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Emailed to: [AIB\\_Policy\\_Development\\_Enquiries@gov.scot](mailto:AIB_Policy_Development_Enquiries@gov.scot)

Dear Carol,

I would like to respond to your further consultation on surplus income within the Debt Arrangement Scheme, published on 29 June 2016, on behalf of the Association of British Credit Unions (ABCUL). We appreciate the opportunity to do so.

ABCUL is the main trade association for credit unions in Scotland, representing the majority of credit unions and credit union members. Credit unions are deposit-taking financial co-operatives primarily providing savings and loans facilities to their members and have a key role in promoting financial inclusion. The sector has enjoyed the support of successive Governments, both in Scotland and in Westminster.

We take a particular interest in matters of insolvency as, although credit unions do not necessarily experience a higher amount of insolvency cases as a percentage of their overall activity than other creditors, their structure means that they generally do not have the margins to 'soak up' losses in the same way that a bank or a high interest credit provider might. Indeed, legislation in place means that credit unions cannot generate income through means other than lending, and also sets a limit of what credit unions can charge in interest. This unique arrangement means that credit unions are automatically at disadvantage compared to those organisations they are competing with in the lending market.

However, credit unions largely see providing access to affordable credit the core of their business and wish to continue to be able to lend to those who are generally excluded from mainstream financial services. It is therefore vital that the arrangements in place for when an individual finds themselves in financial difficulty are fair to everyone, and that the system is set up in a manner that enables small creditors to fully participate.

We would like to comment on the part of the response the AiB is seeking more views on: the use of the Common Financial Tool with the calculations of a DAS (Point 2). The use of a CFT was brought in with by the Scottish Government relatively recently, with significant fanfare, and was welcomed by the money advice sector. We are disappointed that, within a relatively short period of time, the AiB has put proposals forward that would effectively see the end of the CFT being used as a standard practice. We would therefore prefer that Option 1 was continued, with no change to the existing legislation in relation to this matter.

We fully understand that the money advice sector's desire to seek more flexibility in DAS with a view to driving up numbers, and the credit union sector would similarly like to see DAS uptake increase more steadily than other statutory debt solutions. We share their concern and frustration that the opposite is currently true.

However, we cannot agree that the only remedy to the issue that has been identified – that the CFT does not allow people to ‘enjoy’ at least some of their income or accommodate unexpected costs or income changes - would be to move away from it altogether. Indeed, as this consultation document sets out, the savings provision – which enables debtors to save up to £20 of their surplus income before making any payments to creditors – was included in the CFT for this very reason. Although this might have caused a reduction in payments to credit unions, we welcomed the inclusion of a savings element – our sector places huge importance on encouraging people to save and felt this was an important signal from the AiB on what ought to be encouraged in money management.

Yet, for reasons that are not entirely clear to us, this provision is little used. Whilst we have heard feedback suggesting that it largely due to a lack of surplus income, this of course should not be the case in a DAS. We would therefore urge the AiB to work with advisors to better understand the reasons why this is not being used, and promote its use, rather than seek to scrap the whole system.

We further note that the current rules allow for payment holidays, in order to deal with income shocks or unexpected life events, and that the AiB will now be seeking legislation to allow debtors to access credit whilst in a DAS. Overall, we cannot accept that the current arrangements do not provide flexibility, and so we cannot support any changes.

We would like to add some comments about our experiences of the system as creditors. In truth, it is often far from ideal – returns are generally low, and it’s clear that many advisors are not working within the spirit of the legislation. As smaller creditors these problems are exacerbated – the information sent out to creditors is often hard to make sense of or incomplete, and the lack of engagement from larger creditors tends to make the credit union voice redundant.

However, on the whole, the system seeks to be fair to everyone and the CFT sets out a framework that, whilst imperfect, give some level of consistency and places limitations on those debt solution providers who appear to be keen to minimise creditor influence. We respect and appreciate the work carried out by the AiB/Scottish Government in recent years to implement a structure that attempts to balance the needs to the different parties. We are concerned that changes of this nature will send out a signal that those with sufficient incomes can, if they wish, prioritise immediate spending above the repayment of debts and the need to save.

Fundamentally, we do not accept that the decline in DAS is because of the CFT, but because the system still incentivises other solutions that are shorter in duration and that enable the debt advice sector to recover more fees. Whilst we note that the money advice sector feels frustrated at the scrutiny of DAS DPPs by the AiB, this is only really problematic as long as PTDs are subject to very little scrutiny, and in an environment where it is generally well known that many creditors will not object to PTDs, even where they are clearly not the most appropriate solution.

Though we appreciate that there is no further consultation being undertaken on other proposals put forward, we would like to take the opportunity to comment.

With regards to Point 1 (“All Debts”), we support relaxing the requirements for rent and mortgage arrears to be included in a DAS, where it is deemed appropriate. However, we hope that the legislation will make it clear that, in such cases, the DPP will need to be recalculated once these arrears are cleared, in order to ensure that the additional surplus income is redirected to the other creditors and that the individual can be clear of the DAS as soon as possible.

In relation to Point 6 (“Approved Money Advisors”), we support the changes to the legislation to reflect that FCA’s growing regulatory role, and indeed we support the FCA’s work on this. We note that the aim of the increasing FCA influence is to improve the consistency and standards of debt advice, and we are concerned that our members are not yet seeing the impact of this. Whilst we appreciate this is a

complicated area in terms of devolution, we hope that the updates made to the legislation – as well as the execution of the legislation – will be sufficiently clear in what is expected from debt advisors.

We hope that the above feedback will be taken into account and, of course, we will continue to engage with the AiB throughout the process to ensure the best outcome for everyone. Please do let me know if you have any questions, or would like to discuss further.

Yours sincerely,

**Karen Hurst**  
**Policy Officer (Scotland), ABCUL**