

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

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 checked="" 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?

The figure of £100 would subsequently remove accessibility to the scheme for people for whom it was intended e.g. single person under age 35 currently on Incapacity Benefit receive £98.45 p.w. If benefits rise by 2.5% in April 2008 their weekly benefit will be £100.91 thereby removing accessibility to LILA. It would also act as a disincentive for people to come off benefits and return to work especially where the work is for Minimum Wage. Possible level would be

National Minimum Wage and any overtime is excluded. However, I believe further research is required to address this issue

The main measure of income poverty is a household income 60% or less of the average household income - this is net income after housing costs. It allows you to consider different household make-up, single, couple with children, etc.

In 2003 – 2004 it included the figure **£100** for a single adult so the suggested figure is well out. Other figures that year - £180 for a couple or a single parent with one child, £260 for 2 adults living with 2 children.

- 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?

Average gross income over previous 12 months.

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

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

Yes No

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

Yes No

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

Depending on the level set at question 1b, the following benefits should be considered for disregard.

Disability Living Allowance, Attendance Allowance, Working Tax Credit, Incapacity Benefit, Severe Disablement Allowance, Contributory Jobseekers Allowance, Carers Allowance, Pension Credit, Retirement Pension

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

Yes No

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 and should be reviewed to take into account inflation ,etc.

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

Yes 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 No

2f If not, why?

I believe further research is required into this issue, as here has been a substantial increase in home ownership in Scotland in the last 20-30 years. This has resulted in a number of low income owner-occupier debtors unable to repay their debts due to being on benefits. They are also unable to release equity from their property due to their low income.

The obvious issue here is the relationship between the equity and the amount of debt hence the need for further research to ensure LILA reaches those that most require it.

CONSULTATION QUESTIONNAIRE (Page Three)
Low Income, Low Assets – A new route into Bankruptcy

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

Yes No

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

£1,000

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

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

Both online and paper applications should be allowed as not everyone has access to or can use a computer,

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

Yes 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)

None, given the issue here is low income how does someone obtain this fee if they have no excess weekly income.

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

Yes No

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

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

I believe LILA cannot be addressed without linking it into other government initiative such as eradicating Child Poverty, Financial Inclusion, Back to Work Policies, etc. It would be worthwhile for further research to be done on this particular issue and in particular the client groups that require LILA to ensure the people on Low Incomes are not overlooked.

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

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

Yes No

5b If no, why not?

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

Yes No

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

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

Yes No

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

Yes 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 No

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

6 Do you have any other comments?

It is imperative that debtors receive Debt Advice prior to requesting bankruptcy. Approved Money Advisors or agencies that meet a national standard recommended by the Scottish Executive should provide this service.