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Claire Baker MSP  
Convener  
Economy and Fair Work Committee  
Scottish Parliament

13 June 2024

Dear Claire,

**Committee Evidence Session, Wednesday 5 June 2024.**

Further to last Wednesday's evidence session on the Protected Trust Deeds (Miscellaneous Amendment) (Scotland) Regulations 2024, I am writing to provide the information the Committee requested, and on a point of clarification for the Committee.

During the session you enquired about the membership of the PTD Standing Committee and we explained that previous to the evidence session we had been unable to gain permission from all members to divulge their information to the Committee. We have now gained this permission and can provide a full list of the members.

The PTD Standing Committee is made up of representatives from the following organisations:

Accountant in Bankruptcy  
Money Advice Scotland  
Citizens Advice Scotland  
Association of British Credit Unions  
Carrington Dean  
Credit Services Association  
Harper McDermont  
HM Revenue and Customs  
ICAS  
R3 – Association of Business Recovery Professionals  
Insolvency Practitioners Association  
J3 Debt Solutions  
Max Recovery/JP Morgan  
National Credit Union Fourm  
PRA Group  
TDX – The Insolvency Exchange

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The Institute of revenues Ratings and Valuation  
UK Finance  
Watch Portfolio.

It may also be of interest to you and the Committee that my predecessors have chaired, and I will continue to chair, a stakeholder working group designed to discuss all of the Scottish statutory debt solutions. This group provides another forum for stakeholders to raise any concerns or issues on any of the statutory debt solutions and membership includes a number of organisations representing the advice sector and therefore the voice of the individuals involved in these solutions.

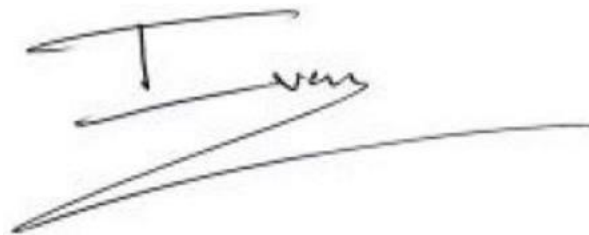
Additionally, I should clarify for the record I am sorry to say I gave an inaccurate answer to Murdo Fraser's question on the concerns raised by ICAS on regulation 5 of the Regulations, although the point I was making remains a valid one.

From reviewing the Official Report, I said that a recent Sheriff Appeal Court judgment ([Samatha Warburton, as Trustee on the sequestrated estate of PS against the Accountant in Bankruptcy](#), 6 July 2022) confirmed that the voluntary protocol does not have a statutory basis. In fact the judgment noted that a Statement of Insolvency Practice (SIP) has no legal force, rather than the voluntary protocol.

The SIPs are existing regulatory guidance that the Recognised Professional Bodies use to measure trustee performance when conducting their role as regulators. For monitoring the work of Insolvency Practitioners in Protected Trust Deeds (PTDs) the relevant document is SIP 3.3. ICAS highlighted in their letter to the Committee on 31 May that SIPs set out principles and key compliance standards with which Insolvency Practitioners must comply and that the revision of SIP 3.3, to include the provision of the protocol, would negate the need for it to be set in legislation. As the Sheriff Appeal Court judgment makes clear, however, we cannot rely on SIPs as legally binding without regulatory underpinning. The voluntary protocol of course has no legal force either.

Should there be any further information we can provide you for your consideration please let me know.

Yours sincerely,



**IVAN MCKEE**

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