1 Background

1.1 The Community Charge Debt (Scotland) Bill was introduced by the Scottish Government on the 3rd December and has designated the Finance Committee as the lead committee for scrutiny of the Bill.

1.2 On 10th December a Call for Evidence was issued on behalf of the Finance Committee seeking a response by noon on the 7th January.

1.3 The Call for Evidence contains 4 questions and provides the opportunity for respondents to provide any additional points. Detailed below are the Council’s responses to the Call for Evidence.

2 Question 1 - What is your view on the purpose of the Bill and broadly, are you supportive of it?

2.1 The purpose of the Bill is to end the collection of Community Charge arrears from debtors. This means that those who have not paid are released from their obligation to pay without any assessment of their ability to pay. It is suggested that the collection of the outstanding debt using information from electoral registers is inappropriate. I believe that the primary aim of any taxation system is to seek payment from each, according to their means, of their contribution towards the funding of the service delivery to our communities. The collecting authority, in this case Local Authorities, should be empowered to use all available information and means to seek collection. This ensures that the tax is fair to all as it is due and payable by all. The Bill seeks to inhibit this collection at the very point where additional resources could be recovered from these debtors.

2.2 In respect of tackling inequalities I am unclear how the limitation on collection from these debtors provides equality with the majority of the population that paid their liability.

3 Question 2 - Do you have any views on the level of the financial settlement that is proposed in connection with the Bill?

3.1 The financial settlement should be based on a reasonable projection of what resources (i.e. recovery from Debtors) that could be expected based on the current levels of recovery, adjusted for the improvement based on the new information now available, for a reasonable collection period. The level of financial settlement proposed does not adequately provide for this.

3.2 The “Explanatory Notes and other accompanying documents” and the “Policy Memorandum” make reference to the data gathered from the LA Directors of Finance as the basis for determining the compensation figure. The data requested was specifically about those cases where currently there was an arrangement in place and did not seek to assess the collectability of outstanding Community Charge. As such the financial settlement proposed was based on only those cases where a Local Authority (LA) was currently collecting and does not take into consideration new cases that would, in future, have been identified.
3.3 As indicated in the paper the recovery level for 2013/14 was £327,000 which was achieved prior to any new information on debtors being available from the electoral register. Even at this level (i.e. £327,000 per annum) the settlement represents just over 2½ years collection.

3.4 Given the length of time the Community Charge was in operation, 4 years, and the length of time over which recovery of these arrears has been undertaken i would suggest that the settlement should be based on a projection of the collection achievable over the next 5 years. This would properly compensate the LA for the current agreements which would be foregone and for a proportion of future collection agreements which could be expected to be made but will now be inhibited.

4 Question 3 - Does the settlement figure accurately reflect the total community charge debt that would be recoverable by local authorities, given the operation of the law of prescription?

4.1 No, as referred to above the level of financial settlement is inadequate and will not meet the projected recovery of Community Charge in the future. The inference in the “Explanatory Notes and other accompanying documents” and the “Policy Memorandum” would appear to be that prescription is a major factor in the inability of LAs to collect the outstanding debt. The issue of prescription is not necessarily an inhibiting factor as the LA will have, over the years, sought to exercise the diligence granted through the Summary Warrant process and the debt will not therefore have prescribed.

4.2 It is stated within the “Financial Memorandum” that “… the electoral registers are not used to pursue historic arrears of community charge …”, Given this it would seem clear that there is an expectation that further recoveries could be expected from the information within the electoral registers however this will be inhibited and thus these resources will be lost to LAs. The proposed financial settlement does not compensate LAs for any of this lost revenue.

5 Question 4 - The Scottish Government considers that, beyond the financial settlement that will be provided to affected local authorities, the Bill will have no financial implications (costs or savings) for the Scottish Administration, local authorities, other bodies, individuals or businesses. What is your view of this assessment?

5.1 Other than the inadequacy of the financial settlement proposed i would agree the Bill will have little or no other financial implications.

6 Additional Points

6.1 I find it incongruous that a Bill is considered necessary as a result of the “… high levels of democratic engagement …” but the Bill itself will not be subject to a formal public consultation. How are the views of the public, the majority of whom have made payment of their Community Charge liability, to be understood.

6.2 In respect to the call to evidence there has been little time provided for responses. The call to evidence was issued on the 10th of December with
responses sought by 7th January. Recognising the incidence of public holidays over this time there has been effectively 3 working weeks for responses to be prepared and submitted.

6.3 I am unclear of the imperative of having the legislation in place prior to the commencement of the 2015/16 financial year as stated in the consultation papers. A longer consultation period would provide for a greater engagement of all interested parties and provide a more authoritative basis for any new legislation.

6.4 The proposed legislation was considered at our Council meeting on the 18th December. The Council agreed to “ask the Scottish Government to introduce the same legislation for the Council Tax”. Does the Scottish Government believe that debts owed to the council which are more than 20 year old should be banned under prescription, merely a presumption as the likelihood is that a Council will have taken action as outlined in paragraph 4.1 which would mean that prescription does not apply. Will the Scottish Government apply the same approach in future years for outstanding Council Tax.