

## Annex

### QUESTIONS

1. **Do you agree that the Standard Financial Statement (SFS) should be adopted in Scotland as the new Common Financial Tool?**

Yes  No  Don't know

**If you answered 'No' to Q1 - please go to Q3**

2. **If introduced, should the SFS be used in the review of existing contributions which are not originally determined using the SFS?**

Yes  No

**If you answered 'No' to Q2, what would be the appropriate method for reviewing the contribution amount?**

Answer: The contributions do not need to be reviewed and should not be reviewed as clients have entered into these contribution agreements on the basis of the legislation that was relevant at the time. It would be both unjust and unfair to review them.

**Please now go to Q5**

3. **For what reason(s) do you believe the SFS is not the appropriate tool for all Scottish statutory debt management and debt relief solutions?**

**Please provide information and any evidence that supports your reason(s).**

Answer: Our agency contributed to the research carried out by Money Advice Scotland which shows that there would be a far greater degree of trigger breaches. While the Accountant states that the trigger figures should not be seen as spending limits they do in fact operate as such: any expenditure over the current CFS is challengeable by creditors and conversely as the CFS guidance states advisers do "not need to explain the financial statement to creditors unless the trigger figures are exceeded". This does not mean that advisers ignore the rules set out by the FCA, they still ensure that any financial statement is a true reflection of the debtors circumstances but they will advise the client of the need to justify breaches of trigger figures and where no reasonable justification is available they will discuss strategies to reduce expenditure so that they fall within the guidelines. These guidelines are based on the expenditure of lower income households and therefore all over-indebted people seeking debt advice are asked to adjust their lifestyle to that of lower income households. It is therefore surprising and concerning that the Accountant believes that in some circumstances even this level of expenditure would

be unreasonable. Furthermore, as an agency that works with many low income households their spending is often limited by what they have rather than what they reasonably require and therefore basing trigger figures on their spending patterns Use of the SFS will in many cases require those in problem debt should be asked to make even greater cut backs while many of them are entering into long term arrangements with little or no contingency for emergency expenditure (insolvency contributions last for 4 years in most circumstances and payment plans can run as long as is agreeable to the creditor). Their access to credit to address emergencies is severely limited as a condition of participating in a statutory debt solution and the likely interest rate they would be charged given their situation is very high. The SFS only allows a maximum of £20 savings (and then only if their disposable income is £200, realistically for most clients the amount allowed will be far less). On the other hand the CFS allowed more space for discretionary items such as gifts or repairs.

**4. What do you consider an appropriate method for determining a debtor's contribution for a Scottish statutory debt management and debt relief solution?**

**Please provide information and any evidence that supports this and detail who you consider should manage and fund this process.**

Answer: I believe that an appropriate measure would be the Minimum Income Standard as set out by Joseph Rowntree Foundation. In considering this, AiB should have regards to the Supreme Court's decision in *R (on the application of UNISON) v Lord Chancellor, 26 July 2017*. In making this decision the Supreme Court accepted that a reasonable measure of the amount required for a household to live on was the Minimum Income Standard as devised by the Joseph Rowntree Foundation. Furthermore, in judging whether the fees payable were affordable stated that they must be "affordable not in a theoretical sense, but in the sense that they can reasonably be afforded. Where households on low to middle incomes can only afford fees by forgoing an acceptable standard of living, the fees cannot be regarded as affordable". I attach evidence showing the difference between the Minimum Income Standard and the level of expenditure allowed by the SFS. Clearly, the SFS does not allow for an acceptable standard of living and therefore any contribution set by this tool cannot be regarded as affordable. Given that the setting of the contribution via the current CFT is a condition of application for all statutory debt products I believe that the Minimum Income Standard should similarly not be breached when assessing a debtor contribution as this also constitutes an interference in access to justice. This interference is arguably more severe since it is payable over a longer period – 48 months in the case of insolvency and an indeterminate period for DAS. It is unjust to expect families to forgo an acceptable standard of living not only to access the debt solution they require but for a prolonged period.

**5. If the SFS is to be introduced from 1 April 2018, will you be able to make any required changes to your IT and other operating systems, in time to use the SFS from this date?**

Yes  No

**If you answered 'No' to Q5, how long after 1 April 2018 do you believe you will be ready to use the SFS?**

Up to 3 months  3 to 6 months  a longer period (Please specify) \_\_\_\_\_

## RESPONDENT INFORMATION FORM

Please note that this form must be returned with your response to ensure that I handle your response appropriately.

### 1. Name/Organisation

Organisation Name

East Renfrewshire Council – Money Advice & Rights Team

Title Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

Surname

Birrell

Forename

Nicola

### 2. Postal Address

211 Main Street

Barrhead

Glasgow

Postcode G78 1SY

Phone 0141 577 3102

Email

### 3. Sector

*Please tick as appropriate*

Advice Sector

Creditor

Local Authority

Solicitors/Advocates

Insolvency Practitioners

Debtor

Sheriff Officer & Messenger at Arms

Judiciary

Other  If other please specify \_\_\_\_\_

#### 4. Permissions - I am responding as...

**Individual** / **Group/Organisation**

*Please tick as appropriate*

(a) Do you agree to your response being made available to the public (in Scottish Government library

(b) Where confidentiality is not requested, I will make your responses available to the public on the following basis

**Please tick ONE of the following boxes**

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library  
Are you content for your **response** to be made available?

**Please tick as appropriate**

Yes  No

(d) I 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 I require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

**Please tick as appropriate**

Yes

Please return your response to [OPC@aib.gsi.gov.uk](mailto:OPC@aib.gsi.gov.uk) or to: Graeme Perry, AiB, 1 Pennyburn Road, Kilwinning, Ayrshire, KA13 6SA by 27 October 2017.