What is your general view on the Bill and broadly, are you supportive of it?
While there are some positive aspects to the Bill, there are concerns over certain points which are punitive and constitute a backwards step in comparison to more recent changes in Bankruptcy legislation.

Did you take part in the Scottish Government’s consultation on the Bill and have your views been reflected?
Yes and only in part

What is your view on the following provisions within the Bill?

- **Advice and Education:** The provision of compulsory money advice allows debtors to make informed decisions about accessing bankruptcy. The mandatory requirement for education, however, is viewed as being problematic, particularly in terms of debtors who have ‘failed’ DPPs within the last five years. Debtors can enter DPPs with the best intentions but fail to conclude them through changes in circumstances, which are made more likely by the long terms associated with some DPPs. It is also questionable how effective compulsory education will be for those it is intended to target such as the minimal numbers of ‘can pay won’t pay’ debtors. Also, for deprived clients in poverty situations, financial education won’t assist with the fact they have limited income which is the fundamental reason they may need to do a repeat bankruptcy.

- **Payments by debtor following bankruptcy:** The use of CFS (Common Financial Statement) is a positive step providing the AiB allow money advisors to utilise their judgement with its application. With regards to the power of trustees to contact debtor’s employers following missed payments, two is too few. Small changes to clients’ income such as problems with tax credits can take far longer than two months to resolve. This timescale should therefore be extended to 4 months of missed payments. Concerns have also been noted that the above could put a debtor’s employment status in jeopardy. The payment break is a pointless tool as a debt variation is more realistic and advantageous to the client. Four year bankruptcy period seems artificial and will result in more potential issues with contributions.

- **Bankruptcy where debtor has few assets:** The debt level is too low given that the average LILA debt was around £17,000. It could also mean that the £10,000 limit is exceeded through a small change such as a benefit overpayment coming to light or escalating payday interest. Access should be based on client circumstances not how much debt they have. The ten year gap for repeated access to this route could also leave poverty cases trapped in a cycle of debt. The six month term, however, is a positive step. Additionally, in cases where a MAP is converted to a standard bankruptcy, this could cause issues with regards to the differences in permitted assets.
• **Moratorium on Diligence**: Supportive of the moratorium in diligence. It would be advantageous if the moratorium would freeze existing wage arrestments for the 6 week period.

• **Statement of undertaking**: The section over maintaining ongoing liabilities could mean that impoverished clients with continual overspends (thus meaning they cannot afford to maintain expenditure such as council tax) will never be discharged and therefore unable to access debt relief.

• **Discharge following bankruptcy**: The main issue relates to whether provisions are made for vulnerable clients who are unable to cooperate fully with their trustee due to health issues. Also, what measures will be put in place to ensure trustees are consistent in their approach in terms of dealing with vulnerable clients? What happens in cases where discharge is delayed – will client be bankrupt for decades? AIB should look to review un-discharged cases to avoid permanent bankruptcy.

• **Review of decisions made by Accountant in Bankruptcy**: It is sensible for non-contentious actions to be removed from the Sheriff Court, however, in areas such as bankruptcy restriction orders, access to justice could be compromised. There is a need for an unbiased party to be involved in such cases.