

Scottish Government Consultation

**Changes introduced by Bankruptcy and Debt Advice (Scotland)
Act 2014**

November 2019

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1. Ministerial Foreword

In April 2015 the Scottish Government introduced the most significant and wide-ranging reforms to bankruptcy law in Scotland for 30 years. These changes sought to deliver a fair and equitable insolvency system that balances the needs of those struggling with unsustainable debts while safeguarding the interests of both creditors and other borrowers by providing that those who can pay their debts do pay their debts. The Scottish Government now seeks your views on the changes that were introduced and whether any further improvements are needed.

The reforms reinforced the Scottish Government's emphasis on people receiving appropriate advice prior to embarking on any of the statutory debt solutions operating in Scotland. Following the introduction of these changes, advice from a qualified person prior to entering self-nominated bankruptcy became a statutory requirement, replicating the arrangements already in place for accessing a Protected Trust Deed or the Debt Arrangement Scheme. We recognised the need for some breathing space to make that decision and introduced a moratorium period to provide those that need it, time to seek advice about the right solution for them. We also sought to introduce the concept of financial education in certain circumstances in bankruptcy to help support financial capability. We recognised that some people in need of debt relief required specific arrangements to be made where they had few assets and no ability to make a contribution towards their debts. We introduced a new and lower cost route into bankruptcy allowing an individual in these circumstances to obtain debt relief more quickly and at a reduced cost.

One of the key aims was to provide greater transparency for those entering bankruptcy by bringing forward the process of assessing the expected contribution where appropriate. As part of that, we introduced a single tool – the Common Financial Tool - to promote consistency, fairness and transparency in the assessment of household income and expenditure and determination of the level of contribution an individual would be able to pay in any of our statutory debt solutions. Last year we consulted on the future of this tool and brought forward plans to adopt an alternative model as the Scottish Common Financial Tool. This issue in particular has sparked much debate and discussion in recent months and highlighted the need to undertake further consultation and analysis before deciding on future arrangements. This is an important aspect of this consultation and it is critical that we maintain as much consistency and transparency in the system while ensuring that the outcomes are fair for both those facing problems with debt and the creditors that are affected.

The Scottish Government is committed to continuous improvement and we want your feedback on the effectiveness of these reforms. This document asks for your feedback on a number of changes that were introduced and your feedback will be used to determine what improvements are needed to ensure our solutions continue to be effective.

Your feedback is vital and I look forward to hearing your views.

Jamie Hepburn MSP
Minister for Business, Fair Work and Skills

2. Consultation Arrangements

Changes introduced by Bankruptcy and Debt Advice (Scotland) Act 2014

The Scottish Government seeks your views on the effectiveness and operational impact of the reforms introduced with effect from 1 April 2015 through the Bankruptcy and Debt Advice (Scotland) Act 2014. Your responses to this consultation should be submitted by 11 February 2020.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). You can access and respond to this consultation online at <https://consult.gov.scot/accountant-in-bankruptcy/review-of-changes-bankruptcy-and-debt-advice/>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 11 February 2020.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Policy Development Team
Accountant in Bankruptcy
Scottish Government
1 Pennyburn Road
Kilwinning
KA13 6SA

A full list of consultation questions is contained in section 5 of this document.

We would be grateful if you would use the consultation questionnaire provided or clearly indicate in your response which questions or parts of the consultation paper you are responding to, as this will aid collation of the responses received.

This consultation, and all other Scottish Government consultation exercises can be viewed online on the consultation pages of the Scottish Government web-site at <http://gov.scot/consultations>.

The Scottish Government has an email alert system for consultations – <https://register.scotland.gov.uk/Subscribe/step1>. This system allows stakeholders to register and receive updates of all new consultations and is designed to highlight new publications at the earliest opportunity. We would encourage you to register.

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore

have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at AiB_Policy_Development_Enquiries@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Implementation of any reforms that may arise following consideration and analysis of the responses to this consultation may involve amendment to primary legislation. These will be subject to Parliamentary process and identification of an appropriate opportunity to bring forward a Bill. There may also be opportunities to address the issues raised in secondary legislation and these may be enacted over a shorter timescale. The consultation response will provide more detail on these matters.

3. Introduction

On the 1 April 2015 the Bankruptcy and Debt Advice Scotland Act 2014 (“the 2014 Act”) came into force introducing some significant reforms to the bankruptcy process in Scotland. The 2014 Act amended the Bankruptcy Scotland (Act) 1985 (“the 1985 Act”) in several key areas and was the latest of a number of legislative instruments which have been targeted at improving and modernising the bankruptcy system in Scotland.

By the time of the 2014 Act, several earlier reforms to the 1985 Act had introduced important provisions including:

- the role of the Accountant in Bankruptcy (AiB) as the trustee of last resort in bankruptcy;
- the inception of bankruptcy awarded through debtor petition to the court and subsequently through debtor application submitted to AiB;
- the introduction of a new access route to bankruptcy for those with low income and assets and enhanced safeguards and considerations in relation to the family home during bankruptcy proceedings.

The 2014 Act reforms were developed and introduced in direct response to the feedback received from the [Consultation on Bankruptcy Law Reform](#) which was published in 2012. This sought views on how to develop a service for debt advice, debt management and debt relief fit for the 21st Century.

The modernisation of the bankruptcy process under the 2014 Act aimed to encapsulate the following key principles:

- Ensuring that fair and just processes of debt advice, debt relief and debt management are available to the people of Scotland.
- Those debtors who can pay should pay their debts, whilst acknowledging the wide range of circumstances and events that contribute towards financial difficulty and insolvency for both individuals and businesses.
- Securing the best return for creditors by ensuring that the rights and needs of those in debt are balanced with the rights and needs of creditors and businesses – and in doing so help ensure that all those who need to borrow can do so as economically as possible.

Since the implementation of these changes on 1 April 2015, the Scottish Government with support from the Scottish Law Commission, completed an extensive exercise to consolidate bankruptcy legislation. This recognised the fact that the 1985 Act had been heavily amended over many years and had become particularly unwieldy for those using the legislation. The Bankruptcy (Scotland) Act 2016 (“the 2016 Act”) was passed and came into force with effect from 1 November 2016 and although this did not introduce changes to policy or the bankruptcy process, it did simplify the statute by incorporating all of the changes that had been introduced over time, including those introduced by the 2014 Act.

The Scottish Government is committed to ongoing review of policies and newly implemented legislation and undertook to consult on the 2014 Act reforms after a reasonable period of time had elapsed to allow the changed processes to become established. We believe there will now be a reasonable body of evidence of how those reforms have operated in practice.

Over the last year AiB has been seeking feedback from stakeholders and gathering information on how each of the changes implemented by the 2014 Act have been working in practice, and if there is a requirement for further improvements to be made. This includes: feedback received through a number of AiB's stakeholder forums; feedback received on specific bankruptcy cases; feedback from those involved in administering the bankruptcy process e.g. money advisers, insolvency practitioners and AiB staff; and letters from creditors and individuals who have been involved in the bankruptcy process. In particular, AiB's series of public stakeholders events hosted in 2018 included dedicated sessions covering all of the reforms. A summary of the discussion points raised is included at section 7.

Information gathered from these representations suggests that in the main the changes introduced in 2015 have been working well in practice. However, it has been acknowledged there are some areas where stakeholders would like to see further reform and improvement. In light of this, the consultation and policy review will concentrate on the areas introduced by the 2014 Act that have been highlighted as needing some improvement. These key areas are as follows:

- Statutory Moratorium on Diligence;
- Common Financial Tool;
- Debtor Contribution Order;
- Minimal Asset Process Bankruptcy; and
- Financial Education.

The consultation will also seek views on two additional areas that have been raised. The first is on the treatment of child maintenance debts in bankruptcy and whether these should be discharged along with other unsecured debts on discharge from bankruptcy. Feedback on this topic was requested in the 2012 consultation and the general consensus was that legislation should remain unchanged with child maintenance debts, including those due to the Child Support Agency, remaining discharged after bankruptcy. However, this issue has been raised with AiB and Scottish Ministers on a number of occasions. In light of this it has been suggested that these matters are considered further as part of this consultation, notwithstanding the fact this was not part of the 2014 Act reforms.

The second issue relates to the statutory rate of interest that should apply in the payment of debts in cases where sufficient funds have been realised to pay all costs and debts. During the consolidation of bankruptcy legislation in 2016, a commitment was made to the Scottish Parliament that this issue would be considered at the next available opportunity. The consultation also seeks views on a related but more general issue which is the rate of interest applied by Scottish Courts in civil litigation matters where no other interest rate has been specified. The "judicial rate of interest" applied is set by Rule 7.7 of the Rules of the Court of Session No 1443 and in the Sheriff Courts the rate is prescribed by section 9 of the Sheriff Courts

(Scotland) Extracts Act 1892 and may be amended by Act of Sederunt. Similarly, this is set at 8% and the Lord President has the ability to change the level that the rate is set at, usually following a request to do so by the Scottish Ministers. This consultation invites views on whether this rate of interest should be amended.

There is scope for respondents to comment on any aspect of the changes introduced and these will be considered carefully along with all other responses received. This exercise may also result in scope to introduce streamlining or improvements to legislation which may not involve a change to policy.

One such area which has been raised at stakeholder events for consideration is the debtor discharge process. At these events most stakeholders were satisfied with the debtor discharge process itself but there was a view among some insolvency practitioners and creditors that the administrative burden of circulating around creditors at both the discharge report stage and at the discharge stage could be reduced. We are aware of a number of technical drafting issues around the Act, which further primary legislation would give an opportunity to address. A separate technical consultation will be issued nearer the time of any future legislative measures, if they are identified as a preferred way forward.

The consultation responses will be collated and the Scottish Government will publish proposals in due course.

4. Reforms introduced by the Bankruptcy and Debt Advice (Scotland) Act 2014 - Overview

The 2014 Act introduced the following principle reforms to the bankruptcy process in Scotland:

Statutory Moratorium on Diligence – this moratorium period applies on the giving of notice of the intention to apply in relation to sequestration, a Protected Trust Deed (PTD) or a debt payment programme under the Debt Arrangement Scheme (DAS). It applies to individuals and other bodies such as trusts and partnerships that can be made bankrupt. Following the application and the publication of the individual's name on the Register of Insolvency or DAS register they will be protected by a moratorium on diligence for a period initially of 6 weeks, after which it may be extended if they apply for a statutory debt solution. The moratorium on diligence means diligence including arrestment, money attachment, interim attachment or attachment of the individual's estate cannot have effect during the period the moratorium is in place. In certain circumstances the moratorium does not protect the debtor from diligence action that is already in place. Only one intimation can be given and, therefore, only one moratorium period applied for within a 12 month period.

Money Advice – this provision specifies that an application for bankruptcy by a debtor can only be made if the debtor had been given advice on their financial circumstances, the effect of the proposed sequestration and the process involved by a 'money adviser'. Categories of approved money advisers are stipulated in regulations. This change introduced consistency with DAS where similar processes are in place and ensure that individuals are well informed prior to the instigation of self-nominated bankruptcy proceedings. This built on the earlier introduction of the Certificate for Sequestration to be completed by a money adviser as one of the means by which bankruptcy could be accessed.

Financial Education – this introduced, by regulations covering appropriate financial education modules, provision for debtors whose financial history and circumstances identify them as particularly vulnerable to problems as a result of recurring debts to be required to receive a course of targeted financial education. The trustee in bankruptcy must decide whether a debtor should undertake a course of targeted financial education within 6 months of the date of award of bankruptcy (or as soon as practicable thereafter in the case that the trustee makes contact with an individual whose previous whereabouts were unknown).

Debtor application – Executor – this change removed the previous requirement for an executor of a deceased debtor's estate to petition the Sheriff Court for the bankruptcy of that estate where the estate is insolvent. It transfers the process to AiB allowing for the bankruptcy to be awarded following a debtor application.

Debtor application Minimal Asset Process (MAP) bankruptcy – this created a new route into bankruptcy allowing a debtor who has limited assets and income access to debt relief quickly and at lower cost. MAP bankruptcy replaced the previous low income low asset route to bankruptcy by introducing new eligibility criteria in relation to surplus income and assets. It also introduced streamlined

administrative processes including debtor discharge after 6 months – albeit with the application of continuing obligations with regard to future borrowing for a further 6 months. The Accountant is the default trustee in MAP bankruptcy.

Debtor contribution - Common Financial Tool (CFT) – this introduced a single tool to assess household income and expenditure with a view to set the level of contribution (if any) that a debtor can afford to make towards their debts in any of the Scottish statutory debt solutions. Currently the tool prescribed by regulations as the CFT is the Common Financial Statement (CFS) which is published by and available for use under licence from the Money Advice Trust (MAT). Since the development and implementation of the Standard Financial Statement, MAT has withdrawn wider use of the CFS.

Debtor Contribution Order (DCO) – replacement of the previous Income Payment Agreement/Order arrangements. This introduced a standard period of 48 months for most contributions taken from a debtor's income following sequestration, subject to the ability to seek a variation to reduce or increase the amount of contributions. The DCO is fixed in every bankruptcy, including nil values where there is no excess income. The introduction of the DCO includes a provision for AiB to review the DCO and for appeal to the Sheriff Court against AiB's decision to confirm, amend or revoke the order.

Vesting of estate after sequestration – this extended the period for which *acquirenda* (i.e. property or rights acquired or received by the debtor after the date of sequestration which would vest in the trustee had it been part of the estate at the date of sequestration) up to 4 years from the date of sequestration. Previously this period expired on the discharge of the debtor. The same change was introduced for non-vesting contingent interests, such as a legacy under a will, the right to which reinvests with the debtor at the end of the equivalent 4 year period.

Submission of creditor claims – this change aimed to create greater certainty about a debtor's financial position by introducing a 120 day time limit after notification for creditors to submit claims in a bankruptcy. Provision is made for claims to be submitted beyond this timescale where exceptional circumstances can be shown.

Discharge of debtor – this introduced a link between the debtor's discharge from bankruptcy and the extent to which they have cooperated with the trustee and complied with the statement of undertakings. Under the revised process, the trustee (for cases where AiB is not the trustee) must prepare and send a report to AiB without delay after 10 months from when sequestration was awarded. The report includes information on the debtor's assets, liabilities, financial and business affairs. Decisions by AiB to grant or refuse to grant discharge will be able to be reviewed by AiB and then appealed by the trustee or any creditor to the Sheriff Court. The previous system required the trustee to make an application to the Sheriff Court for the deferral of automatic discharge of a debtor.

Deferral of discharge where debtor cannot be traced – this made arrangements where the debtor's whereabouts cannot be ascertained and the trustee is, therefore, unable to carry out their usual functions. If the trustee is unable to ascertain the debtor's whereabouts, the trustee must submit to AiB, no sooner than 8 months and

no later than 10 months after the date of award of sequestration, a notice to the effect that, despite investigation into the debtor's whereabouts, the trustee has been unable to locate the debtor. If AiB is satisfied that it would not be reasonably practicable for the trustee to continue to search for the debtor, then AiB will issue a certificate deferring the debtor's discharge indefinitely. This also provides scope for the trustee to resign office and in these circumstances AiB can be appointed trustee and makes arrangements for the continuing administration of the case in the event that the whereabouts of the debtor are established.

Transfer of certain Sheriff Court functions to AiB – the reforms transferred some Sheriff Court functions to AiB. These include the following:

- Applications for direction – this created the ability for a trustee (except for AiB) to be able to apply directly to AiB for directions with additional provisions for complex matters to be referred to the sheriff. The provision includes rights to challenge the directive through AiB review and appeal to the Sheriff Court.
- Recall of bankruptcy – these changes enable AiB to consider and grant the recall of a bankruptcy in a specific set of circumstances where previously only a sheriff could make such a decision. Where the only ground for recall is that the debtor can pay the debtor's debt in full, except following a petition by a creditor where the debtor is claiming that the debtor was not apparently insolvent at the date of sequestration, application must be made to AiB and not the sheriff. The changes also removed the option to obtain recall from the sheriff by giving sufficient security. Where appropriate, the final order is withheld until all funds have been distributed to creditors.
- Appointment, replacement and removal of trustee – the reforms introduced the ability for AiB to consider applications and make decisions on the appointment, replacement and removal of trustees with appropriate rights of review and subsequent appeal to the Sheriff Court where interested persons have an objection to the decision. These reforms include the replacement of trustees acting in more than one sequestration, replacing the previous requirement for a petition to be lodged at the Court of Session.
- Bankruptcy Restriction Orders (BROs) – the reforms removed the Bankruptcy Restrictions Undertaking (BRU) and AiB gained the authority to grant certain BROs spanning between 2 and 5 years, with existing court provisions retained for applications made for the award of a BRO for a period of 5 years or more. The provisions allow for a debtor to object to a BRO awarded by AiB by seeking an annulment and there are onward appeal rights to the Sheriff Court once AiB has reached a decision on the annulment application.
- Power to cure defects in procedure – changes were introduced to allow applications to AiB to cure certain defects that could only be remedied following an application to a sheriff under the previous provisions. The defects that fall into this category are limited to any clerical or incidental error

in a document required by legislation or the waiver of a failure to comply with a specified timescale where there is no separate provision on how to deal with the failure.

- Decision Review process – the legislation introduced the ability for review of decisions taken by AiB with onward rights of appeal to the Sheriff Court. These review applications can be made subsequent to AiB decisions:
 - on the appointment of a trustee where an interim trustee has been in post.
 - not to award bankruptcy following a debtor application.
 - to discharge AiB in relation to acting as trustee in bankruptcy.
 - a decision on AiB's adjudication of creditor's claim in bankruptcy.
 - a decision to grant or refuse the discharge of a trustee.

5. Consultation

Statutory Moratorium on Diligence

The Moratorium on Diligence provides individuals struggling with debt with a period of breathing space within which creditors are prevented from instigating certain debt recovery procedures. The moratorium gives an individual six week protection from creditor enforcement action as soon as it is published on the Register of Insolvencies. Only one moratorium application is allowed in any 12 month period. An individual does not need to seek money advice to apply for this moratorium period and can apply themselves.

The moratorium is an extension of the previous intimation period under DAS where an individual was given this same breathing space prior to the formal application to join the scheme. The 2014 Act extended this to all insolvency and statutory debt management products administered by the Scottish Government.

Feedback received at 2018 AiB stakeholder sessions and other informal discussions suggests that many have welcomed the introduction of the moratorium. It has introduced a period of time to allow individuals struggling with debts to seek advice, establish their financial circumstances and seek advice as to the best solution and has been very useful. However, there has been some debate over the 6 week duration and whether this provides sufficient time to undertake all of the required information gathering and advice leading on to consideration of solutions.

This was discussed at stakeholder sessions and the views expressed have ranged from the six week period being sufficient to the recommendation it should be extended - with suggestions ranging from 8 weeks to 6 months. Relevant factors include the current pressures on the advice sector, specifically free to client advisers, which can result in appointment delays. Additionally, the evidence requirements necessitated by the Common Financial Tool could result in information being gathered over a period of time and this could impinge on the period of moratorium leaving clients exposed to creditor action. Alternative views have highlighted that a significant extension could increase misuse of the moratorium to delay rather than agree the solution, thereby preventing creditors pursuing legitimate recovery action. Money advisers have indicated that a more limited timescale would help encourage action and avoid the possibility that information already obtained as part of the advice process becoming outdated. It was noted that many creditors may automatically apply an eight week breathing space period for options to be considered where client representations have been made regarding inability to pay.

The moratorium provisions have been well received and utilised in Scotland. In recent months the UK Government has consulted on proposals for its Breathing Space and published proposals on how this mechanism will work in practice. Breathing Space will provide similar protection to the statutory moratorium. However, the proposed system includes some characteristics that can readily be included for consideration in in this consultation. On the period of protection, the UK Government has proposed 60 days which is 18 days longer than the current moratorium in Scotland. Access to Breathing Space will normally be facilitated through a money advice agency. Stakeholder feed-back in Scotland has suggested

that the current access arrangements are working well and while many of those choosing to apply for a moratorium will do so with the support and guidance of a money adviser, the flexibility for the individual to apply should be retained. Similarly, Scottish stakeholders indicated that given the limited period of moratorium protection, there should be no requirement for a mid-way check to ensure that the individual has engaged with the advice process and is seeking a debt solution.

The Breathing Space proposals include some stronger protections for debtors than the existing moratorium arrangements. While the pause on creditor recovery and enforcement actions under both schemes are similar, the UK Government proposes that the Breathing Space will introduce a pause on additional interest, default fees and charges being levied by creditors during the protection period. The Scottish moratorium does not include this restriction and the consultation will seek views on equivalent protections being introduced for the moratorium.

The proposed arrangements for access to Breathing Space for those in mental health crisis have been discussed at Scottish Stakeholder events and the possibilities that may exist to introduce some alternative moratorium arrangements for those receiving mental health crisis care. The specific arrangements within Breathing Space that have been highlighted as useful additions to the current moratorium are:

- Access to a moratorium on the assessment of an Approved Mental Health Professional
- Removal of restriction to apply for one moratorium in 12 months where this is under the mental health crisis provisions
- Removal of a time limit for moratorium protections for those undergoing mental health crisis care – with continuing protections during the period of care

Q1. Do you consider the current six week period of protection afforded by the moratorium process to be sufficient?

Yes/No

Q1a. If you answered “no” to Q1 what do you consider the appropriate time for a moratorium in Scotland?

Less than 6 weeks 60 days 10 weeks 12 weeks Other

Q1b. If you selected “less than 6 weeks” or “other” in Q1a how long do you think is appropriate and please explain the reasons why?

Answer: _____

Q2. Do you believe that interest, default fees and charges in respect of debts at the time of the moratorium application should be frozen during the moratorium period?

Yes/No

Q2a. Please provide a reason for your answer to Q2?

Answer: _____

Q3. Do you believe the Scottish Government should explore further provisions in the moratorium, similar to those in the UK Breathing Space scheme, which have a reserved competency?

Yes/No

Q3a. If you answered “yes” to Q3 which of the following areas should the Scottish Government explore?

- Stopping creditor enforcement action (excluding a commenced earnings arrestment) during the moratorium period.
- Preventing creditors from contacting debtors in relation to repayment of a debt during the moratorium period.
- Preventing deductions from benefits during the moratorium period.
- Preventing the forced installation of pre-payment meters, or the disconnecting of fuel supplies during the moratorium period.
- Preventing the eviction of debtors for unpaid debts under section 19 of the Housing (Scotland) Act 1988 during the moratorium period.
- All of the above.

Q4. Do you believe that the Scottish Government should consider further separate provisions in the moratorium, similar to those in the UK Breathing Space scheme, for those receiving mental health crisis care?

Yes/No

Q4a. If you answered “yes” to Q4, which of the following principals for those receiving mental health crisis care should be given consideration?

- The removal of the restrictions on accessing the moratorium once within a 12 month period.
- The period of moratorium protection being extended.
- Both of the above options.

Q4b. If you ticked the box for extending the period of protection how long should the period of protection last?

Duration of mental health crisis care Other

Q4c. If you answered “other” to Q4b what period of protection should apply?

Answer: _____

Common Financial Tool (CFT)

The CFT was introduced by the 2014 Act, supported by the Bankruptcy (Scotland) Regulations 2014. The intention of the CFT was to ensure greater consistency and transparency in relation to any determination of the contribution level a debtor might pay in respect of Scottish statutory debt solutions.

The 2014 Act made the use of the CFT mandatory in respect of all statutory debt relief and debt management solutions in Scotland. The tool is used for the assessment of an individual's income and expenditure, thereby determining the surplus income available for the DCO in bankruptcy, DPP under DAS or contribution in a PTD.

Part of the consultation conducted prior to the drafting of the 2014 Act sought views on the concept of the CFT and the preferred tool to be adopted. The majority of respondents indicated support for the introduction of the CFT and the adoption of the CFS, the tool operated by the Money Advice Trust and used by advisers through a licensing arrangement as the prescribed CFT.

In the main, feedback from AiB's stakeholder events has reflected that the introduction of a consistent approach to the calculation of contributions has been a positive development. It is recognised that these reforms have brought forward much of the work that was previously undertaken post award by the trustee in bankruptcy and that full details of an individual's circumstances must be obtained in order for appropriate advice to be provided. The general view is that the greater transparency and certainty afforded to the individual provides for advantages over the previous arrangements. Some of the concerns raised during these sessions have centred on the operational processes adopted by AiB about evidence requirements along with the approach to verifying essential expenditure and expenditure trigger figure breaches. While it is acknowledged that there does need to be sufficient information available to support the assessments provided, a commonly expressed view was that the approach taken has created onerous requirements for advisers and those anxious to secure access to statutory debt solutions.

During late 2017 and 2018, AiB issued a public consultation on the future of the CFT. In particular, this consultation sought views on future developments taking account of the development and inception of the SFS - a new tool operated by the Money and Pensions Service under the auspices of the SFS Governance Group - and planned to replace the CFS as the UK's foremost mechanism for determining income and expenditure for debt solutions. The Money Advice Trust had confirmed that they did not intend on continuing to routinely operate the CFS with effect from April 2020.

Draft Regulations brought forward following the consultation proposed the SFS replacing the CFS as the adopted CFT. The initial regulations were withdrawn to allow a longer implementation period between the laying of the regulations and their coming into force – this acknowledged feedback from stakeholders concerning the IT and training requirements that would need to be put in place. Revised Regulations were laid in September 2018. A number of concerns about the switch to the SFS were raised during the Parliamentary scrutiny of the Regulations. The Scottish Government therefore agreed that the CFS should continue for a further year while

more in- depth analysis is undertaken comparing the CFS to the SFS. The expenditure guidelines for both the CFS and SFS have been updated with effect from April 2019 and further statistical analysis showing comparative data is set out at Section 6, Chart 3.

AiB's operational procedures for the CFT and the guidance which supports these has been the focus of attention during 2018/19 and recent CFT working group meetings have aimed to address some of the concerns highlighted over onerous evidence requirements highlighted above. This consultation seeks to explore issues around the CFT and views on the most appropriate model to adopt. On the basis that a common methodology is still supported as the best way to achieve consistent outcomes for debtors, the options would involve the SFS, continuation of the CFS with arrangements put in place to continue its operation or an alternative model. Choosing an alternative model would require more detailed consideration and further consultation on its effect and impact including an assessment of its compatibility with existing primary legislation.

Q5. Do you think the provision of a CFT to provide a consistent approach to the assessment of contributions remains an appropriate feature within insolvency legislation?

Yes/No.

Q5a. If you answered "no" to Q5, what approach should be adopted to assess the contributions in statutory debt solutions?

Answer: _____

Q5b. If you have answered "yes" to Q5, should the CFT be an income and expenditure tool designed to assess individual circumstances?

Yes/No.

Q5c. If you answered "yes" to Q5b, which tool should be adopted as the CFT?

CFS SFS Other (Please explain below)

Answer: _____

Q5d. If you answered "no" to Q5b, what model should be adopted to assess the contributions in statutory debt solutions?

Answer: _____

Debtor Contribution Order (DCO)

The 2014 Act replaced the Income Payment Agreement and Income Payment Order with the DCO. The DCO is the formal document that confirms the contribution level a debtor should pay in their bankruptcy. The Accountant in Bankruptcy must fix a DCO in every case – including bankruptcies awarded following a debtor application and creditor petition to the court. The Common Financial Tool must be used to set the contribution in the DCO. A DCO is fixed in each bankruptcy, even if this has a nil value, with legislation providing for variation and the quashing of a DCO on a change of circumstances or where this action is appropriate. In debtor application cases, the DCO is fixed at the same time as the award of bankruptcy. In a creditor petition case, the trustee should submit their contribution proposal within 6 weeks of the award date and the AiB will make the DCO shortly after receipt of the contribution proposal.

At the stakeholder sessions, the operation of the DCO process was discussed and the general view from the money advice sector was that in debtor application cases, the switch to fixing a contribution at the award stage was seen as a positive development that provided certainty and transparency for the client. Some concerns related to the onerous evidence requirements described under the CFT section of this consultation. Additionally, insolvency professionals highlighted issues associated with the statutory 6-week timescale to submit DCO proposals to AiB in creditor petition appointments. This was problematic – particularly in cases where there were challenges in making contact with bankrupt individuals. Consequently, the Scottish Government is keen to establish views on the DCO process as it relates to creditor petition awarded bankruptcy. AiB is also considering options for additional guidance to introduce some greater flexibility for trustees in making DCO proposals where they have been unable to establish all information due to the debtor not co-operating. This revised guidance has provided for DCO proposals to be submitted to AiB using all of the information that has been obtained - with the option to re-assess the circumstances where the debtor's co-operation has been obtained.

Q6. Do you believe 6 weeks is sufficient period of time for a trustee to submit a DCO proposal to AiB in a creditor petition bankruptcy?

Yes/No

Q6a. If you answered “no” to Q6 what would be a sufficient timescale?

8 weeks 10 weeks 12 weeks

No time limit (with requirement to report progress at regular intervals)

Other

Q6b. If you answered “other”, what would be a sufficient timescale?

Answer: _____

Minimal Asset Process (MAP) Bankruptcy

MAP access to bankruptcy was introduced to provide a simplified and lower cost route into bankruptcy for people with unsustainable debt, few assets and no available surplus income to make a contribution. The process provides a list of qualifying conditions for an individual to be able to apply including, minimum and maximum debt threshold and financial limits applied on the value of assets owned. It also comes with a lower application fee of £90 compared to a full administration bankruptcy and the individual will normally be discharged after six months. Applications for MAP bankruptcy can only be made once in every 10 years. MAP bankruptcy replaced the previous Low Income Low Asset (LILA) bankruptcy and included some key differences. In particular, the entry criteria for MAP bankruptcy is designed to take account of specific household circumstances in assessing whether a contribution can be made – the LILA criteria applied an income limit based on the national minimum wage but did not take account of the expenditure and other circumstances of the household.

The general consensus of stakeholder feedback is that MAP is a welcome development and an improvement on the previous LILA process due to increased flexibility and lower application fee. However, it has been highlighted that the process could be improved in certain areas. The maximum and minimum debt levels were considered to be already outdated and stakeholders have questioned the inclusion of student loans in the calculation of the maximum debt levels given that these normally survive bankruptcy and come with their own arrangements for repayment based on salary threshold.

Maximum and minimum debt:

The minimum debt level for MAP entry is currently fixed at £1,500 and the question has been raised to whether this is still appropriate or if it is now too low. The minimum debt level of £1,500 was fixed on the introduction of the Bankruptcy (Scotland) Act 1985 for all bankruptcies – subsequently the minimum level was increased to £3,000 for creditor petitions and full administration bankruptcy debtor applications. Bankruptcy is the last resort for someone in financial difficulty so the question is whether it is now reasonable for someone with debts at this level to enter insolvency. The level is lower than the amount fixed for creditor petition and full administration bankruptcy (currently £3,000) or for a PTD (currently £5,000). Consequently, this consultation seeks your views on whether the minimum debt allowed in a MAP should be altered. It also seeks views on the current debt threshold for full administration and creditor petition bankruptcy which has been in force since 1 April 2008. The statistical data on the debt levels of MAP cases for each year since 2015 is presented in Section 6: Table 1.

Q7. Do you believe that the minimum debt allowed for MAP application should be increased?

Yes/No

Q7a. If you answered “yes” to Q7, what level should it be increased to?

£2,000 £2,500 £3,000 Other

Q7b. If you answered “other” to Q7a please specify the amount

Answer: _____

Q7c. Should the debt threshold for creditor petition or full administration debtor application bankruptcy be increased (currently £3,000)?

Yes/No

Q7d. If you answered “yes” to Q7c, what level should it be increased to?

Answer:

Creditor Petition Debt Level:

Full Administration Debtor Application Debt Level:

Stakeholders have raised questions about the maximum debt ceiling allowed to enable access to bankruptcy through MAP. This ceiling was set at introduction in 2015 at £17,000 and the consultation seeks views on whether this ceiling is still appropriate. It has been highlighted that the nearest equivalent process operating in England and Wales (Debt Relief Orders) has a maximum debt ceiling of £20,000 (increased from £17,000 in October 2015) and stakeholders have highlighted that it may be more appropriate to at least match this level. This consultation seeks your views on whether the maximum debt threshold in MAP debt threshold should be increased and if so at what level it should be fixed. Some stakeholders have questioned whether the ceiling should be removed. It is generally accepted that cases with a high level of debt require the more comprehensive investigation provided by a full administration bankruptcy.

Q8. Do you think that there should still be a maximum debt threshold in a MAP application?

Yes/No

Q8a. If you answered “yes” to Q8, at what level should the debt ceiling be set?

£17,000 £20,000 £25,000 Other

If you answer “no” to Q8 please explain why?

Answer: _____

Q8b If you answered “other” to Q8a what amount do you think it should be increased to?

Answer: _____

Student loans included in the calculation for maximum debt:

As highlighted above, student loans are not normally discharged in bankruptcy but are taken into account in calculating the maximum debt threshold level in MAP. At the 2018 stakeholder events, some stakeholders have questioned this as potentially unfair as the inclusion of a student loan debt may ultimately lead to ineligibility for MAP. This consultation seeks your views on whether a student loan debt should be taken into account in calculating the total debt owed by an individual when it comes to the maximum debt criteria in MAP.

Q9. Do you think student loan debt, that is not discharged in bankruptcy, should be excluded from the maximum debt criteria in MAP?

Yes/No

Q9a. If you answered “no” to Q9 please explain why?

Answer: _____

MAP Bankruptcy – Maximum Asset Threshold:

The MAP bankruptcy eligibility criteria includes limits on the assets held on the date of the application. The legislation prescribes that the total value of assets (leaving out of account any liabilities) must not exceed £2,000 with a further condition that no single asset has a value exceeding £1,000. Stakeholders have highlighted that these levels should be revised and this consultation seeks views on whether the current arrangements remain fit for purpose.

Q10. Do you think the total asset and individual asset limits should be increased?

Yes/No

Q10a. If you have answered “yes” to Q10, what limit should be applied?

Combined Assets

£3,000 £4,000 Other

Individual Asset

£2,000 £3,000 Other

Q10b. If you answered “other” to either part of Q10a what amount do you think the combined and individual asset limits should be increased to?

Answer: _____

Financial Education

The introduction of mandatory advice and targeted referral for financial education was introduced as part of the 2015 reform package. Financial education modules have been developed by Money Advice Scotland which are available both on-line and in paper form. The 2014 Act set out the criteria determining who would be required to complete the modules and further regulations defined the process and specified that the individual would require to complete the modules, if requested to, prior to receiving discharge from bankruptcy.

The modules cover the following topics:

- Budgeting and Financial Planning
- Saving
- Borrowing
- Insurances
- Understanding Tax
- Financial Life Stages (Setting up Home, Having a Baby and Redundancy)

The modules are available here:

<https://www.scotlandfinancialhealthservice.gov.uk/financial-education>

Stakeholder feedback obtained has highlighted that pre-bankruptcy advice is a welcome and important part of the process and that, in general, financial education referral was a useful mechanism in certain circumstances in helping to reduce the incidence of repeat bankruptcy. However, some concerns have been raised to how meaningful the content of the programmes is and whether they fulfil the initial policy intention of increasing financial and budgeting capability. A key intention of the modules is that they should create the opportunity for meaningful discussions between money adviser and client, especially where the client is willing to engage – helping build the skills to avoid falling back into unsustainable debt. International experience is that more demanding compulsory “debtor counselling” can lead to those unwilling to engage just going through the motions. Such intensive interventions are also hugely expensive. There was general consensus at the stakeholder discussions that it could be seen as too early to gain the level of user feedback and evaluation on which to propose changes to policy. However, AiB seeks your views on the current programme and the content of the modules based on current experience with clients.

Q11. Do you believe that the current content of the financial education modules is sufficient to meet the policy intention of promoting financial capability?

Yes/No

Q11a. If you answered “no” to Q11 what improvements would you suggest?

Answer: _____

Discharge of Child Maintenance Debts

The Scottish Government published a Consultation on Bankruptcy Law Reform in 2012, the results of which laid the foundations for the introduction of the 2014 Act. This consultation sought views on the treatment of child maintenance debts in Scottish bankruptcy. In Scotland, any obligation to pay child support maintenance within the meaning of the Child Support Act 1991 which remained unpaid in respect of any period before the date of bankruptcy can be included as a claim in the bankruptcy. However, any sums outstanding will be discharged on the conclusion of bankruptcy proceedings. This differs from the bankruptcy process in England and Wales where arrears of child support maintenance survive the discharge of bankruptcy with the debtor still liable for repayment. The 2012 consultation, in particular, picked up on concerns expressed by the then Child Maintenance and Enforcement Commission that children in Scotland were potentially disadvantaged. The consultation sought views on whether the existing provisions in Scottish legislation should subsist. Some respondents to the consultation thought it was important for the rehabilitation of the bankrupt individual to have a fresh start, allowing them to begin the process of paying again. They also believed in most cases it was highly improbable that the individual could afford to repay any undischarged arrears. As a result, there would be no beneficiaries to changing the current position. The majority view was that the position should remain unchanged and this is reflected in current legislation.

This issue is not straightforward and it is clear from stakeholder discussions and representations to Scottish Ministers that there are differing and strongly held views. Consequently, the matter has been included in this consultation for further consideration. Liabilities which are not currently discharged by bankruptcy in Scotland can be found in section 145 of the Bankruptcy (Scotland) Act 2016. The section of this act can be found at:

<http://www.legislation.gov.uk/asp/2016/21/section/145>.

Q12. Should the remaining balance of any outstanding child maintenance arrears be discharged following the conclusion of bankruptcy and protected trust deed procedures in Scotland?

Yes/No

Q12a. Please explain the reason for your response at Q12.

Answer: _____

Prescribed Rate of Interest on Dividends in Bankruptcy

Bankruptcy legislation prescribes the interest rate that may be payable to creditors on the conclusion of proceedings in the event that sufficient estate remains following payment of relevant expenses and the full settlement of preferred and ordinary debts. In these circumstances interest is payable from the date of bankruptcy to the date of payment of the debt. The rate of interest applied is prescribed in regulations and at the present time is whichever is the greater of 8% and the rate applicable to the debt apart from the bankruptcy (i.e. the commercial rate of interest). The prescribed rate of interest has generated much discussion in recent years and a commitment was made to the Scottish Parliament to include this issue in the first available consultation on bankruptcy related matters. The concerns raised highlight that the 8% rate is unrealistic, given the low rates of interest that have prevailed since 2009. As with other judicial rates, it is seen as appropriate that there is some element of penalty to reflect the fact that there has been a default on debt and that creditors have often had to wait several years for any funds to be paid. However, the Bank of England (BoE) Rate has remained at 0.5% for the bulk of this period, dropping to 0.25% between August 2016 and October 2017 before rising to its current level of 0.75% in August 2018. Against this back-drop, the 8% interest rate has been viewed as unjust and in need of review. In terms of case volumes, figures for 2018-19 highlight that of the total number of bankruptcies concluded (5,615), a dividend to ordinary creditors was paid in 18.9% of cases, with statutory interest paid following full dividend in 18.4% of these cases. This means that statutory interest has been paid to creditors in approximately 3.5% of the total bankruptcy completions.

The consultation seeks your views on the rate of interest that should apply.

On a related but more general point, civil litigation frequently ends with the court ordering one party to pay money to another. This money is usually a debt, an award of damages or the legal costs of the litigation. If the money is not paid on time interest will be added. In Scotland, if no rate of interest has been specified by the parties and if there is no other statutory provision to set a rate of interest the Scottish Courts (Court of Session and Sheriff Courts) usually apply the 'judicial rate of interest' set for post-decree interest. In Scotland the judicial rate of interest is set by Rule 7.7 of the Rules of the Court of Session 1984 No 1443. In the Sheriff Courts the rate is prescribed by section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 and may be amended by Act of Sederunt. The Lord President has the ability to change the level that the rate is set at, usually following a request to do so by the Scottish Ministers. Similarly this currently stands at 8%. In 1993, when the judgment rate was last amended across the UK to 8%, it was set at a level just over 2% above the base rate. As with the prescribed rate of interest on dividends in bankruptcy the differential is now substantially higher than has previously been experienced.

Q13. Do you consider that the currently prescribed 8% rate of interest for dividends in bankruptcy is appropriate?

Yes/No

Q13a. If you have answered “no” to Q13, what interest rate do you think should be applied?

BoE Rate BoE Rate + 1% BoE Rate + 2% Other

Q13b. If you have answered “other” to Q13a, what alternative option would you suggest?

Answer: _____

Q14. Do you consider that the currently prescribed 8% judicial rate of interest remains appropriate?

Yes/No

Q14a. If you have answered “no” to Q14, what interest rate do you think should be applied?

BoE Rate BoE Rate + 1% BoE Rate + 2% Other

Q14b. If you have answered “other” to Q14a, what alternative option would you suggest?

Answer: _____

Other Issues

Please feel free to include below any other matters that should be considered as part of this policy review.

6. Statistical Information

Statistical information has been collated on various aspects of the changes introduced by the Bankruptcy and Debt Advice (Scotland) Act 2014. This information has been organised into either a table or graph to best present the statistical data. The following charts/tables present that data:

Chart 1 presents the trends on Low Income Low Asset and Full Administration in comparison to the Minimal Asset Process and Full Administration from 2012-13 to the present. The chart also shows the trends of Moratorium registrations since their introduction in April 2015.

Chart 2 presents a breakdown of the Low Income Low Asset bankruptcies and the Minimal Asset Process bankruptcy from 2012-13 to the present while showing the Full Administration bankruptcies through that same period of time.

Chart 3 presents a comparison between trigger figure breaches using the Common Financial Statement and the Standard Financial Statement as at June 2019.

Table 1 includes a table which presents a breakdown of the debt levels for Minimal Asset Process bankruptcies for each year since their introduction in April 2015. A second table explores in further detail the number of cases which had debt levels of less than £5,000. This table also presents a breakdown of Full Administration bankruptcies by debt levels for each year since the commencement of the Bankruptcy and Debt Advice (Scotland) Act 2014.

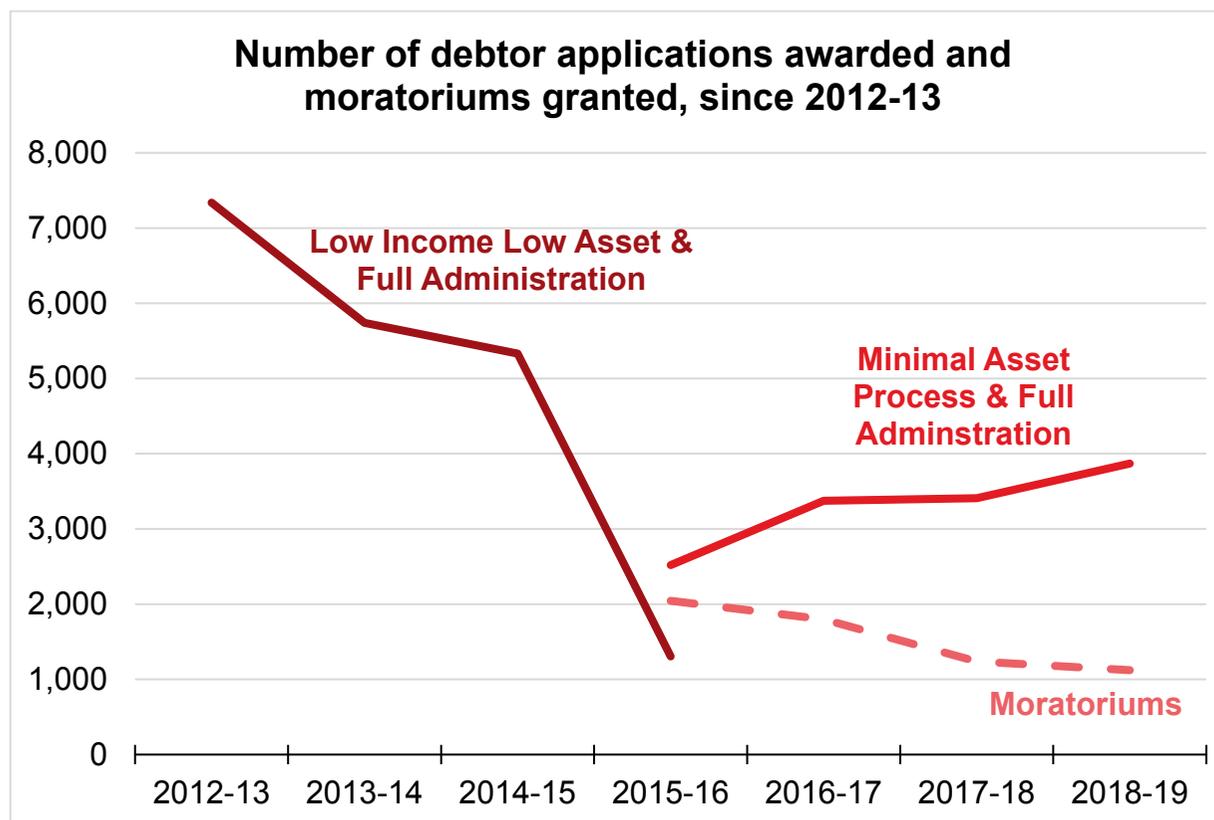
Table 2 breaks down the debt levels for Full Administration bankruptcies which have been assessed as having no contribution fixed.

Table 3 presents the number of cases where a contribution was assessed to be paid per year from 2012/13 to present. Prior to April 2015 contributions were fixed by Income Payment Agreements/Orders and post April 2015 contributions were fixed by Debtor Contribution Orders.

Table 4 presents the number of cases, per year since 2016/17, in which the debtor's discharge was deferred.

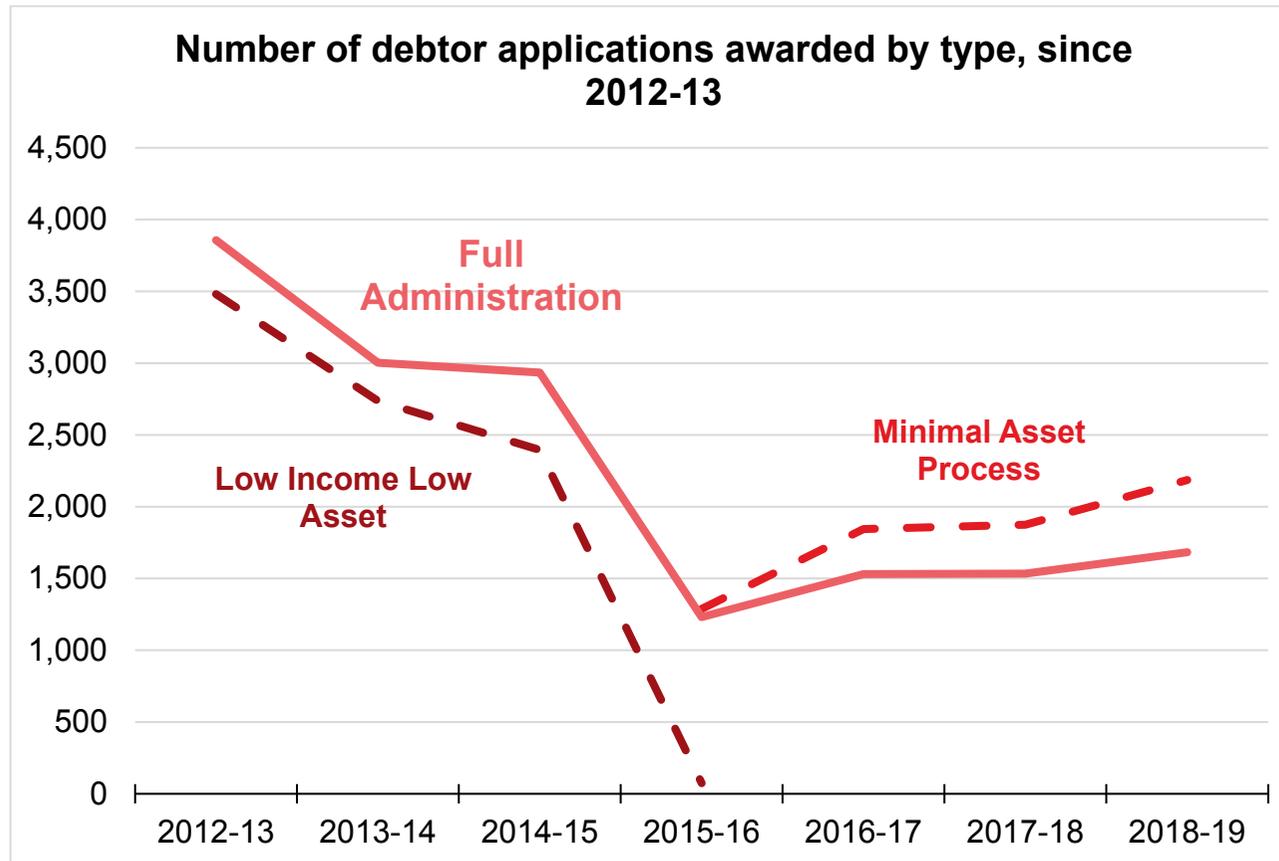
Table 5 presents the total number of individuals: referred for the financial education modules; the number of those individuals who accessed the modules; and the number who completed the modules from 2015 to present. The last table presents feedback from those individuals on the benefit of completing the financial education modules.

Chart 1 – Insolvency Activity – Pre and Post 1 April 2015 (including moratorium applications post 1 April 2015)



This chart presents the trends on Low Income Low Asset and Full Administration in comparison to the Minimal Asset Process and Full Administration from 2012-13 to the present. The chart also shows the trends of Moratorium registrations since their introduction in April 2015.

Chart 2 – MAP Bankruptcy Activity v LILA Activity



This chart presents a breakdown of the Low Income Low Asset bankruptcies and the Minimal Asset Process bankruptcy from 2012-13 to the present while showing the Full Administration bankruptcies through that same period of time.

Chart 3 – Updated CFS v SFS Data

Number of cases by trigger breaches under CFS (2019 trigger figures) and SFS 2019 trigger figures
(Note: CFS has four spending categories, SFS has three, using cases extracted in June 2019 (n=2,448))

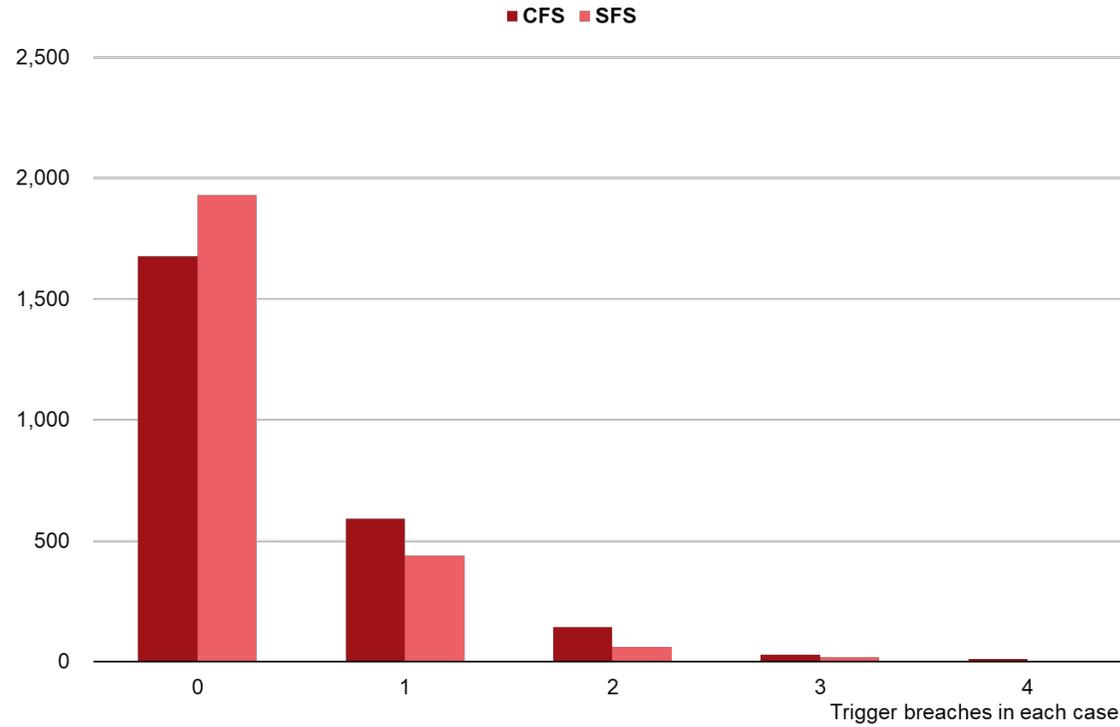


Table 1 – MAP debt levels

Number of Minimal Asset Process cases by total debt level due to creditors, since 2015-16

	2015-16	2016-17	2017-18	2018-19
£1,500 to less than £5,000	168	264	250	275
£5,000 to less than £10,000	556	811	803	904
£10,000 to less than £15,000	431	600	670	814
£15,000 to less than £17,000	126	155	147	189
Total	1,281	1,830	1,870	2,182

Note: Figures presented here may not be consistent with the official, quarterly Scottish Insolvency Statistics publication. These tables are based on data extracted from live databases at a different point in time. The quarterly statistics are the definitive source.

Number of Minimal Asset Process cases by low debt level due to creditors, since 2015-16

	2015-16	2016-17	2017-18	2018-19
£1,500 to less than £2,000	4	4	6	7
£2,000 to less than £3,000	23	41	50	47
£3,000 to less than £4,000	60	92	89	77
£4,000 to less than £5,000	81	127	105	144
£5,000+	1,113	1,566	1,620	1,907
Total	1,281	1,830	1,870	2,182

Note: Figures presented here may not be consistent with the official, quarterly Scottish Insolvency Statistics publication. These tables are based on data extracted from live databases at a different point in time. The quarterly statistics are the definitive source.

Number of Full Administration cases by debt level due to creditors, since 2015-16

	2015-16	2016-17	2017-18	2018-19
Less than £17,000	235	286	221	238
£17,000 to less than £20,000	146	190	239	265
£20,000 to less than £25,000	195	238	266	292
£25,000 to less than £30,000	95	158	192	219
£30,000 to less than £40,000	141	210	208	212
£40,000 to less than £50,000	77	122	113	132
£55,000+	270	340	296	327
Total	1,159	1,544	1,535	1,685

Note: Figures presented here may not be consistent with the official, quarterly Scottish Insolvency Statistics publication. These tables are based on data extracted from live databases at a different point in time. The quarterly statistics are the definitive source.

Table 2 – Full Administration Bankruptcy with no DCO fixed – Debt levels

Number of Full Administration cases with no Debtor Contribution Order set by debt level due to creditors, since 2015-16

	<u>Count</u>				<u>Percentage</u>			
	2015-16	2016-17	2017-18	2018-19	2015-16	2016-17	2017-18	2018-19
Less than £17,000	145	143	118	146	61.7%	50.0%	52.7%	60.8%
£17,000 to less than £20,000	71	49	101	137	48.6%	25.8%	42.3%	51.7%
£20,000 to less than £25,000	93	82	109	130	47.7%	34.5%	41.0%	44.5%
£25,000 to less than £30,000	47	53	88	119	49.5%	33.5%	45.8%	54.3%
£30,000 to less than £40,000	89	75	90	113	63.1%	35.7%	43.3%	53.3%
£40,000 to less than £50,000	50	49	53	79	64.9%	40.2%	46.9%	59.8%
£55,000+	186	197	191	235	68.9%	57.9%	64.5%	71.9%
Total	681	648	750	959	58.8%	42.0%	48.8%	56.8%

Table 3 – Debtor Contribution Levels v IPA Levels

Number of agreed (original) contributions¹ by financial year, since 2011-12

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
IPA	2,131	1,762	1,549	1,267	-	-	-	-
IPO	2	2	2	1	-	-	-	-
DCO: Full Administration	-	-	-	-	518	591	602	604
DCO: Creditor Petition	-	-	-	-	138	169	210	129
All	2,133	1,764	1,551	1,268	518	591	602	604

¹ Including contributions which are set at more than £0.

Median monthly contribution¹ (including variations) where contribution is greater than £0, since 2011-12

	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
IPA	120	100	100	100	-	-	-	-
IPO	110	290	290	200	-	-	-	-
DCO ²	-	-	-	-	110	120	130	130
of which: Full Administration	-	-	-	-	100	110	120	130
of which: Creditor Petition	-	-	-	-	200	220	200	190
All	120	100	100	100	110	120	130	130

¹ Figures rounded to nearest £10.

² Debtor Contribution Order for Creditor Petitions and Full Administration bankruptcies, where contribution is set at more than £0.

Table 4 – Standard Debtor Discharge v. Discharge Deferred

Number of bankruptcy discharges¹ by financial year, since 2016-17

	2016-17	2017-18	2018-19
Normal discharges	3,094	3,743	3,835
Deferred discharges	71	259	359
Total discharges	3,165	4,002	4,194

Note: Figures presented here may not be consistent with the official quarterly Scottish Insolvency Statistics publication. This table is based on data extracted from live live databases at a different point in time. The quarterly statistics are the definitive source.

Table 5 – Financial Education – Referrals and Qualitative Survey Data

Number of AiB referrals for financial education by type of debtor applications, from 2015-16 to present¹

Full Administration and MAP bankruptcies awarded	13,171
<i>of which AiB trustee</i>	11,177
Referred for financial education	1355
Accessed financial education	863
Completed financial education	683

Full Administration bankruptcies awarded	5,978
<i>of which AiB trustee</i>	3,984
Referred for financial education	388
Accessed financial education	296
Completed financial education	282

MAP bankruptcies awarded	7,193
Referred for financial education	967
Accessed financial education	567
Completed financial education	401

¹ Note 2015-16 data is partial and the first full year is 2016-17.

Sources: AIB, Money
Advice Scotland

Feedback from users who have completed the financial education modules from April 2018 to present (unless stated otherwise)

- 91% of users rated the module's ease of use as either excellent or very good.
- 82% of users noted an increase in their ability to plan ahead, save and prepare for unexpected costs by an average of 86% after completing the module.
- 85% of users noted an increase in their confidence relating to financial matters, after completing the module.
- Following the module, 97% of users were aware of where to go to access help and advice.
- Following the module, 96% of users intend to change their approach to finances.

Source: Money Advice Scotland



Changes introduced by Bankruptcy and Debt Advice (Scotland) Act 2014

7. RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No



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