

Response ID ANON-UNSE-BYCW-G

Submitted to Low income and debt problems inquiry
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About you

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How your response will be published

I would like my response to be published in its entirety

What is your name?

Name:
Prof Donna McKenzie Skene and Dr Alisdair MacPherson

What is your email address?

Email:
alisdair.macpherson@abdn.ac.uk

Are you responding as an individual or on behalf of an organisation?

Organisation

Organisation details

Name of organisation

Name of organisation:
Centre for Scots Law at the University of Aberdeen

Information about your organisation

Please add information about your organisation in the box below:

Digital exclusion

1 How does digital exclusion affect people's experience of debt and seeking money advice?

Please provide your response in the box provided.:

2 Are there examples of good practice which reduce barriers created by digital exclusion?

Please provide your response in the box provided.:

Accessing money advice

3 What are the barriers to accessing money advice for people with low incomes and debt problems?

Please provide your response in the box provided.:

4 Are free money advice services able to meet demand?

Please provide your response in the box provided.:

Debt and mental health

5 How does having a debt problem impact on people's mental health?

Please provide your response in the box provided.:

6 Are there examples of specific research looking at the relationship between debt and mental health issues?

Please provide your response in the box provided.:

7 Are you able to provide “good practice” examples of projects which work to reduce the mental health impact of debt?

Please provide your response in the box provided.:

The legal framework for dealing with debt

8 Does the current legal framework for formal debt solutions – in other words, bankruptcy, Protected Trust Deeds and the Debt Arrangement Scheme - meet the needs of people on low incomes with debt problems?

Please provide your response in the box provided.:

We consider that the current legal framework does meet the needs of people on low incomes with debt problems up to a point, but that a further review of the current framework, which is currently being undertaken, is desirable. This will allow for further improvements to be made to the law, in a way that better meets the needs of people on low incomes with debt problems.

9 Have recent reforms to bankruptcy laws helped people on low incomes with debt problems?

Please provide your response in the box provided.:

We consider that the changes made by the Bankruptcy (Miscellaneous Amendments) (Scotland) Regulations 2021, which made permanent some of the temporary changes made by the Coronavirus (Scotland) (No. 2) Act 2020 (such as the reduction and removal of bankruptcy application fees and the raising of the debt threshold for minimal asset process (MAP) bankruptcy), are helpful for people with low incomes with debt problems. However, given the narrow focus of the reforms, their impact may be relatively limited, although it should also be noted that these are merely the latest reforms intended to specifically focus on helping people on low incomes with debt problems.

10 Do you have any suggested changes to the law in this area?

Please provide your response in the box provided.:

We consider that there are changes which could usefully be made to the law in this area.

The legal framework relating to sequestration already contains specific provision for low income, low asset debtors in the form of the minimal asset process (MAP) and, as the committee has noted, there have recently been some changes to the provisions regulating MAP. As the committee will be aware, there is an ongoing review of the statutory debt solutions in Scotland. Professor McKenzie Skene participated in one of the working groups which were formed as part of stage 2 of that review, which is now almost complete. Stage 2 of the review was designed to make recommendations for interim changes to the law in a number of areas pending a wider review of the legal framework as a whole at stage 3. The areas covered by stage 2 of the review include several which are relevant to people on low income with debt problems and the wider review is also likely to include matters of relevance to them. We believe that it would be appropriate for the outcome of stage 2 and stage 3 to be taken into account in considering exactly what further changes to the law are appropriate.

In addition, the AiB has been undertaking a review of the law of diligence in Scotland and its recommendations will likely have relevance for people on low incomes with debt problems. The law of diligence deals with debt enforcement and the rights over the debtor's assets that are obtained by creditors using enforcement processes. Changes to the law of diligence could make it more or less likely that a debtor seeks to use a formal debt solution (or indeed make it more or less likely that a creditor will seek to place a debtor into a formal insolvency process). As such, reforms to the legal framework for statutory debt solutions should also consider the law of diligence and (potential) amendments to that law.

In considering any further changes to the law, we think it is important to remember that the legal framework must be designed in such a way as to be able to deal appropriately with all types of debtors, not just those on low incomes. It must also balance the interests of debtors and all types of creditors. Change should also be carefully thought through to ensure that they do not have unintended adverse consequences for those they are designed to help.

Finally, we would note that making changes to the legal framework may only be able to go so far in addressing the needs of people on low incomes with debt problems. If the real underlying problem is that people do not have enough income to meet their reasonable needs without incurring unsustainable debt, then changes to the legal framework will not necessarily resolve this, and indeed may result in a system which is not otherwise fair or balanced. In such a case, we suggest it would be more appropriate to seek to address the underlying problem in other ways whether through financial education, economic or financial policies or otherwise.

Essential services

11 What are the main types of debt that people on low incomes with debt problems are likely to have?

Please provide your response in the box provided.:

12 Do processes to deal with rent arrears (including private sector rent arrears) and council tax arrears support people on low incomes to deal with their debt problems?

Please provide your response in the box provided.:

13 Do you have any suggested changes to the law or practices in this area?

Please provide your response in the box provided.: