Social Justice and Social Security Committee

20th Meeting, 2022 (Session 6), Thursday 23 June 2022

Inquiry into low income and debt problems – Issues paper

Purpose of this briefing

The purpose of this briefing is to highlight issues relating to low income and debt problems which can be raised with the Scottish Government. The Committee will be hearing from Shona Robison, Cabinet Secretary for Social Justice, Housing and Local Government, and Tom Arthur, Minister for Public Finance, Planning and Community Wealth.

Issues

Accessing money advice

The Committee has heard a range of evidence about the difficulties people have in accessing money advice. The key barriers which have been discussed are:

- not knowing what support is available
- stigma/shame in relation to debt which prevents people asking for help
- overstretched money advice services, with waiting times of up to six weeks for appointments.

Respondents to the Committee's call for views made suggestions for improvements to the current model of service delivery. Some referred to a "no wrong door" approach. Under this model, the agency an individual initially approaches should make referrals to other services as appropriate for any issues which can't be dealt with.

Some referred to utilising trusted relationships – that is working with groups or individuals that people are already engaged with to make referrals for money advice. Community link workers are a good example of this sort of relationship.

In areas where the service is available, people can access support from a community link worker when they visit their GP. The link worker can make onwards referrals for money advice – as well as for other services – eg. employability or mental health support. This is sometimes referred to as social prescribing.

This also links closely with the solutions suggested by the Experts by Experience group. Participants called for a flexible and holistic referrals system which made links between specialist money advice and other services people might need, such as mental health support and benefits advice.

In order to improve referrals between services, more work will need to be done on mapping what services are available. Given local variance and their role as the biggest funder of advice and community services, this may be a job for local authorities. There is also a need to raise awareness of the importance of money advice among relevant professionals and service providers – eg. health and school staff.

The Experts by Experience also called for a national awareness raising campaign around debt and the possible options for people in debt. This would make people more aware of the services available and help to reduce stigma. As well as publicity at a national level, they wanted easy to understand information to be available in community setting which people accessed regularly, such as health settings, schools and libraries.

The Scottish Government has launched the Money Support Scotland website to bring financial support information together in one place. Its launch was accompanied by a publicity campaign which focussed on benefits take-up (from November 2021), moving to money advice (from January 2022) and affordable credit (in February 2022)[1].

Delivering money advice

The Committee heard from both frontline money advisers and national money advice organisations about the challenges of delivering money advice. Local authorities are the main funders of money advice services and, reflecting their difficult financial position, funding has been reduced significantly over the past 10 years.

Money advice providers described how overstretched current services were, resulting in long waiting times for appointments. Demand was expected to increase, as a result of the pandemic and the impact of the cost of living crisis.

Cases were also becoming more complex, especially where clients had “deficit budgets” (that is, not enough money to meet essential expenditure, even after income maximisation advice). There were no obvious solutions for people in these

[1] Scottish Government (2021) Advice on household finances – press release published 30 November 2021.

circumstances, with applications for charitable grants and re-negotiation with creditors to focus on current liabilities being the main options. Even bankruptcy may not be a long-term solution, as the need to borrow would mean that debts would mount up again.

One suggestion from the money advice sector was that there should be a statutory obligation on local authorities to fund money advice services. This would put them on a par with other vital local authority services.

However, at the Committee's evidence session on 19 May, Karen Carrick from the Improvement Service stated (col 9):

> "My concern would be that, if it were made a statutory duty, it would just be added to all the other ones, which would take away the ability in some senses to meet local needs and circumstances. It might be better to think about having, say, some minimum standards for the advice services that we offer to provide the kind of local flexibility and engagement that could be adapted for each area."

There were also calls from the sector for an improved funding framework. This covered funding in three-year cycles rather than one year and more funding for core services rather than focussing on new projects.

There was recognition of efficiencies from the delivery of some money advice services online and via telephone. Clients could also benefit – eg. from greater anonymity and convenience in accessing services.

However, stakeholders were also clear that some people could not access digital and remote services, so face-to-face provision should continue. They argued that the emphasis should be on "channel choice" rather than "channel shift".

The Experts by Experience group supported the provision of face-to-face services. However, they were also clear that people should have access to online and telephone services when they needed them – for example, because they had caring responsibilities or suffered from anxiety. The group called for more support for people who currently lacked the skills or the money to access remote services.

Digital exclusion

The Committee heard from witnesses about the impact of digital exclusion on accessing public services, making contact with creditors and on accessing self-help information online. Having a low income was a big risk factor in being digitally excluded. In addition, people with debt problems who previously had internet access may need to cut back on their spending in this area.

A range of witnesses and respondents to the call for views praised the work of Connecting Scotland. This is the Scottish Government's main funding stream for addressing digital exclusion, delivered by the Scottish Council for Voluntary Organisations.

Connecting Scotland provides access to devices, internet connections and skills training for target groups. It works through existing community and support groups to better target people experiencing exclusion. It has a model of "embedding" skills training in local organisations.

The Scottish Government appears to have devoted £48 million in funding to the initiative by the end of 2021, with the intention of reaching 60,000 households[2]. The Programme for Government 2021-22 commits the Scottish Government to a total of £200 million in funding by the end of 2026, with a target of reaching 300,000 households[3].

Connecting Scotland can provide free internet access, currently for a period of two years. It is not clear what provision has been made to support people on low incomes to maintain their connection to the internet after this period.

The Experts by Experience group also highlighted concerns that Connecting Scotland support was not available to everyone. It was targeted at priority groups, as directed by the Scottish Government. In addition, support was only available via organisations. People who were not already working with these bodies could not access support.

Debt and mental health

There are strong links between debt problems and mental health issues. The Committee heard that debt was both a cause and a symptom of mental health issues. Difficulty accessing mental health services as a result of the pandemic had exacerbated the situation.

People with mental health issues may need adaptations in order to access money advice. Options include shorter appointment times, written follow up information covering what has been discussed and additional support to continue to engage with money advice.

Some services offer additional support or specially trained staff. And the Committee heard from Support in Mind, which runs a money advice helpline specifically for people with mental health issues.

However, given the wide ranging needs of people with mental health issues, and the pressure being experienced by the money advice sector, not all services were able to provide tailored support.

The Committee also heard about several initiatives designed to support people with debt problems and mental health issues:

- **The Debt and Mental Health Evidence Form (DMHEF)**

This was used to provide creditors with information about the impact of a person's mental health condition. Creditors could use it to provide better support to people

[2] Scottish Government (2021) Connecting Scotland – press release issued 22 March 2021.
[3] Scottish Government (2021) A fairer, greener Scotland – Programme for Government 2021-22.

with mental health issues and may go as far as writing off a debt in some circumstances.

However, it could be difficult to get health professionals to engage with the process of filling out a form. This meant that money advisers were not always able to get the best information about the impact of mental health issues on their clients. In addition, some GP practices charged a fee for dealing with the form. GP contracts in England and Wales prevent them from doing this.

- **Mental health crisis Breathing Space**

In Scotland, people considering entering a statutory debt solution can ask for a "moratorium on diligence". This is a legally required pause on creditors taking any action to enforce their debts.

The length of the pause was extended from six weeks to six months by emergency coronavirus legislation. The Scottish Government has recently amended the Coronavirus (Recovery and Reform) (Scotland) Bill to set the period at six months in the medium term.

There is a similar scheme, called "Breathing Space" (or the Debt Respite Scheme) in England and Wales. It operates to freeze interest and charges and prevent creditor contact with people in debt, as well as stopping enforcement action.

Where someone is receiving mental health crisis treatment (usually as an in-patient), various people supporting them can apply for mental health crisis Breathing Space. Creditors must freeze interest and charges, cease contact and halt enforcement action for the length of the crisis treatment plus 30 days.

Recommendations from the Accountant in Bankruptcy's Stage 2 review covered this issue. The review recommended that the moratorium on diligence should freeze interest and charges. It would need to be applied for via a money adviser (which is not currently the case) to enable swift notification of creditors.

It also recommended that there should be a mental health element to the moratorium. However, this needed to be developed further with stakeholders as it should not directly mirror what happens in England and Wales. In particular, some members of the review group thought a wider range of professionals should be able to provide evidence that someone is in mental health crisis treatment.

The timescales for introducing changes flowing from Debt Review recommendations are discussed below. It is likely to be at least one to two years before this change is brought forward.

Changes to the legal framework

The Committee received a number of suggestions for improvements to the legal framework, both in relation to statutory debt solutions and to the regime for debt enforcement. The proposals discussed below are those most closely related to the other evidence the Committee has received.

The Committee also heard about ongoing work to review the current law. The Accountant in Bankruptcy has been facilitating a debt review. Reports from Stage 2 of this review were published in May. Looking at when changes recommended by the Stage 2 review might be introduced, the Accountant in Bankruptcy stated in evidence to the Committee on 26 May (col 3)

> "Quite a few of the recommendations would require primary legislation. As you will know, the Government announces primary legislation for the coming year in September. Were it to want to take forward some of the recommendations in that timeframe, we could indeed be ready to pursue a bill in the next year or two, should that be attractive to the Government to do so."

Stage 3 of the review will take a strategic look at statutory debt solutions to see if they continue to meet the needs of a modern economy. The groups looking at Stage 2 issues were unable to reach consensus in a number of areas and have deferred consideration to Stage 3. The Accountant in Bankruptcy said this about the Stage 3 timescale (col 4):

> "Stakeholders have been quite clear that they want this to take the time needed to get it right. They are not looking for something quick; they are looking at a process that might well run for a year or two and do a fundamental strategic look."

- **Reducing or removing the fees for applying for bankruptcy**

The current fees are £50 (reduced from £90 in 2020) for a Minimal Asset Process bankruptcy and £150 (reduced from £200 in 2020) for a full administration bankruptcy. Information has been supplied to the Committee estimating the income lost to the Accountant in Bankruptcy – based on the current fee structure – if bankruptcy application fees were to be removed. The average annual estimated loss of income over the past four years was £99,000.

Note though that this does not equate to the costs to the Accountant in Bankruptcy of processing all bankruptcies. Demand is expected to increase as a result of the pandemic and the cost of living crisis. Thus, any reduction in fee income is likely to have costs to the Scottish Government.

One specific suggestion was that those assessed as having no surplus income using the Common Financial Tool[4] should be exempt from fees.

- **More flexibility in assessing income available to repay creditors**

As discussed above, all people entering a statutory debt solution have their level of disposable income assessed using the Common Financial Tool. At present, people who use the Debt Arrangement Scheme are able to keep some of any disposable income, allowing them to build up financial resilience.

[4] The Common Financial Tool uses average expenditure across low income households to provide benchmarks for acceptable expenditure in different categories. It is used to assess income available to repay creditors across all three statutory debt solutions.

However, anyone entering a Protected Trust Deed or bankruptcy must use all of their assessed disposable income to repay creditors. This limits their financial resilience. For example, there is no flexibility in their budgets to deal with inflation and no opportunity to build up a savings cushion.

- **Remove the minimum debt threshold to enter bankruptcy**

In order to enter a Minimum Asset Process bankruptcy, someone must owe at least £1,500 at present. The figure is £3,000 for full administration bankruptcy. It is possible to change these thresholds without affecting the level of debt required before a creditor can force someone into bankruptcy[5].

The Committee heard that, for people on low income, making repayments to debts under the £1,500 Minimal Asset Process threshold could still be a significant burden. There could be an impact on their mental health and available budget.

The Experts by Experience participants also called for this threshold to be removed.

The Bankruptcy Stage 2 Debt Review Group recommended that the minimum debt threshold should be removed for Minimal Asset Process bankruptcies. However, the group did not reach agreement on an approach to the minimum debt threshold for full administration bankruptcies.

- **Remove the time limit for accessing Minimal Asset Process bankruptcy**

At present, someone can only access Minimal Asset Process bankruptcy once every 10 years. Some stakeholders called for this timescale to be relaxed to allow easier access to Minimal Asset Process bankruptcy.

The time limit for a full administration bankruptcy is once every five years. Someone who meets the other criteria for a Minimal Asset Process bankruptcy will also be able to access a full administration bankruptcy. However, the cost is £50 versus £150.

The Committee heard that one of the impacts of having a “deficit budget” was that a person may continue to run up debt to access essential services. This means that, for some people, bankruptcy (if appropriate at all) would provide only short-term relief as debts would quickly accumulate again.

Without debt relief via bankruptcy, people on low incomes face the ongoing stress and financial impact of making ongoing repayments to debts out of a limited budget. However, expecting creditors to cope with frequent debt write-off could be argued to change the existing balance of interests.

In addition, Minimal Asset Process bankruptcy is a quicker, more streamlined form of bankruptcy for people with low income and few assets. It does not provide for the same scrutiny of the financial affairs of the applicant as full administration bankruptcy. It is therefore argued that some restrictions on use are appropriate.

[5] The current threshold for a creditor petition for bankruptcy is £10,000 as a result of emergency coronavirus legislation, with proposals for it to be set at £5,000 in the Coronavirus (Recovery and Reform) (Scotland) Bill.

- **Increase the Minimum Protected Balance for bank arrestments**

Bank arrestment is a form of formal debt enforcement (or "diligence") which allows a creditor to seize money in the bank account of a person in debt. The Committee has heard that creditors can currently seize all money in an account above the "Minimum Protected Balance" of £566.51, causing hardship.

A Stage 2 amendment to the Coronavirus (Recovery and Reform) Scotland Bill would raise the Minimum Protected Balance to £1,000. The amendment was put forward by John Mason MSP and supported by the Scottish Government. It was agreed to by the COVID-19 Recovery Committee.

Creditor processes

The Committee has also looked at debt collection and enforcement practices for the types of debt commonly experienced by people on low incomes, including council tax and rent arrears. The role the benefits system played in keeping people trapped in debt – through the five week wait and high rates of direct deductions from benefits – was also highlighted.

More generally, a number of stakeholders characterised the public sector as inflexible and harsh when it came to debt processes. There was a view that it was behind the private sector when it came to taking a proportionate and person-centred approach to dealing with debt.

This was also a theme for the Experts by Experience group. They described difficult to manage processes which made it difficult to deal with debt issues even when you were trying to. Their suggested solutions were:

- **trauma-informed practice training for public sector staff dealing with people in debt to ensure that they are better able to deal with people supportively and appropriately**
- **allowing people on benefits to pay fortnightly four-weekly (depending on how they received their benefits payments) – as monthly payments did not fit in with this cycle making them difficult to manage**
- **clearer Council Tax letters, in particular making clear that Council Tax Reduction would be re-assessed if income changes**
- **Scottish Welfare Fund grants should be available to cover the costs of fuel oil.**

The Committee heard suggestions for general approaches which could improve public sector debt management. These included:

- **A public sector debt management strategy**

The UK Government has introduced processes to improve public sector debt management. These included fairness principles which would help support those who couldn't (rather than wouldn't) pay their debts as well as a proportionate approach to debt recovery.

It consulted on "fairness in public sector debt management" in 2020. Issues raised included the using affordability assessments to ensure sustainable repayments and improved communications.

Some stakeholders had called for the UK Government to put its approach on a legislative footing via a government debt management bill.

- **Public sector debt write off**

Some stakeholders have called for some public sector debts to be written off as a way of supporting people to cope with the financial effects of the pandemic and the cost of living crisis. Options for debt write off were also supported by the Experts by Experience group.

Proposals have included:

- **writing off school dinner debts when a child moves from primary to secondary school**
- **writing off social security debts when it hasn't been possible for them to be repaid within two years**
- **some degree of write-off for council tax debts.**

Debt write-off will have an impact on the operating budgets of the bodies concerned unless it is underwritten by the Scottish Government. In some cases, there may be a need for legislation to permit specific debt write-off to happen.

Separately, some respondents to the Committee's call for views highlighted that local authorities have no powers to write off or reduce Council Tax arrears on a case-by-case basis. The powers they do have allow debt write off at a corporate level when it is considered irrecoverable.

In England and Wales, Section 13A of the Local Government Finance Act 1992 enables councils to accept reduced payments or write off arrears in individual cases. This gives frontline staff more flexibility to deal with arrears in a proportionate way.

Rent arrears

The Committee heard that pre-action requirements for both private and social sector landlords had improved practice. Pre-action requirements are steps the landlord must take before raising court action. They cover things like signposting tenants to sources of advice and negotiating reasonable repayment offers.

The Committee heard that pre-action requirements provided a helpful incentive and paper trail for landlords to act reasonably. However, Shelter noted that it was still regularly successful in defending eviction actions, suggesting improvements could be made.

One suggestion was that the obligation on landlords to signpost to advice should be clearer, requiring an actual referral to support. Some stakeholders suggested that the referral should be to a source of advice which was independent to the council. However, the role of housing officers in supporting people was also emphasised.

Council tax arrears

The Committee has received large amounts of evidence about problems with council tax arrears. Very broadly, processes are considered to be unresponsive, quickly resulting in harsh enforcement action. Witnesses have also noted that, once arrears move to summary warrant, there is a 10% surcharge. This can be something that happens every year to people on low income, increasing the burden of paying their Council Tax bills.

At its evidence session on 19 May, the Committee heard about the work between the Improvement Service, local authorities and advice providers to better support access to advice for council tax arrears. This work has been funding by money advice charity StepChange.

It was argued that early support by advice services was the key to dealing with Council Tax arrears. Work was ongoing to improve collaboration between advice providers and local authorities, and to encourage people to seek advice at an earlier stage.

However, stakeholders highlighted a range of other options for improving Council Tax collection processes, including:

- **A requirement for written decision letters for Council Tax Reduction awards**

At present, there is no obligation on local authorities to issue decision letters for Council Tax Reduction. Normal practice is for entitlement to be highlighted on the bill sent out at the beginning of the year.

The Child Poverty Action Group highlighted that, when entitlement changed during the year, it was very difficult to establish what had happened. This meant that people were missing out on support they were entitled to. In particular, there was a two-month deadline to appeal a decision in relation to Council Tax Reduction. People were not able to exercise the right to appeal if they were not aware their entitlement had changed.

The Experts by Experience group also highlighted difficulties with letters in relation to Council Tax Reduction. These did not make clear that entitlement could change throughout the year if income changed.

- **Nationally set standards for Council Tax collection**

It is clear from the evidence the Committee has received that there are differences in approach between local authorities. The Improvement Service and the Institute for Revenues, Rating and Valuation gave examples of good practice. However, it is not clear how wide spread this is.

One option to improve collection practices would be to have national standards which have to be followed by all councils. This could take the form of guidance from the Scottish Government (although to be effective, local authorities would have to be under some obligation to follow it). Alternatively, it could operate along similar lines to the pre-action requirements for rent arrears, which appear in legislation.

- **Awareness raising in relation to Council Tax Reduction and rebates**

A key concern of witnesses was that there was low awareness of entitlement to rebates or benefits which would reduce Council Tax bills. This meant that people could build up Council Tax arrears when they were entitled to help. There are several online tools to help people work out if they are entitled to additional support. However, this did not go far enough to reach all people who were struggling to pay their bill.

Questions

Below are some suggested questions to raise with the Scottish Government:

Accessing money advice

1. **A key barrier to accessing money advice is not knowing what services are available. Will the Scottish Government commit to working with local authorities to map existing support services and develop referral pathways?**

2. **Health professionals have been identified as a key contact point for people with debt problems, especially when they also have mental health problems. Will the Scottish Government commit to carrying out awareness raising among this group in relation to accessing money advice?**

3. **The Committee is aware the Scottish Government did some publicity work around financial support at the beginning of this year. What were the results of that campaign and is any further work planned?**

Delivering money advice

4. **Does the Scottish Government support the creation of a statutory obligation on local authorities to fund money advice services?**

5. **Can the Scottish Government provide a breakdown of the funding it is providing for money advice services – for this year and next – based on the proportions going to face-to-face services, telephone services and online services?**

6. **Does the Scottish Government accept – given the impact of the pandemic and the cost of living crisis – that there is a need for more funding for money advice and can it provide an update on how it is fulfilling its commitment to multi-year funding?**

Digital exclusion

7. **Has the Scottish Government identified priority groups for Connecting Scotland support over the next four years and what provision has been made for supporting people to connect to the internet after their Connecting Scotland funding runs out?**

<u>Debt and mental health</u>

8. **Given the links between debt and mental health issues, is the Scottish Government taking forward any specific work to improve access to money advice services for people with mental health conditions?**

9. **The Committee has heard about the usefulness of the Debt and Mental Health Evidence Form in providing creditors with information about someone's mental health issues. However, not all health professionals engage with this process. And – unlike in England – the practice of GPs charging to fill out the form is not banned in Scotland.**

    - **Will the Scottish Government commit to carrying out specific awareness raising among health professionals about the role and impact of this form?**
    - **Will it work with GPs – via changes to the GP contract or otherwise – to end the practice of charging for filling out the form?**

10. **The Stage 2 Debt Review recommended Scotland introduces a scheme similar to the mental health crisis Breathing Space in England and Wales. Will the Scottish Government be taking this forward, and – if so – in what timescale?**

<u>Changes to the legal framework</u>

11. **What are the barriers to removing the fees for applying for bankruptcy and what consideration has the Scottish Government given to removing the restriction that someone can only go through a Minimal Asset Bankruptcy once every 10 years?**

12. **The Committee has heard that the minimum debt threshold to apply for bankruptcy can keep people on low incomes in financial hardship. The Stage 2 Debt Review recommended removing the threshold for Minimal Asset Bankruptcy.**

    - **Can the Scottish Government commit to introducing this change quickly?**
    - **What is the Scottish Government's position on removing the threshold for full administration bankruptcy?**

<u>Creditor processes</u>

13. **What consideration has the Scottish Government given to improving debt management in the public sector in Scotland by introducing a public sector debt management strategy?**

14. **Would the Scottish Government support writing off some public sector debts as a way of helping people with low income deal with the financial effects of the pandemic and cost of living crisis?**

15. **The Committee has heard evidence of poor collection practice in relation to Council Tax arrears. Will the Scottish Government commit to introducing national standards, either via guidance or legislation?**

16. **Has the Scottish Government done any work recently – or does it have any work planned – to raise awareness of entitlement to Council Tax Reduction and various Council Tax rebates?**

Abigail Bremner, SPICe Research,

6 June 2022