Introduction
Christians Against Poverty (CAP) is a national charity which offers free debt counseling to a wide variety of individuals across the UK. CAP reaches local communities through its centre network, which uses local churches to provide a face-to-face assistance in clients’ homes. The majority of the debt counseling and advice is delivered from Head Office directly to the client, with centres providing emotional and pastoral support to debtors.

CAP also delivers a money management course, the CAP Money Course, through local churches across the UK. This course is suitable for all, regardless of indebtedness, and is a revolutionary tool in assisting individuals to manage their finances. A large proportion of CAP Money Course delegates (just under 80% of those interviewed) reported they had passed on skills from the course on the friends and family.

Currently, there are around 218 churches delivering our core debt counseling functions, 14 of which are in Scotland. There are also 60 churches delivering the CAP Money Course in Scotland. Christians Against Poverty did take part in the consultation, along with many other money advice organisations.

General view on the Bill
Christians Against Poverty believes that reform of bankruptcy law in Scotland is essential, and we agree broadly with the Scottish Government in this respect. We also agree with the aims of the Bill as stated in paragraph 3 of the Policy Memorandum. That is, the debt relief framework in Scotland should ensure that individuals have access to fair and just processes of debt management and relief, that where individuals can pay their debts they should pay, and that creditors should be able to secure the best return possible in light of the previous principles.

However, the general tone of the Scottish Government’s consultation paper appeared to impress the position that the current system is too easy on debtors. The paper regularly emphasised the need to increase the dividend to creditors, to tighten the ‘generous’ Common Financial Statement, and the need to ensure that debtors who can pay do so.

CAP believes that many debtors, including many of our clients, rarely evade payment unless they are unable to pay, nor do our clients take the ‘easy’ route of bankruptcy lightly. Indeed, many our clients often consider bankruptcy as a last resort.

In addition, we do not believe that the Bill does enough to improve access to debt relief, particularly bankruptcy. Although bankruptcy should be considered a remedy of last resort in respect of indebtedness, there are currently barriers which deny very poor debtors access to debt relief.
Advice and education
Christians Against Poverty agrees with the Scottish Government that it should be mandatory for a debtor to receive advice from a suitably qualified individual before being able to access a statutory form of debt relief.

In respect of education, we agree with the Scottish Government that financial education is extremely important, and we agree that good financial education can be an effective method of preventing unmanageable indebtedness. Indeed, the CAP Money Course was developed in response to the observation that some of our clients struggled to manage their finances competently.

However, we have some concerns with the Scottish Government’s approach. Firstly, we believe that education of this nature should be incentivised instead of being mandatory. In other words, we believe that financial education should be seen as a positive thing as opposed to being used as a punishment for bankruptcy. Secondly, we believe that prospective section 43B(2)(a)(iv) is an inappropriate indicator of whether an individual needs financial education. Many of our clients move from a Debt Management Plan to bankruptcy due to a change in circumstances, such as a loss in employment. We strongly believe that it is incorrect to assume that an individual needs financial education as a result of redundancy or illness.

Payments by debtor following bankruptcy
Christians Against Poverty agrees that there should be a single common financial tool for all statutory debt relief remedies. We believe that the most effective way of ensuring the best return for creditors from a debt relief remedy is to create a budget that is sustainable. This leads to regular, reliable contributions for creditors. We are therefore pleased that the Scottish Government will be adopting the Money Advice Trust's Common Financial Statement as the single common financial tool.

We agree that the AiB should have the power to make Debtor Contribution Orders in accordance with the Common Financial Tool. In addition, we consider it to be appropriate in most cases for the contribution to be deducted from a debtor’s earnings where the debtor has failed to pay the contribution. However, we would anticipate that the trustee would investigate the reason for default before taking such steps.

We agree that it may sometimes be appropriate for a payment break to occur during a Debt Payment Plan or a Protected Trust Deed, and we therefore agree in principle with the payment break provisions being used for these remedies. However, we do not believe that payment breaks are appropriate when an individual is bankrupt. Where a bankrupt individual is unable to pay a Debtor Contribution Order, we believe that it would be appropriate for the trustee to vary the order rather than grant the debtor a payment break.

Bankruptcy where the debtor has few assets
Christians Against Poverty believes that, where an individual is unable to pay his debts, he should be able to access a statutory debt relief remedy. We believe that there are already too many barriers to bankruptcy in Scotland, particularly the requirement to have not been bankrupt within the last 5 years and the lower debt limit. Such barriers do not serve the interests of creditors or debtors. Where a debtor
is unable to pay his creditors, being unable to access bankruptcy does not increase the chances of the creditor recovering monies owed. We believe that access to bankruptcy should be available to anyone who is unable to re-pay his debts.

We believe that the new ‘MAP’ (minimum assets process) will not go far enough to ensure that debtors can access fair, proportionate debt relief. Although the MAP will allow debtors to be discharged after 6 months, we do not believe this is the most important issue to debtors. We believe that for the MAP to be an effective debt relief remedy, there should be no lower debt limit. We currently have around 5% of our clients who would be unable to access bankruptcy in Scotland due to their debt level being less than £1,500. This creates perverse incentives for such debtors, leading them to either increase their debt or ignore correspondence from creditors in order to hope that the debts become prescribed.

In addition to the above, some of the criteria for the MAP will not serve the interests of debtors or creditors. For instance, we believe that the requirement to be in receipt of benefits for 6 months before application will create an unnecessary barrier. Despite the feedback from some of the respondents to the previous consultation, we do not believe that the majority of debtors, in this current financial climate, would give up their employment in order to access bankruptcy.

Furthermore, preventing debtors from accessing bankruptcy more than once every 5 years (10 in the case of MAP) creates an unnecessary barrier. We believe that, in the current climate, there are many impoverished individuals who are struggling to pay their bills. For many, a large gas bill or unexpected car repair bill can tip a household into unmanageable debt. Such debtors may need debt relief, and will be unable to access it with no advantage to the creditor. We believe that barriers such as these are unnecessary. If a debtor has acted recklessly, a Bankruptcy Restrictions Order is a suitable remedy, without excluding those who are genuinely in need.

We agree with the Scottish Government that, ultimately, it is in the interests of debtors and creditors alike to reduce the costs of insolvency. We previously suggested in our consultation response that the Scottish Government should explore the possibility of replicating the English Debt Relief Order scheme. This scheme operates differently from bankruptcy because there is no trustee appointed or vesting of estate. It is accepted that the debtor has no means to pay, and therefore the debtor is granted a 12 month moratorium, after which the debts are discharged. We believe this to be fairer and more effective than the proposed MAP scheme, which will still need the appointment of a trustee and the vesting of estate.

**Moratorium on Diligence**

Christians Against Poverty is pleased that the Scottish Government is introducing a moratorium on diligence. However, we believe that where a debtor eventually enters into a Debt Payment Plan, interest and charges should be stopped at the date of intimation. We agree with the limit on the number of intimations within a 12 month period.
Vesting of estate after sequestration
Christians Against Poverty does not believe that it is practical or appropriate for the acquirenda period to be extended beyond the period of discharge. We believe that this will remove certainty for debtors, and will create extra unnecessary costs.