**Wider Review of Scotland’s Statutory Debt Solutions**

**Stage 2 Working Groups – An Introduction**

**March 2022**

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# Introduction

1. The reports from each of the working groups document the findings of Stage 2 of the [Wider Review of Statutory Debt Solutions](https://www.aib.gov.uk/about-aib/consultations-and-reviews/wider-review-scotlands-debt-solutions) (“wider review”). These have been developed by the members of the working groups – three short term working groups established by the Scottish Government to consider a number of areas within Scotland’s personal insolvency and debt management regime that had been highlighted by stakeholders as potential areas where improvements could be made. The groups were tasked with examining the current solutions available for those with problem debt and present ideas and recommendations for improvement to be considered by Scottish Government Ministers.

2. The groups drew on a wide range of expertise and knowledge, including representatives from the money advice sector, creditor organisations, insolvency professionals, their representative bodies and lawyers. Details of members can be found in the [Terms of Reference](https://www.aib.gov.uk/wider-review-statutory-debt-solutions-stage-2-working-groups-terms-reference).

# Background

3. This work forms part of the wider review which is being carried out by the Scottish Government. This review was commissioned by Jamie Hepburn, MSP, the then Minister for Business, Fair Work and Skills in response to issues brought forward at stakeholder meetings and during Parliamentary scrutiny of legislation and a specific inquiry into the operation of Protected Trust Deeds (PTDs) – one of the statutory solutions for those facing issues of problem debt in Scotland.

4. The review consists of three stages. Stage 1 was completed early in 2021 and resulted in a number of [legislative changes to bankruptcy](https://www.legislation.gov.uk/sdsi/2021/9780111049099/contents), including reductions and in some cases removal of all fees for accessing bankruptcy, widening access to Minimal Asset Process bankruptcy, which provides debt relief for the most financially vulnerable. More strategic changes will be dealt with during Stage 3 - this is expected to include topics such as how the family home should be dealt with in insolvency proceedings, funding and regulation of insolvency processes.

# Approach

5. The three working groups focussed on specific topics. There was scope for members to feed into the work of each of the groups, with information being shared across groups. The topics were split as follows:

* **Group 1** considered the operation of the current Scottish moratorium – the period of time that enables those with debt to seek advice and a solution without the threat of creditor enforcement action being taken against them. This included consideration of the period of time and whether there should be any further reform. This group also considered the Common Financial Tool (the current tool for assessing a contribution in debt solutions) and any improvements that could be made.
* **Group 2** considered the report and recommendations of the then Economy, Energy and Fair Work Committee following their inquiry into the operation of PTDs.
* **Group 3** considered bankruptcy and a range of issues that were common to all of the debt solutions. Examples included the criteria to access bankruptcy; whether there should be any changes to the repayment periods in debt solutions; whether any changes are needed to how people exit from bankruptcy and other solutions; and if any changes were needed to the rate of interest that is currently applied when all of the debts in a bankruptcy can be paid in full.

6. Each group was tasked with identifying and testing out possible recommendations which could be shown to be progressive, evidence based and strike the right balance of fairness to all parties. They were asked to develop their own report, outlining their recommendations and their potential impact.

7. Although the process and recommendations are stakeholder led and independent, the groups were supported by Accountant in Bankruptcy (“AiB”) who helped to facilitate meetings, acting as secretariat and hosting the meetings. The groups had access to additional resources, which included requesting additional statistical information from AiB. All [statistics used by the groups](https://www.aib.gov.uk/about-aib/statistics-data/ad-hoc-experimental-statistics) were posted on AiB’s website and visible to group members.

# Recommendations

8. The working groups’ reports include a number of recommendations where there has been consensus on issues discussed. Some of the issues considered are complex in that there are strongly opposed views amongst stakeholders - on some of these topics consensus has not been reached. In these areas, the working group reports have considered the issues involved and the arguments presented for and against the options discussed. In some areas there has been consensus for recommending change, with the recommendation that further specialist work is needed to identify a specific solution or value – examples include uprating the appropriate vehicle value threshold in bankruptcy and the appropriate rate and approach to setting the level of the prescribed rate of interest applied when debts can be paid in full.

9. The recommendations have been made for consideration by Scottish Ministers. It was recognised that the working groups provided a place for detailed discussion and are only part of the process. Further work, including consultation, will also be required before determining the way forward.

# Language

10. This report uses the term “debtor” to mirror the language used in legislation. When using this term it means any person who owes money to another person or business.

11. The groups discussed whether to move away from using the term debtor as concerns were raised about the term being seen as stigmatising, preventing people from seeking help. Discussions to find a suitable alternative such as “consumer” were found to not cover every situation. Ultimately, a decision was taken to refer to “debtor” as it is widely recognised and used in insolvency legislation. It is also a term used widely outwith insolvency, including in the accounting and financial professions. However, it was recommended that Stage 3 of the wider review should consider the use of language adopted in insolvency legislation and publications.