Executive summary

Haddington CAB is an approved agency for the purposes of the DAS and also is the only agency in East Lothian accredited to Level III National Standards. Prior to agency approval, the CAB had the only DAS Approved Adviser in East Lothian. 138 DAS cases (not including variations) have been submitted since 2006 (see table at Appendix).

Haddington CAB is concerned that, yet again when a new Bill/Act is introduced that there is no additional resource provided for the debt advice sector. The introduction/approval of lay representation and certification for sequestration competences incorporated into the Home Owner & Debtor Protection is a prime example. Had we not been successful in securing funding from the Scottish Legal Aid Board in respect of the former, we would not have been able to meet the demand.

This is not the case for other Bills currently going through Parliament such as the Public Bodies (Joint Working) Bill where the impact on and additional resourcing needs for the third sector is recognised.

Current funding from the local authority towards our debt advice service has remained static since 2006-07, however salaries (1 FTE Approved Adviser and 15hr admin) have not, nor have associated overhead and direct costs therefore there has effectively been a cut in funding in real terms.

Encouraging more people to take advantage of DAS through TV adverts urging them to go to CAB is laudable however, no matter how creative we are with service delivery while adhering to the requirements of the National Standards accreditation, the finite resource is in danger of self combusting and this is a real concern for us as work colleagues, Manager and employers. It would also be helpful to have “proper” advance warning of promotional activity (not just on “DASH”). It would also have been helpful for the AiB to have updated their money adviser details prior to promotion as some are incorrect.

Other concerns

- The proposed Common Financial Tool – the “original” tool was not felt to be fit for purpose. What is required is a proper debt management system to be used by all sectors. This would enable “like for like” statistical comparison and give government accurate data on the indebtedness of debtors. The apparent intention to use the Common Financial Statement is welcomed as it is “industry standard” rather than developed by an individual company/organisation.
- The fee for bankruptcy was and will remain a barrier to debt relief. The 100% increase from £100 to £200 was a major impediment to many of our clients. If the MAP fee is confirmed to be £100 then this would be welcomed however
the fact remains that it is still a barrier and, while full cost recovery is an understandable aim, it should not be a deterrent to people in need.

- We have concerns about people being able to maintain contributions if the period is extended from 36 months to 48 months. The administration of this will negate any cost benefits from full cost recovery!
- Having achieved accreditation at National Standards Level III, it is of great concern that the “working towards” without any targets/timescales is to be implemented and at only Level II. We also had to achieve this without any additional resources and therefore are surprised that more resources would be required by the AIB. Will accreditation apply to the unsolicited telephone services?
- Who will deliver the financial education and is it necessary to be mandatory? Any good debt adviser will, in preparing an income & expenditure, provide financial education on budgeting and buying choices – whether the individual chooses is up to them but it will be an informed choice. A mandatory scheme is not a good idea!
- Bank accounts! As there is currently only 1 bank (Barclays) that will open accounts for undischarged bankrupts, there needs to be more pressure on the mainstream banks to offer this – perhaps they could provide the financial education alongside this?! Lack of choice is a huge concern to our debt advisers.

Response to the call for evidence

What is your general view on the Bill and broadly, are you supportive of it?
Cautiously supportive however concerns above would need to be addressed/incorporated.

Did you take part in the Scottish Government's consultation on the Bill and have your views been reflected?
We have attended and contributed to a number of stakeholder events regarding the proposals and are reassured that it would appear, as some proposals have been changed, that some of our views have been taken on board.

Advice and education
Our concerns about the additional pressures this will put on an already overstretched service which is working near to over capacity are stated above. If advice is mandatory i.e. statutory, then it must be properly resourced and not in the ad hoc way that it is currently.

We have considerable experience of individuals who have received inappropriate advice for their situation and have to spend a long time trying to remedy this. In our experience, these cases are mainly attributable to services which have their main base outwith Scotland/emerging from the fee charging “debt management” sector. This experience gives rise to our concerns about “working towards” Standards – either you are accredited or not and accreditation of either the National Standards or other Quality Assurance scheme such as CAB where the quality of advice is assessed, should be the benchmark (no Standard, no resources?!). Who is going to monitor and assess this (and how much will that cost!!?)
We also had considerable experience of providing dedicated financial education to individuals and groups which was funded (and independently evaluated) by the Scottish Government but the funding was short term/non recurring and therefore the project ceased. The benefits of the FE Project were many for individuals and groups therefore increased resourcing for this would be welcomed however there is not enough detail provided to judge how beneficial this would be whether mandatory or not! The majority of our FE clients did not have digital access or the means to source it.

**Payments by debtor following bankruptcy**
Common Financial Tool – see initial comments.

Wages deductions – we are concerned that this will be implemented after only 2 payments missed. We believe this should be a last resort and not automatic, after all if the debtor works in an occupation where disclosure could put their employment at risk, this will benefit no one!

We welcome the “payment break” proposal across all debt relief and debt management products – this has been appreciated by our DAS clients, ensuring that where they have a short term change in their circumstances, the agreement will not fall.

**Bankruptcy where debtor has few assets:** introduction of “minimum assets process” to replace the “Low Income Low Asset” route.
We welcome some aspects of the proposals, including the retaining of the £1,500 lower limit on total debt and the six month discharge from bankruptcy but have concerns that there is no definite fee having been decided.

The introduction of LILA was hugely beneficial to many of our clients who were “in limbo” having no income or assets but no debt relief was available to them. We trust that access to debt relief for people in these circumstances will be maintained and that the basis for the fee will be focussed on the debtor not on funding the AIB. The impact of Welfare Reform changes with people having to fill the Housing Benefit/rent gap gives further cause for concern in relation to this.

The option of paying the fee in instalments is helpful however the fact that they can’t have an application accepted till paid in full or get access to what they’ve paid is very concerning.

We support Citizens Advice Scotland’s suggestion for a deposit and payments during the lifetime of the MAP with no discharge until paid in full.

If people are moved from MAP to full bankruptcy if their circumstances change, they will then not be discharged for 48 months rather than 6 months under MAP – there needs to be made clear in any publication from the AIB regarding this.

Money in the bank is not counted as an asset under MAP but would be under bankruptcy, so if a client is moved by AIB then any money which was previously “safe” is suddenly at risk!
The minimum debt level for bankruptcy will be increased to £3,000 but not for MAP. We have concerns that this is encouraging people to get into more debt before they can declare themselves bankrupt?

Moratorium on diligence: introduction of six week single moratorium on diligence
A moratorium will provide a breathing space for debtors to seek advice on debt solutions while being protected from creditor action – but those who are unable to afford the fee for bankruptcy won’t benefit from this and will still be exposed to diligence.

Discharge following bankruptcy: process for debtor’s discharge from bankruptcy (application, review, appeal, repeal, deferral, unclaimed dividends, discovery of assets)
The process of discharge is not clear on what is meant by “co-operation” and, to enable us to advise clients properly, we would need this clearly defined.

Conclusion
There are benefits and disadvantages and it is to be hoped that a balance will be achieved! There are other implications, particularly for third sector agencies.

If no additional resources are forthcoming and a client has to wait a number of weeks before seeking an accredited money adviser, is there a potential for them to make a negligence claim as they have not been able to get their debt frozen earlier due to the delay?!!!

The intention of the Financial Conduct Authority to individually licence organisations could have significant ramifications for CAB and could influence service delivery decisions which could impact on the provision of debt advice across Scotland. It is unclear whether local authorities will also require individual licences.