Introduction
Armstrong Watson are ranked in the top 30 UK Accountancy firms of Chartered Accountants and Financial Advisors, by level of turnover.

The Scottish Office of Armstrong Watson operates out of Dumfries. Alison Anderson is an Insolvency Practitioner and has job title of Insolvency Director based in this office. The written evidence provided is from Alison Anderson as opposed to Armstrong Watson as a whole.

Alison Anderson has been an Insolvency Practitioner since 2004 dealing mainly in the area of Personal Insolvency throughout Scotland and welcomes the invitation to supplement this written evidence by providing oral evidence at a meeting of the Committee on 9 October 2013.

Alison Anderson is a member of the Institute of Chartered Accountants of Scotland’s Insolvency Committee; Member of ICAS Sub Committee for the Bankruptcy and Debt Advice (Scotland) Bill.

General comments on the Bill
I fully endorse the aim of the Bill to ensure that appropriate debt management and debt relief mechanisms are available to the people of Scotland and that these are fit for the 21st Century.

I am concerned about the conflicting roles and responsibilities of the Accountant in Bankruptcy (AiB) as policy advisor, supervisor of debt management/debt relief services and supplier to those services which is not addressed at all in this Bill.

It has been encouraging that the initial consultation process has ensured that some of the initial proposals have been abandoned, such as Creditor Petition’s being dealt with by the AiB, Commissioners being abolished and provision of Triage, all being reconsidered and removed.

It is essential that the definition of a Money Advisor includes Insolvency Practitioner. I believe that this will provide the best advice to the individual.

I therefore suggest that prior to Stage 2 of this Bill that further analysis and research is undertaken particularly in the following areas:

Conflict of interest (AiB)
Practicalities of the discharge procedures
Please refer to the Appendix for detailed commentary on each section of the Bill.
Appendix 1

Advice and education
I fully support the principal objective that individuals should seek appropriate advice prior to statutory debt relief.

I support the policy objective of seeking to prevent individuals from repeated financial difficulties. I consider that we should be providing advice much sooner than when a bankruptcy situation occurs.

I believe, having administered approximately 2,000 cases in Scotland since 2004 that an appropriate financial education system may not have any real impact. There is limited or little evidence to suggest that there are significant debtors who become serial bankruptcies as a result of poor financial education.

Payments by debtor following bankruptcy
I fully support and endorse the Bill that debtors who “can pay should pay” and that there should be consistency across all debt relief solutions. I therefore welcome the introduction of a Common Financial Tool. I believe that a Common Financial Tool must however act as a guide/trigger and that appropriate professional judgement can still be taken. We must ensure the ability to treat every case as an individual.

It is still unclear from the Bill whether the intention is that a Debtor Contribution Order (DCO) will be made in all cases where sequestration is awarded following a Petition. I believe this is not required in all cases and should be left to the Trustee to consider whether a DCO is required at the start.

I do not consider that payment breaks in debtor contribution is required. The present current practice of informal payment breaks works well.

Bankruptcy where debtor has few assets
I am unsure of the benefits of discharge after 6 months in these types of cases. I consider this whole issue may lead to confusion for all, and businesses when a debtor is discharged from their bankruptcy but with conditions still attached to such discharges.

Moratorium on diligence
I agree with the policy objectives within the Bill to a moratorium on diligence.

Application for bankruptcy
I agree and support the policy objectives contained within the Bill as they relate to Applications for Bankruptcy.

Administration of Estate
I fully agree with the proposal to require creditors to submit claims within a defined period. I consider that a late claim should only be permitted in exceptional circumstances rather than on the basis of reasonableness.

I fully agree and endorse the practical approach to enable a reduction in the first accounting period.
**Discharge following bankruptcy**
I fully support the link between a debtor’s co-operation and their discharge. I am however concerned about the difference in process depending on who the Trustee is.

I believe however that the system of discharge should be automatic to minimise bureaucracy and costs. It would encourage debtors to co-operate with their Trustee and allow them to receive discharge early if they were co-operating. I consider more consultation is required to ensure the practicalities of administering discharge of debtors is sufficiently dealt with.

I support the repeal of discharge on Composition.

I do not support that debtors who cannot be located are indefinitely deferred from discharge. This to me is penalising not necessarily non co-operative debtors. There should be a difference between deliberate attempts to avoid being located and someone who simply cannot be located.

I do not agree that where the AiB becomes the Trustee when the debtor is untraced, that the costs of the original Trustee can only rank as a claim in the sequestration.

I support the proposal within the Bill dealing with unclaimed dividends and unapplied balances.

I support in principle that the re-appointment of a Trustee in circumstances that assets are discovered after the Trustee is discharged, can be dealt with by the Accountant in Bankruptcy rather than the courts.

**Records**
I support the proposed amendments to deal with Register of Insolvencies and modernise the Sederunt Book process.

I support the provisions contained within the Bill relating to certain requirements in the Edinburgh Gazette.

**Functions of Sheriffs and Accountant in Bankruptcy**
I believe that when a process is purely administrative that this should be carried out by the Accountant in Bankruptcy.

I consider that BRO’s should still be subjected to judicial review. It is important that investigation by a department of the AiB is separated from the granting of BRO’s. From the debtor’s point of view it is important that they have an independent judicial review available to them.

**Review of decisions made by Accountant in Bankruptcy**
I cannot see the purpose of an additional layer of bureaucracy. I also consider that the conflict of interest issue will only intensive because of this.

**Miscellaneous amendments**
No additional comments to make.