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██████████  
██████████  
ABCUL  
████████████████████

12 April 2019

Dear ██████████

### Discussion Forum – Scottish Statutory Debt Solutions

The Scottish Government continues to look at what improvements can be made to our statutory debt management and debt relief solutions, helping those that need it and helping to strengthen Scotland's economy.

On 6 December 2018, I hosted a round table discussion to hear stakeholder feedback on the proposal to implement the Common Financial Tool (Scotland) Regulations 2018. This meeting provided an excellent forum for parties to raise their concerns and I found it particularly useful and informative. I believe it would be worthwhile to continue this dialogue and host similar regular discussions on issues associated with our insolvency and debt management mechanisms. In particular, we are currently considering some reforms to our Protected Trust Deeds (PTD) and Debt Arrangement Scheme (DAS) legislation and will soon embark on a review of 2015 reforms to the bankruptcy system, commencing this year. The next meeting will focus on proposed policy reforms to PTDs and DAS.

I would like to invite you to the next meeting, which will be on Wednesday, 1 May 2019 between 3.00pm and 4.30pm at Committee Room 3 of the Scottish Parliament, Edinburgh, EH99 1SP. Please contact ██████████ to advise if you will be able to attend. ██████████ will make the necessary arrangements with the Parliament Reception.

I propose to hold these meetings on a regular basis and formalise the structure and terms of reference for this forum.

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This will be one of the items for discussion on 1 May and I look forward to the opportunity to work together with a shared aim of ensuring that our insolvency and debt management system is fair, accessible and strikes the correct balance between the interests of creditors and those dealing with unmanageable debt. An agenda for the 1 May meeting will be issued shortly.

I hope you will be able to attend and look forward to working with you.



**JAMIE HEPBURN**

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From: [Redacted]

Sent: 30 April 2019 18:43

To: Scottish Ministers <Scottish\_Ministers@gov.scot>; Minister for Business, Fair Work and Skills <MinisterBFWS@gov.scot>

[Redacted]

Subject: Letter for attn of Jamie Hepburn MSP

Dear Sir/Madam,

Please find attached a letter for the attention of Jamie Hepburn, Minister for Business, Fair Work and Skills.

Best wishes,

[Redacted]

[Redacted]

[ABCUL-Scotland signature]

[Redacted]

Email: [Redacted]

T: @abculscotland

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Jamie Hepburn MSP  
Minister for Business, Fair Work and Skills  
The Scottish Government  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

30 April 2019

Dear Mr Hepburn,

We write to you as the organisations representing the majority of credit unions in Scotland, the Carnegie UK Trust, Citizens Advice Scotland (CAS), and StepChange Scotland.

We would like to express our concerns about the rise in the use of Protected Trust Deeds (PTDs) over the past few years; specifically, we believe these are being heavily over-promoted to people in problem debt in unsuitable circumstances, and that there is a lack of adequate action to address this. We have significant concerns about the impact this trend is having on individuals who receive either limited or questionable advice before entering one and who often find themselves worse off as a result.

CAS's 2017/18 statistics show that only 5% of clients who sought advice on debt remedies received advice on Protected Trust Deeds, and this has remained steady in recent years. StepChange's figures follow a similar pattern. Yet the Accountant in Bankruptcy (AiB)'s own figures demonstrate the PTD market has expanded dramatically over the same period – recently published statistics show an increase of almost 24% on the equivalent period the year before. This is a trend that has been going on for some time and shows no sign of slowing, driven by a small number of private insolvency firms who are dominating the market.

You will be aware that we are also seeing increasing numbers of PTD failures – a reflection perhaps of the lack of, or poor quality of, advice received before granting many of them. For example, more than 1,700 PTDs failed in 2017–18, again according to the AiB's own figures.

The reality of this for individuals is them paying into the PTD until they can no longer afford the monthly payments and the PTD failing with the repayments having been entirely soaked up in professional fees (which are now typically several thousand pounds per case). The individual still owes all the debt they

did at the outset of the PTD, with their contributions having made no impact on their liability, and with no discharge and thereby no protection under the law. The possibility of such an outcome – which is a reality for an increasing number of people – is unacceptable in a modern Scotland and makes, in this respect, the solution not fit for purpose as currently framed. Failures also have a knock on impact on the free advice sector, which often then has to step in to provide further advice and a more appropriate debt solution, and of course to smaller creditors, who are now writing off substantial sums because of PTDs.

Although we appreciate the continued efforts by the Accountant in Bankruptcy to address this, we feel that the current situation fails the stated ambition to ensure that Scotland's debt management and debt relief solutions are fit for purpose, support the people of Scotland and help to strengthen Scotland's economy.

We realise that much of the regulation of insolvency practitioners remains reserved. However, we feel that more could and should be done within current devolved powers to address these issues in Scotland. Over the last few years there have been several regulatory changes – including the recent consultation on Protected Trust Deeds. Though we have no objections to most of the proposals in isolation, the reforms suggested largely tinker at the margins of the more fundamental problems.

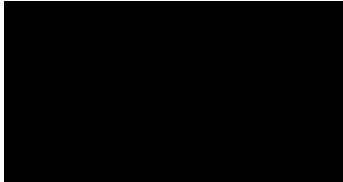
Currently insolvency is regulated by several different agencies and laws and we feel the current framework creates considerable loopholes which are being exploited. We note, for example, that the majority of firms promoting trust deeds are doing so outwith the FCA's scrutiny. With PTDs now being promoted through schemes such as 'The Big Debt Pay Off' – which offers all entrants to a competition advice on how to cancel their debt – we are now some way away from a system that strikes the right balance between encouraging those who can repay to do so, and protects the interests of those who need more help.

We would therefore ask that the Scottish Government:

- Initiates a comprehensive review of legislation and practices around statutory debt solutions in Scotland.
- Implements a legislative requirement that lead generators and firms advising on a proposed protected trust deed should be required to provide advice on all the debt options relevant to the client, including the debt arrangement scheme and sequestration.
- Implement the regulatory changes currently being considered in relation to Protected Trust Deeds.

We would be delighted to meet with you to discuss these matters further and present evidence from our members of this growing problem.

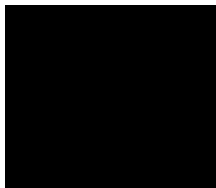
Best wishes,



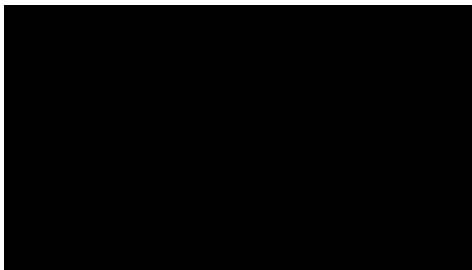
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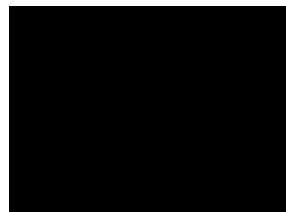
Scottish League of Credit Unions



UKCredit Unions Ltd



ACE Credit Union Services



The Transport Credit Union

Scotwest Credit Union

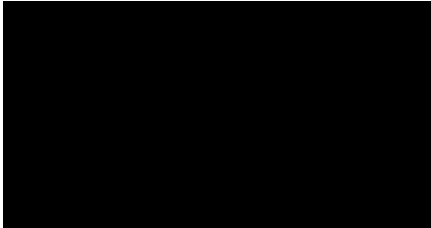
*On behalf of the National Credit Union Forum*



█ Citizens Advice Scotland



█ StepChange Scotland



█ Carnegie UK Trust



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*1st Class Credit Union Ltd*  
*Abronhill Credit Union Ltd*  
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*Cambuslang Credit Union Ltd*  
*Carmyle Credit Union Ltd*  
*Carntyne & Riddrie Credit Union Ltd*  
*Cumbernauld Central Credit Union Ltd*  
*Cumbernauld South Credit Union Ltd*  
*Dalmuir Credit Union Ltd*  
*Discovery Credit Union Ltd*  
*Drumchapel Community Credit Union Ltd*  
*Dumbarton Credit Union Ltd*  
*East Kilbride Credit Union Ltd*  
*First Scottish University Credit Union Ltd*  
*First Shipbuilders Credit Union Ltd*  
*Glasgow West Credit Union Ltd*  
*Gleniffer Credit Union Ltd*  
*Greater Govan Credit Union Ltd*  
*Greater Springburn Credit Union Ltd*  
*Haghill and Dennistoun Credit Union Ltd*  
*Hamilton Credit Union Ltd*  
*Highland Communities Credit Union Limited*  
*Islay & Jura Credit Union Ltd*  
*Kirklands Credit Union Ltd*  
*Lanarkshire Credit Union Ltd*  
*Mosshill Credit Union Ltd*  
*Motherwell & District Credit Union Ltd*  
*New Easterhouse Credit Union Ltd*  
*Newmains & District Credit Union Ltd*  
*NHS (Scotland And North England) Credit Union Ltd*  
*North Airdrie Credit Union Ltd*  
*North Coatbridge Credit Union Ltd*  
*North Edinburgh and Castle Credit Union Ltd*  
*Penilee Credit Union Ltd*  
*Perth and Kinross Credit Union Ltd*  
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*Port Glasgow Credit Union Ltd*  
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Scottish League of Credit Unions

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*St Francis Xavier and St Marys Credit Union Ltd*  
*St Machar Credit Union Ltd*  
*Stranraer Credit Union Ltd*  
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National Credit Union Forum

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██████████  
By email  
████████████████████

Our ref: 2019/0013283  
29 May 2019

Dear ██████████

Thank you for your letter dated 30 April setting out a number of concerns about the rise in use of Protected Trust Deeds (PTDs) which you suggest has been driven by questionable practices employed by some companies. I appreciate these concerns are shared by the organisations representing credit unions in Scotland, the Carnegie UK Trust, Citizens Advice Scotland and StepChange.

The issues raised in your letter are important. Much has been achieved in Scotland in the development of fair and transparent statutory debt solutions. The provision of high quality and impartial advice is at the centre of all that we aim to do and I believe that this remains a solid policy position. It is critical that those struggling with unsustainable debt have ready access to impartial advice that will lead to a solution that best meets their needs and represents a fair outcome for creditors.

I know that Accountant in Bankruptcy officials have consulted a range of stakeholders to discuss how we can put measures in place to resolve the issues highlighted in your letter. These issues were also at the forefront of debate at the Scottish Statutory Debt Solution Discussion Forum meeting you attended on 1 May 2019. Wide-ranging views were expressed and it was clear to me that the solutions to these complex matters will need to be multi-faceted in order to strike an appropriate balance between the needs of debtors and the rights of creditors. While some legislative reform may be required, there is a wider question of regulation of advice and the current practices in relation to lead generation and I am keen to explore these matters in detail.

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You will have heard that there is a body of opinion that believes that the current PTD framework is broadly right, but that it needs more active enforcement. In that context, you will know that the regulation of IPs is a reserved matter, and that the Insolvency Service are shortly to issue a call for evidence on the issue of whether or not they should use their powers to move to a single regulator. You will also know that the Regulated Professional Bodies have moved to significantly increase their monitoring of the volume providers, and that AiB are in active discussions with them to ensure this reflects the PTD market as fully as that for IVAs. To give the group a chance to assess the impact of that, I plan to invite the Chief Executive of the Insolvency Practitioners Association, Michelle Thorpe, to future meetings where these matters will be discussed.

While I found the meeting extremely useful, it was clear that there was no obvious solution or consensus view. I understand that you have responded to the PTD consultation and I welcome your feedback on that. AiB and Scottish Ministers are currently looking at the results of this consultation to determine how best to proceed before issuing the consultation response.

I remain convinced that there is a place for voluntary arrangements reached between debtors and creditors and for these to gain the protection that the current system affords. Nevertheless, I acknowledge fully that these should be sustainable, affordable for those involved and include voting arrangements that provide appropriate influence to smaller creditors.

I regret that there is no easy solution to the issues and think that some further work is needed before decisions can be made on how best to proceed. I would welcome your continued involvement in discussions and value greatly your input and commitment as we move forward.



**Jamie Hepburn**

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██████████  
Association of British Credit Unions Ltd  
██████████

08 August 2019

Dear ██████████

### **Discussion Forum – Scottish Statutory Debt Solutions**

The Scottish Government continues to look at what improvements can be made to our statutory debt management and debt relief solutions, helping those that need it and helping to strengthen Scotland's economy.

On 1 May 2019, I hosted a round table discussion to hear stakeholder feedback on the proposal to implement some reforms to our Protected Trust Deeds (PTD) and Debt Arrangement Scheme legislation, which I found particularly useful and informative. Since then the Debt Arrangement Scheme (Scotland) Amendment Regulations 2019 have been laid in Parliament and are being scrutinised by the Economy and Fair Work Committee, and we continue to analyse feedback from the PTD consultation to establish a way forward.

I propose that at our next meeting we focus on the policy review of the reforms introduced by the Bankruptcy and Debt Advice Scotland Act 2014 and the consultation that will be published during August 2019.

I would therefore like to invite you to the next meeting which will be held on Thursday, 12 September 2019 between 3.00pm and 4.30pm at Committee Room 1 of the Scottish Parliament, Edinburgh, EH99 1SP. Please contact ██████████ ██████████ ██████████ ██████████ to advise if you will be able to attend. ██████████ will make the necessary arrangements with the Parliament Reception and supporting papers will be issued prior to the meeting.

I hope you will be able to attend and look forward to our meeting.

**Jamie Hepburn**

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by email

13 December 2019

Dear 

### **Ministerial Discussion Forum – Scottish Statutory Debt Solutions**

Thank you for confirming you can attend our next meeting on 18 December 2019. Please accept my apologies for changing the timings which was necessary due to Parliamentary business.

As we continue to look at what improvements can be made to our statutory debt management and debt relief solutions we have set quite an ambitious agenda for our next meeting.

I would like for us to focus our discussions on 3 areas and have enclosed a proposed agenda for the meeting. I have also provided a short discussion paper to set a framework for the discussion on Protected Trust Deeds. I welcome the inquiry on PTDs that has recently been announced by the Economy, Energy and Fair Work Committee. This is a very timely opportunity for the members of this group and other stakeholders to feed into the process of policy review in this area. If any of you would like to offer the group papers on this or any other topic, please send these to the secretariat who will arrange circulation.

I look forward to meeting again on 18 December.



**Jamie Hepburn**

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