



**ACCOUNTANT IN BANKRUPTCY CONSULTATION ON THE FUTURE OF THE
COMMON FINANCIAL TOOL**

**RESPONSE FROM THE ASSOCIATION OF BUSINESS RECOVERY
PROFESSIONALS' (R3) SCOTTISH TECHNICAL COMMITTEE**

October 2017

Introduction

1. R3, the Association of Business Recovery Professionals, is the leading professional association for insolvency, business recovery and turnaround specialists in the UK. It promotes best practice for professionals working with financially troubled individuals and businesses. It has UK-wide representation and debates key issues facing the profession. Most insolvency practitioners (IPs) operating in Scotland are members.
2. The Association's Scottish Technical Committee ("STC") welcomes the opportunity to respond to the consultation on the Future of the Common Financial Tool.
3. The STC has previously commented on the need for flexibility and the ability to use discretion in determining a contribution, notwithstanding the application of a standard format for calculation.
4. The Scottish Government's policy for the introduction of the Common Financial Tool was to ensure equal treatment of all debtors across all debt solution procedures. Assuming that the SFS is adopted widely by stakeholders irrespective of the availability of other guidelines in the rest of the U.K., if the SFS is adopted in Scotland, there would be a degree of consistency across the U.K.. We understand that if the SFS is not adopted in Scotland, CFS will require to be maintained for a period of time, until a suitable replacement can be found. In these circumstances, it makes sense for the SFS to be adopted in Scotland, whether or not the rest of the UK decides to follow suit.

Comments

5. The Committee is of the view that there is merit in the adoption and application of a single tool across the U.K. to assess a debtor's income and expenditure. This should ensure consistency of approach, while ensuring sufficient flexibility to reflect the specific geographical and domestic circumstances of the debtor.
6. In general, we are in favour of adopting the Standard Financial Statement (SFS) as guidelines which offer flexibility to use professional judgement and discretion in assessing individual debtor circumstances.
7. We are mindful of the fact that separate consultation is ongoing regarding the use of the common financial tool in the Debt Arrangement Scheme (DAS) and issues have also arisen in relation to protected trust deeds (PTDs). We believe it is important that these are kept in mind so there is an integrated approach. In this context, we wonder whether the assumption that there will be little difference in contribution levels under the SFS is correct? We have been made aware of an exercise carried out on a small sample of cases where out of 15 cases, 11 re-assessed under the SFS resulted in an increased contribution of between £2 and £157 and an average of £60.85. This is clearly a small sample only. Even if this does reflect a general trend, we do not consider it should necessarily militate against the adoption of the SFS, particularly if the existing CFT will in future not be supported. We suggest consideration needs to be given to whether potentially higher contributions under the SFS might affect the viability and success rates of PTDs and/or DAS. In this respect, we consider that the point made in the previous paragraph regarding flexibility and discretion is key.
8. IPs and Money Advisers in Scotland have been using the Common Financial Statement (CFS) since 2015 and therefore have experience of transitioning from previous guidelines to a new single tool. However, the introduction of CFT in 2015 meant that a significant number of cases paid a lower or no contribution on appointment or assessment. If per s7 above, the application of the SFS results in an increased contribution, expectations surrounding its introduction and use will have to be signalled clearly and managed accordingly.
9. Making the necessary changes to systems, software and procedures is not anticipated to be much of an obstacle to the introduction of SFS in April 2018
10. Certain assumptions made in the consultation document in respect of providing consistency and assurance for the money advice sector and creditors that a debtor will be making the appropriate contribution towards their debt cannot be guaranteed. We suggest that these are properly tested using all the necessary information.

11. To ensure the Scottish perspective is taken into consideration, we suggest that the AiB have input into the updating of the trigger figures as and when these are made.

CONSULTATION QUESTIONS

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 **Qualified in comments above.**

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 were not originally determined using the SFS?

Yes No **Suggest same process be adopted as was used with the introduction of the CFS.**

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

Answer: _____

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: _____ n/a _____

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: _____ n/a _____

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 we handle your response appropriately.

1. Name/Organisation

Organisation Name

R3 Scottish Technical Committee

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

Surname

Blackburn

Forename

Eileen

2. Postal Address

French Duncan LLP

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3. Sector

Please tick as appropriate

Creditor

Advice Sector

Local Authority

Debtor

RPB

Solicitors/Advocates

Insolvency Practitioners Other If other please specify Trade Body

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 and/or on the Scottish Government web site)?

Please tick as appropriate Yes

(b) Where confidentiality is not requested, we 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 and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

(d) 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?

Please tick as appropriate



Yes

No

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