

**CONSULTATION QUESTIONNAIRE (Page One)**  
**Low Income, Low Assets – a new route into Bankruptcy**



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The deadline for responses is **25 June 2007**

**Your details**

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For the purpose of analysing responses, it would be helpful if you would also indicate the capacity in which you are completing this questionnaire, please tick as appropriate.

- |                         |                          |                              |                          |
|-------------------------|--------------------------|------------------------------|--------------------------|
| Advice Sector           | <input type="checkbox"/> | Legal Body                   | <input type="checkbox"/> |
| Business                | <input type="checkbox"/> | Professional Body            | <input type="checkbox"/> |
| Individual              | <input type="checkbox"/> | Statutory Body               | <input type="checkbox"/> |
| Insolvency Practitioner | <input type="checkbox"/> | Other (Please Specify) _____ | <input type="checkbox"/> |

**Questions for Consultation**

1a Do you agree with the proposal to treat someone in receipt of an income based Social Security benefit as having no income for the LILA scheme?

Yes  No

1b Do you think £100 (gross) is the appropriate level for the purposes of calculating low income?

Yes  No

1c If not, please state what you would consider to be the appropriate level e.g. £150, £200 and why?

National minimum wage x 40 hour week. People in this situation are normally excluded from benefits such as Housing Benefit and Council Tax Benefit therefore they have higher outgoings due to paying full rent and council tax and as such have less available funds to pay debts.

1d How should the level determined be calculated, e.g. gross income at date of application or gross weekly income averaged over 6 month or 12 month period?

Gross weekly income averaged over a 12 month period

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1e Should Child Tax Credit be disregarded in the calculation of income?

Yes X No

1f Should any other benefits or tax credits be disregarded in the calculation of income?

Yes X No

1g If so which benefits or tax credits should be disregarded?

All benefits and tax credits should be disregarded because benefits and tax credits are provided either to replace earnings, alleviate poverty or compensate for extra costs

2a Do you think £1,000 is the appropriate level for the purposes of calculating assets?

Yes  No X

2b If not, please state what you would consider to be the appropriate level, and why (for example, linking to other limits in use in diligence).

The figure of £1,000 was set several years ago. Therefore we feel that asset levels should be based on present levels with maybe an increase for inflation (eg a car that was worth £1,000 5years ago, now would be nearer £1,500)

2c Should excluded assets only be those which would be excluded from bankruptcy?

Yes X No

2d If not, which other types of assets should be included or excluded?

N/A

2e Do you agree that anyone who owns their own house or other property should be excluded from the LILA scheme?

Yes X No

2f If not, why?

N/A

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3a Should there be a different debt threshold for LILA applications?

Yes  No X

3b If so, at what level should it be set?

N/A

4a Do you agree that a simple on-line process should be the usual means of applying for bankruptcy through the LILA scheme?

Yes  No X

4b If not, what forms of applications should be allowed and why?

Although on-line process should be available and debtors should be encouraged to use it, there needs to be the alternative of completing and posting forms to AIB. Not all debtors would have access to a computer/the internet, particularly some of the clients that would fall into the LILA category. It is essential that scheme is inclusive.

4c Do you think that the proposed £50 fee is reasonable?

Yes X No

4d If not, what kind of fee structure would be appropriate? (please consider issues such as deterrence, consistency with other applications, waivers for specific groups of debtors, higher costs of administering hard copy applications)

A fee of £50 would be reasonable provided that debtors can continue to claim exemption if they are in receipt of certain benefits – at present debtors can complete an Application for Exemption From Payment of Court Fee if they are in receipt of certain benefits and are therefore not due to pay a fee.

4e Do you agree that a Statutory Declaration by a debtor should be sufficient for a debtor's application?

Yes X No

4f If not, what else should be required and why?

N/A

4g Do you have any other suggestions for the LILA process which you would like us to consider?

It is essential that debtors have received money advice prior to completing the LILA bankruptcy process to ensure that they fully understand the implications

of applying for bankruptcy both now and in the future. We encounter many clients who state that they wish to petition for bankruptcy but after they have received advice on what it means for them then they decide that this is not the best option for them. We would therefore suggest that there is a statement at the beginning of the bankruptcy forms to strongly advise clients to seek money advice prior to making the application

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5a Do you agree that there should be a delay between the date of application and an award of bankruptcy?

Yes X but there should be an interim order to provide protection for the debtor and to crystallise the position at the date of the application No

5b If no, why not?

N/A

5c If yes, is 5 weeks a reasonable period of delay?

Yes X No

5d If you do not agree that 5 weeks is a reasonable period, what alternative would you suggest and why?

N/A

5e Should the debtor be able to withdraw their application during this period?

Yes X No

5f Should the creditor be entitled to object to an application during this period?

Yes X No

5g If so, should grounds for objection be restricted to the accuracy/honesty of the debtor's averment of low income and low assets?

Yes X No

5h If not, what other grounds for objection be considered?

N/A

6 Do you have any other comments?

The process needs to be as simple as possible. It is essential that debtors have received money advice to ensure that they understand the implications of bankruptcy and how it could effect them in the future particularly with regards to employment, income and assets eg if they find employment which

increases their income then they may be required to make contributions or if they inherit any assets during the bankruptcy period, then these could have to be sold by trustee to contribute towards the debts.