

2 August 2019

**Economy, Energy and Fair Work Committee:
Debt Arrangement Scheme (Scotland) Amendment Regulations 2019 (EEFW/S5/19/DAS)
Submission from the Association of British Credit Unions Ltd.**

I write to you on behalf of the Association of British Credit Unions to respond to the above Call for Evidence. Firstly, we appreciate the opportunity to comment on these regulations, and look forward to discussing this with the committee in more detail in September.

Credit unions are not-for-profit, financial co-operatives owned and controlled by their members, and providing safe savings and affordable loans. Credit unions play a particularly important role in providing affordable and accessible credit to many people who find themselves excluded by mainstream financial services, an important role recognised by both the Scottish and UK Governments. There are around 89 credit unions in Scotland, serving around 414,493 members with assets of £629 million, and with £351 million lent out Scotland has a particular concentration of credit unions, and indeed Glasgow is home to some the largest credit unions in the UK with one quarter of Glaswegians being a member of a credit union.

Credit unions seek to lend to people that the mainstream considers too high risk and for whom high cost money lenders charge extortionate interest rates. Because of credit unions' mission to extend affordable credit to those marginalised from mainstream credit markets, credit unions operate to tight margins and are more vulnerable than other lenders to the impact of bad debt. To preserve credit unions' invaluable role in this area, it is imperative that the unique pressures that their mission places upon them are properly recognised and accommodated.

The Association of British Credit Unions Limited (ABCUL) is the main trade association for credit unions in England, Scotland and Wales – we represent just over half of credit unions based in Scotland.

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The Debt Arrangement Scheme

Firstly, we would like to make clear our support for what we believe to be the Accountant in Bankruptcy's overall aims with these regulations i.e. to encourage more people whose circumstances are suitable for the Debt Arrangement Scheme to enter the scheme rather than alternative arrangements. We support the Scottish Government's general position on debt solutions, which is that those who are in a position to repay their debts should do so, and that there should be suitable support in place for those where that is simply not an option. Over the past few years we have supported many measures that have sought to improve the situation for debtors for this reason.

However, at the moment we have serious concerns that trends in Protected Trust Deeds (PTDs) are significantly skewing the overall debt landscape. The most recently published statistics show a 18% increase in PTDs on the equivalent quarter the previous year, and this trend shows no sign of slowing. It does not reflect the increase in DAS or bankruptcy cases, which have been muted by comparison, and suggests that the advice and solutions being offered to many people who seek advice in good faith is being distorted by the financial incentives that Protected Trust Deeds are providing some firms.

Whilst I appreciate this wider issue is not on the committee's agenda at this time, we would like to note our disappointment that this set of changes to the Debt Arrangement Scheme is not being considered as part of a package of measures, including PTD reform, to address these overall trends. We have been in discussion with the Accountant in Bankruptcy about our concerns for some time, and note a separate consultation earlier this year on this matter. However, at the time of writing, it remains unclear as to whether the Government plans to take forward any changes to address this significant problem, whilst priority has been given to increasing the contributions creditors make in the Debt Arrangement Scheme. In short, whilst we acknowledge that these regulations could reduce some of the financial challenges for providers of DAS and therefore should boost DAS numbers to some extent, as long as PTDs are not subject to significant regulatory overhaul they will continue to dominate the debt solution landscape at the expense of DAS and those whose circumstances meant that a DAS, rather than a PTD, ought to be the preferred solution.

The Regulations

We have no objection to the majority of the provisions within these regulations. This includes:

- The requirement to bring all Continuing Money Adviser fees into a single fee, payable from the payments made by the debtor.
- The changes with regards to who can provide a Payments Distribution service.

- The AiB providing a Payments Distribution service when required.
- The changes relating to the trigger for a Fair and Reasonable test.
- The new time limits on creditor claims.
- The introduction of emergency payment breaks.

However, we are somewhat more measured in our support for the proposed fee increase.

As a result of these regulations the total administrative fees taken from a DAS DPP would increase from 10% to 22%. From the outset we would like to be clear that we do not object to either an increase in fees in principle, or the notion that creditors should contribute towards CMA costs. We very much appreciate the vital work the free advice sector – currently the main providers of DAS – do and feel it ought to be appropriately supported.

In our response to the AiB's consultation we supposed an increase in the fee to a maximum of 20% of debtor contributions. To be clear, we were intending that to include the unchanged AiB admin fee (2 % - which would make the Statutory Administration Fee 18%). We felt that the consultation document was somewhat unclear on confirming what elements would be included within the new Statutory Administration Fee, and we were slightly disappointed that the consultation did not give a more robust analysis of the reasoning for the various fee proposals. We note that the AiB's reasoning for these changes is to ease the financial challenges in the provision of DAS. Therefore, as creditors, it would have been helpful for us to have been provided some analysis as to the extent of current shortfall in fee and the likely impact of the increase.

Nevertheless, if these Regulations are implemented in full in their current form, it will continue to be the case that the Debt Arrangement Scheme is a far preferable option for creditors in the majority of cases. Over the past few years it has become notable how many debtors end up in a Protected Trust Deed when they should have had a DAS. In a significant number of these cases, the debtor would have been able to pay off their debts within a reasonable timeframe in DAS yet, alarmingly, have entered PTD that will also see them pay back most of what they owe. The difference is that returns to creditors from DAS cases is 78-90% of the original sum owed, whereas it is fairly typical that only 10% of what is owed will reach creditors in PTDs. This is not working for either creditors or those debtors who end up in this unfortunate position (often through no fault of their own). Therefore we largely welcome the AiB's direction of travel on the matter overall.

We are happy to provide any further information, and look forward to discussing this in more detail in September.

Best wishes,

A rectangular box containing a handwritten signature in black ink that reads "Karen Hurst".

Karen Hurst
Policy Officer, Scotland
Association of British Credit Unions Ltd