i) that he or she understands his duty to apply the money he or she receives in the best interests of the person who would otherwise be entitled to it;

(ii) that he or she is aware that he or she may incur civil or criminal liability if he or she misapplies the money; and (iii) that, so far as he or she is aware, no other person has authority to receive the money by virtue of a power of attorney or an order or appointment made by the court.

(6) An agreement under this section may specify that the payments to which it applies must be from a Child Trust Fund or Junior ISA and must specify—

(a) the period for which it is to remain in force; and

(b) the amount or maximum amount of the payments that are to be made under it, either as a single amount or as separate amounts for different periods or payments of different descriptions.

(7) The aggregate of the payments to be made under an agreement shall not exceed £5000 in any year and must comply with regulations covering Child Trust Funds and Junior ISAs.

(8) This section shall cease to have effect two years after commencement.” Member’s explanatory statement The purpose of this New Clause is to provide safeguards for payments to be made from Child Trust Funds and Junior ISAs on behalf of children with learning disabilities, without going to the Court of Protection.